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June 5, 1979

ATTORNEY GENERAL OPINION NO. 79-104

Michael J. Malone
District Attorney of Douglas County
Judicial & Law Enforcement Center
Lawrence, Kansas 66044

Re: State Boards, Commissions and Authorities -- Law
Enforcement Training Center -- Certification For
Permanent Appointment as Police Officer

Synopsis: A full-time municipal employee whose duties include
the prevention or detection of crime and the enforce-
ment of criminal or traffic laws is a police officer
within the meaning of K.S.A. 1978 Supp. 74-5602(e).
Such an employee is subject to the certification
requirements and sanctions for non-compliance estab-
lished in K.S.A. 1978 Supp. 74-5608.

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Dear Mr. Malone:

You inquire whether an employee of a municipality who is employed
forty (40) hours per week as a city marshal and general maintenance
man is a "police officer" or "law enforcement officer" within the
meaning of K.S.A. 1978 Supp. 74-5602(e). Further, you inquire whether
the employee is subject to certification requirements set out in
K.S.A. 1978 Supp. 74-5608. K.S.A. 1978 Supp. 74-5602 provides, in part:

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"As used in this act, unless the context otherwise requires:

. . . .

"(e) 'Police officer' or 'law enforcement officer' means a full-time, salaried officer or employee of the state, a county or a city, whose duties include the prevention or detection of crime and the enforcement of the criminal or traffic laws of this state or of any municipality thereof. . . ." [Emphasis supplied.]

From the factual situation you present, it is our opinion that the employee is a police officer within the meaning of the preceding statute, even though the employee's working hours are not exclusively devoted to crime prevention/detection and law enforcement. There is no express requirement, nor do we interpret an implicit requirement, that the employee devote full-time to law enforcement functions. We believe that the "full-time" element contained in the definition relates to the employment status of the officer or employee rather than to the allocation of employee duties. For these reasons, it is our opinion that a full-time municipal employee whose duties include the detection and prevention of crime and enforcement of criminal or traffic laws and ordinances is a police officer as defined in K.S.A. 1978 Supp. 74-5602(e).

As to the applicability of certification requirements to such a municipal employee, K.S.A. 1978 Supp. 74-5608 provides:

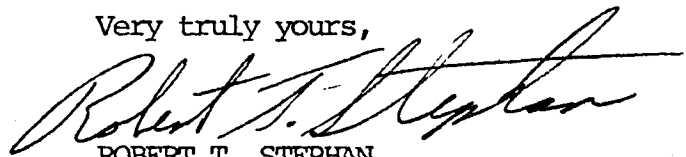
"(a) No person shall receive a permanent appointment as a police officer or law enforcement officer, unless such officer has been awarded a certificate attesting to satisfactory completion of a basic course of not less than four hundred (400) hours of accredited instruction at the training center or at a training school certified in accordance with the provisions of K.S.A. 1978 Supp. 74-5604 and amendments thereto, has been awarded such a certificate for not less than the number of hours of instruction required by this act at the time such certificate was issued or received a permanent appointment as a police officer or law enforcement officer prior to July 1, 1969.

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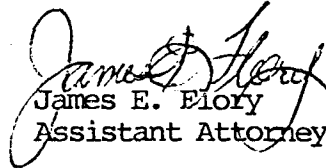
"(b) Every person who does not hold a certificate required by subsection (a), and is elected or appointed as a law enforcement officer, shall be elected or appointed to his or her position on a temporary basis and, within one (1) year of this temporary election or appointment, must be certified, as provided in the preceding subsection, or forfeit his or her office or position."

In light of the explicit language of the foregoing statute and the conclusion reached in the first portion of this opinion, it is our opinion that the employee must satisfy the certification requirements of subsection (a) within one (1) year after appointment or forfeit his office of city marshal pursuant to subsection (b) of the above statute.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



JAMES E. EIOY
Assistant Attorney General

RTS:TDH:JEF:may