



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

September 6, 1977

ATTORNEY GENERAL OPINION NO. 77-291

Mr. Larry Winn, III
City Attorney for City of Leawood
c/o Lytle, Wetzler, Winn & Martin
Attorneys at Law
5100 West 95th Street
Prairie Village, Kansas 66208

Re: Criminal Procedure--Arrest--Uniform Fresh Pursuit
Law

Synopsis: A Kansas peace officer has the authority given to a private citizen of Missouri to effectuate an arrest in Missouri for the commission of a misdemeanor or violation of a city ordinance in Kansas pursuant to Missouri's uniform fresh pursuit law.

* * *

Dear Mr. Winn:

You inquire whether a law enforcement officer from the State of Kansas has the authority to force a motorist to stop in the State of Missouri and then, if the circumstances warrant, to effect an arrest in that state for the commission of a misdemeanor or violation of a city ordinance in Kansas.

Missouri, like Kansas, has adopted the uniform fresh pursuit law. One of the differences between the two statutes, K.S.A. 22-2404 and Missouri Statutes Annotated 544.155, however, is the definition of "fresh pursuit."

K.S.A. 22-2404(1)(c) provides:

Mr. Larry Winn, III
Page Two
September 6, 1977

"(c) 'Fresh pursuit' means the pursuit without unnecessary delay of a person who has committed a crime, or who is reasonably suspected of having committed a crime."

Whereas, Missouri Statutes Annotated 544.155 provides:

"5. The term 'fresh pursuit,' as used in this section, includes fresh pursuit as defined by the common law, and also the pursuit of a person who has committed a felony or who is reasonably suspected of having committed a felony. It shall also include the pursuit of a person suspected of having committed a supposed felony, though no felony has actually been committed, if there is reasonable ground for believing that a felony has been committed. Fresh pursuit, as used therein, shall not necessarily imply instant pursuit, but pursuit without unreasonable delay."
[Emphasis supplied.]

Prior to the enactment of the present uniform fresh pursuit law, Kansas, like the present Missouri statute, granted the power of arrest only in felony cases. K.S.A. 62-632; 39 J.B.A.K. 97, 99 (1970). The law was interpreted as not applying to misdemeanor cases which meant that one an out-of-state officer entered Kansas, even though in fresh pursuit of a person who had committed a misdemeanor in such other state, he would be considered to have the same authority as a private citizen (Attorney General's Opinion dated December 11, 1969, written to Mr. James Hubbard and Attorney General's Opinion dated November 15, 1968, written to the Honorable J. F. Steach.)

In Missouri, a private citizen may make an arrest on a showing of commission of a felony and reasonable grounds to suspect the arrested party. State v. Fritz, 490 S.W. 2d 30 (Mo. 1973). A private citizen may also arrest in Missouri for any misdemeanor committed in his presence. Gray v. Earls, 298 Mo. 116, 250 S.W. 567 (1923); Hanser v. Bieber, 271 Mo. 326, 197 S.W. 68; Pandjris v. Hartman, 196 Mo. 539, 94 S.W. 270; 41 U.M.K.C. 165, 176, (1972).

Mr. Larry Winn, III
Page Three
September 6, 1977

Thus, it is our opinion that a Kansas peace officer pursuant to Missouri's uniform fresh pursuit laws would have the same authority as a private citizen of Missouri in making an arrest in Missouri for violations of Kansas law resulting in a misdemeanor charge or for violations of local ordinances in Kansas.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:DLW:jj