



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

July 22, 1977

ATTORNEY GENERAL OPINION NO. 77- 240

Mr. S. Philip Stover
Gove County Attorney
Gove County Courthouse
Gove, Kansas 67736

Re: Counties--Sheriffs--Compensation

Synopsis: A sheriff-elect is required by K.S.A. 19-801b(c) to be "paid a salary as a deputy sheriff" while attending the law enforcement training center prior to taking office. The statute does not otherwise indicate how the rate of pay shall be determined, and thus, where the department employs one deputy on a monthly basis, and others are paid on an hourly basis, use of the latter method for determining the compensation due to the sheriff-elect while attending the center is permissible, even though it results in compensation which is less than is paid to the one deputy who is employed and paid on a monthly basis.

* * *

Dear Mr. Stover:

K.S.A. 19-801b(c) states thus:

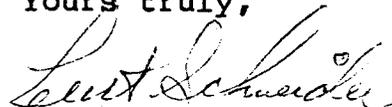
"Each newly elected sheriff of each county shall be hired as a deputy sheriff and shall be paid a salary as a deputy sheriff while attending the law enforcement training center and the tuition, board, room and travel expense for the sheriff elect at the law enforcement training center shall be paid by the county."

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You advise that while the Gove County sheriff-elect was attending the academy, the county employed one full-time sheriff's deputy, at a salary of approximately \$550.00 per month. Also during this period, special deputies were hired on an as-needed basis receiving \$2.20 per hour. The sheriff-elect was compensated at a rate of \$2.20 per hour during the period spent in attendance at the academy, resulting in a total compensation of approximately \$130.00 less than that which he would have received had he been compensated at the rate paid to the regular full-time deputy.

You inquire whether the salary was correctly computed. I share your view that the more equitable basis for computing the salary is that paid the full-time deputy. However, as strictly a statutory matter, the cited statute directs only that the sheriff-elect be paid "a salary as deputy sheriff" while attending the training center. The statute is silent how the salary is to be computed. Here, the county paid deputies differing rates of pay - one as a full-time deputy, and others on an hourly basis. So far as the statutory language is concerned, it appears to permit the sheriff-elect to be paid on the basis of the salary paid to any deputy, and does not require it to be computed on the basis of the salary paid to the highest-paid deputy, as in a large department, or on the basis of the salary paid to a deputy who is paid on a monthly basis as distinguished from another who is paid on an hourly basis. Thus, while I certainly concur that payment at the monthly rate would have been more equitable in this instance, I cannot conclude that the statute forbids the use of an alternative basis of payment, one used for the payment of deputies employed by the department on other than a monthly basis.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj