



STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

CURT T. SCHNEIDER
Attorney General

January 29, 1975

Opinion No. 75-30

Mr. F. T. "Jim" Chaffee
Shawnee County Sheriff
Shawnee County Courthouse
200 East Seventh
Topeka, Kansas 66603

Dear Sheriff Chaffee:

We have your letter of December 5, 1974, enclosing a copy of a memorandum prepared by Mr. Joseph Zima, your departmental legal advisor, concerning the interpretation of K.S.A. 19-4311 and -4327. More specifically, the question is raised whether the Shawnee County Civil Service Board enjoys exclusive authority to discipline employees of the sheriff's department through suspension and removal, or whether the sheriff under the act retains such disciplinary power, subject, of course, to review by the Board.

The question arises, apparently, due to differing interpretation given the cited statutes by counsel for your department and counsel for the Board. K.S.A. 19-4311 prescribes the general powers of the board in pertinent part thus:

"The civil service board shall:

* * *

(h) Conduct hearings and hear complaints by or against personnel for the purpose of demotion, suspensions or removal of personnel."

K.S.A. 19-4327(a) provides that the sheriff may dismiss any permanent employee when he considers "that the good of the service will be served thereby," and "for disciplinary purposes may suspend without pay" for not to exceed a prescribed period.

Mr. F. T. "Jim" Chaffee
Page Two
January 29, 1975

Under (b) thereof, an employee so dismissed or suspended may request a hearing before the board "to determine the reasonableness of such action. Under (c), the board after hearing may approve or disapprove such action, and it may enter any of the appropriate orders specified in this provision. Subsection (c) provides thus:

"The board shall establish such rules as may be necessary to give effect to the provisions of the above section."

According to the memorandum enclosed with your letter, the position has apparently been taken that K.S.A. 19-4311(h) empowers the board to demote, suspend, and remove personnel of the department independently of any action or nonaction of the sheriff, and that the board may, if it deem it appropriate, promulgate rules and regulations vesting such disciplinary powers exclusively in the board itself, prohibiting the sheriff from the exercise of any such powers. This is an expansive view of the authority of the board which in our view is not supported by the language of the act. K.S.A. 19-4327(a) specifically authorizes the sheriff to dismiss permanent employee when the good of the service will be served thereby, and to suspend such employees "for disciplinary purposes." The board is expressly empowered, after a hearing, to determine the reasonableness of such action. In the instances of dismissal and suspension, the power of the board under K.S.A. 19-4327 is one of review of such disciplinary actions, and not that of the initiator of such actions. Rules adopted by the board pursuant to K.S.A. 19-4327(e) are those which the board deems necessary to give effect to its powers of review under that section, and not rules which would vest such disciplinary powers directly in the board itself, to the exclusion of the sheriff.

K.S.A. 19-4311(h) does empower the board to conduct hearing and hear complaints by or against personnel for the purpose of demotion, suspensions or removal." Ordinarily, of course, acting in the capacity of a reviewing board under K.S.A. 19-4327, the board will be called upon to review complaints by employees of action taken against them by the sheriff. There may be, certainly, instances in which the power to hear complaints under K.S.A. 19-4311(h) may be extended beyond its usual power of review.

Mr. F. T. "Jim" Chaffee
Page Three
January 29, 1975

However, the power of the sheriff to dismiss and to suspend for disciplinary purposes under K.S.A. 19-4327 remains intact, subject to review by the board as provided therein.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj

cc: Mr. Patrick Hubbell, Chairman
Shawnee County Civil Service Board
Suite 808, Merchants National Bank
Topeka, Kansas 66612

Mr. Joseph Zima
Legal Advisor
Shawnee County Sheriff's Office
200 East Seventh
Topeka, Kansas 66603

Mrs. Francine Neubauer, Secretary
Shawnee County Civil Service Board
Suite 808, Merchants National Bank
Topeka, Kansas 66612