ATTORNEY GENERAL OPINION NO. 88-18

Gunnar A. Sundby
Atchison County Attorney
Courthouse
Atchison, Kansas 66002

Re: Counties and County Officers -- Sheriff -- Uniforms and Display of Badges by Sheriff and Deputies; Requirements; Exceptions; Allowance for Uniform Expense in Counties Under 200,000

Synopsis: K.S.A. 19-822 requires counties to furnish uniforms for the county sheriff and his deputies. K.S.A. 19-823 mandates that, in counties of less than 200,000 population, the county pay an additional ten dollars per month allowance for uniform expenses. The provisions of the two statutes should be read together and not as alternatives. Cited herein: K.S.A. 19-822; 19-823; 19-824.

Dear Mr. Sundby:

As Atchison County Attorney you request our opinion on the duty of Atchison county to purchase uniforms for the sheriff and his deputies and to pay for uniform expenses. You refer us to K.S.A. 19-822 and 19-823 and ask if K.S.A. 19-823, which provides for a minimum $10 uniform expense allowance in some counties, should be read as a substitute or a supplement to the language of K.S.A. 19-822 which states that the county shall furnish uniforms.

* * *
K.S.A. 19-822 dictates that the county "shall" furnish a distinctive uniform. Whether such statutory language is mandatory or discretionary can be determined by statutory construction rules used to interpret the intent of the legislature. See generally, Matzke v. Block, 542 F.Supp. 1107 (Kan. 1982); Griffen v. Rogers, 232 Kan. 168 (1982).


K.S.A. 19-824 authorizes the attorney general to designate the required uniform for all county sheriffs and their deputies. (See attached letter dated December 29, 1987 from Attorney General Stephan to all county sheriffs, describing the required uniform). As this uniform must be worn by all sheriffs and their deputies, it follows that there is a duty to purchase this mandatory uniform.

K.S.A. 19-823 states that:

"County sheriffs and their deputies in counties of less than two hundred thousand (200,000) population shall each receive an allowance for uniform expense of not less than ten dollars ($10) per month, to be paid by the county which such officers serve."

This language does not revoke, substitute for, or except application of the provisions contained in K.S.A. 19-822 or K.S.A. 19-824. Purchase of the uniforms required by K.S.A. 19-824 mandate expenditures in excess of the ten dollar per month sum allowed under K.S.A. 19-823. Thus, the ten dollars allowance cannot be logically expected to pay for the entire expense involved in providing uniforms. If, as mandated by
statutory construction rules, K.S.A. 19-822, K.S.A. 19-824, and K.S.A. 19-823 are read together as consistent and harmonious, it can be seen that the ten dollar expense allowed by K.S.A. 19-823 is in addition to providing the uniform.

K.S.A. 19-823 is not an alternative source of payment for the required uniforms. Pursuant to K.S.A. 19-823, smaller counties are authorized to provide ten dollars per month for uniform "expense." Such expenses may be those connected with upkeep and cleaning. The purpose of such additional authorization may be due to the normally smaller budgets in smaller counties, making reduced sheriff's salaries a likelihood. Where officers receive less compensation it is logical that they would be less likely to be able to afford to pay for their own uniforms and more likely that they need an extra ten dollars per month to keep those uniforms in good condition.

Therefore, it is our opinion that, pursuant to K.S.A. 19-822, Atchison county must provide the sheriff and his deputies with the proper uniforms dictated by K.S.A. 19-824 and, pursuant to the applicability of K.S.A. 19-823, with a minimum of ten dollars per month for connected uniform expenses.

Very truly yours,

Robert T. Stephan
ATTORNEY GENERAL OF KANSAS

Theresa Marcel Nuckolls
Assistant Attorney General

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