

FILE

Subject

*State Boards
Gov. & Resources Authority
Jill Woods
Governor's Committee
Criminal Administration*



Copy to

STATE OF KANSAS

Office of the Attorney General

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

VERN MILLER
Attorney General

July 12, 1974

Opinion No. 74- 237

Mr. Thomas L. Boeding
Governor's Committee on Criminal Administration
10th Floor
535 Kansas Avenue
Topeka, Kansas 66603

Dear Mr. Boeding:

On behalf of the G.C.C.A. you inquire whether park rangers of the Kansas Park and Resources Authority have as one of their primary functions the enforcement of the criminal laws. The Authority, on behalf of its rangers, has requested grant funding for the purpose of providing rangers with communications equipment for use in often isolated installations maintained by the Authority at parks throughout the state.

The office of the General Counsel for Law Enforcement Assistance Administration, in construing federal law which establishes guidelines and standards for grants to state agencies, has stated:

"We are unable to render a legal opinion on the submitted general information without details as to whether or not the campus police have as their primary function, the enforcement of the criminal law.

The reference to campus police in the OGC opinion of April 26, 1971, was used as an example of an agency without general criminal enforcement powers. If, in fact, a campus police department under the jurisdictional authority of a unit government has as a primary function the

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enforcement of the criminal law, LEAA funding could be authorized. However, LEAA funding for watchmen, guards or police to whom general criminal law enforcement authority has not been delegated, would not be authorized."
[Emphasis supplied]

We do not understand from the foregoing that an agency, in order to qualify, must in all respects be "primarily" involved in law enforcement. Clearly, the Authority as an agency of state government does have other non-law enforcement responsibilities. The question, however, is properly whether rangers who are employed by the Authority are collectively and principally engaged in law enforcement activities, not whether the total effort of the agency itself is. Further, it would appear that the question of eligibility centers on factual and legal considerations on a case by case basis. Accordingly a review of the ranger's functions and duties is necessary.

K.S.A. 74-4510 provides in part:

"The authority is hereby granted the following additional powers, . . .

"The authority shall have police supervision over all state parks, and its duly appointed agents or representatives in charge of any state park are hereby authorized and empowered to arrest without warrant any person or persons within such state park area, by him or them caught in the act of committing an offense against the laws of the state or in the act of violating any rule or regulation of the state park authority in force in such park, and with a warrant under all other circumstances, and to deliver such person or persons to the proper court of the county wherein such offense has been committed, and to make and execute a complaint charging such person or persons with the offense committed:"
[Emphasis supplied]

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K.S.A. 74-4510(5) authorizes the Authority:

"To prescribe and enforce rules and regulations for the use of state parks and all recreational or cultural facilities under its jurisdiction and control, including regulating the demeanor, actions and activities of persons and the general public while within the park and park facilities which are under the jurisdiction and control of the park and resources authority so as to promote public health, safety and decency and also to protect and safeguard the property and also to promote the purposes for which the areas were acquired and improved; . . ."

We note that pursuant to this legislative delegation, the Authority has adopted a rather sophisticated code. (See K.A.R. 33-1 through 33-4.) Of the twenty-seven (27) separate regulations, twenty (20) may properly be categorized as establishing a code of conduct; violations of which are punishable as class C misdemeanors. K.S.A. 74-4510(5) further provides:

" Willfull violation of the rules and regulations of the state park and resources authority adopted pursuant to the authority contained in this section shall constitute a class C misdemeanor."

The Authority employs approximately eleven (11) rangers commissioned pursuant to K.S.A. 74-4510(2), supra. All commissioned rangers are required to attend a law enforcement training center as prescribed by K.S.A. 74-5608. Civil Service job specifications for the position provide in pertinent part:

"This is responsible security and law enforcement work for state office buildings, institutions, and installations.

"Work involves enforcement of traffice, parking, and security regulations, state laws, and county and municipal ordinances. An employee in this class may supervise lower level security officers. Direct supervision is received through written and oral instructions, and review of records and reports.

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"EXAMPLES OF WORK PERFORMED

"Patrols assigned areas, writes tickets for moving and stationary traffic violations, and apprehends offenders of security regulations and participants in disturbances or vandalism."

The rangers' duties, while at times administrative, largely involve the enforcement of the Authority's rules as well as the enforcement and administration of the state's non-park related criminal code K.S.A. 21-3101 et seq.

K.S.A. 74-4510(2) provides in pertinent part:

" . . . appointed agents or representatives in charge of any state park are hereby authorized and empowered to arrest without warrant any person or persons within such state park area, by him or them caught in the act of committing an offense against the laws of the state . . ."
[Emphasis supplied]

In view of the foregoing it is our conclusion that the Authority on behalf of its rangers qualifies as a grant recipient.

Very truly yours,



VERN MILLER
Attorney General

VM:DRH:bw