



STATE OF KANSAS

*Office of the Attorney General*

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CURT T. SCHNEIDER  
Attorney General

June 19, 1975

ATTORNEY GENERAL OPINION NO. 75-246

Mr. John E. Fierro  
Ford County Attorney  
County Courthouse  
Box 995  
Dodge City, Kansas 67801

Re: Criminal Procedure--Preliminary Proceedings--  
Commencement of Prosecution.

Synopsis: In the commencement of a prosecution, it is proper for a Notary Public to administer the oath which is required when signing a complaint.

Dear Mr. Fierro:

You inquire whether a complaint filed in commencing a prosecution must be sworn to before a magistrate, or whether it may be sworn to before a notary public.

K.S.A. 22-2301(1) provides:

"Unless otherwise provided by law, a prosecution shall be commenced by filing a complaint with the magistrate..."

Furthermore, K.S.A. 22-2202(6) defines a complaint as:

"a written statement under oath of the essential facts constituting a crime..."

Neither section requires that the complaint be sworn in front of the magistrate. The sections simply require that the complaint, which shall be under oath, be filed with the magistrate.

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K.S.A. 1974 Supp. 54-101 defines those officers authorized to administer oaths:

"Notarys Public, judges of courts in their respective jurisdictions, mayors of cities and towns in their respective cities and towns, clerks of courts of record, county clerks and registers of deeds, are hereby authorized to administer oaths pertaining to all matters wherein an oath is required."

Accordingly, it is our view that a criminal complaint may be sworn before a notary public.

Very truly yours,



CURT T. SCHNEIDER  
Attorney General

CTS/GFW/cgm