



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

February 14, 1978

ATTORNEY GENERAL OPINION NO. 78- 79

Mr. Dennis Moore
Johnson County District Attorney
Johnson County Courthouse
Olathe, Kansas 66061

Re: Park Patrols--Municipal Police Officers--Sheriff--
Authority To Enforce State Laws In County Park

Synopsis: The Johnson County Sheriff's Office, the Shawnee and Lenexa Police Departments and the Shawnee Mission Park Patrol each have the authority to enforce the laws of Kansas and conduct criminal investigations in Shawnee Mission Park.

The Sheriff, City Police and Park Patrol have coextensive responsibilities in the enforcement of state laws in Shawnee Mission Park.

* * *

Dear Mr. Moore:

You have inquired as to the following two issues:

- 1) Which of the following law enforcement agencies, the Shawnee Mission Park Patrol, Johnson County Sheriff's Office, Shawnee Police Department or Lenexa Police Department has the legal authority to conduct criminal investigations and make arrests in cases of felony and misdemeanor violations of Kansas Statutes committed in the Shawnee Mission Park? and

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- 2) Does any one of the aforementioned law enforcement agencies have primary or exclusive responsibility for conducting criminal investigations and making arrests in cases of felony and misdemeanor violations of Kansas Statutes committed on the Shawnee Mission Park?

The Shawnee Mission Park has been established by authority of K.S.A. 19-2859 which provides:

"The creation of a park district in an area composed of a portion or all of the townships of Mission and Shawnee in Johnson county, including not less than all of the cities, the boundaries of which are within the boundaries of such park district, is hereby authorized, and the government operation and financing set up as herein provided: *Provided*, That no lands or improvements located within such district which are otherwise exempt by law from ad valorem taxes, shall be subject to payment of any taxes levied by said district."

The board of park and recreation commissioners are the governing body of the Johnson County park and recreation district provided by K.S.A. 19-2863. The general powers of the board are found at K.S.A. 1977 Supp. 19-2868 and the areas pertinent to our consideration are found in subsection (f) and (g).

"The board shall have power:

. . . .

(f) To appoint park and recreation supervisory personnel and employ such other employees, servants, police and agents as may be necessary for the proper and adequate operation, improvement and maintenance of the park and recreation district, and may appoint, employ or retain attorneys, engineers, landscape architects, surveyors and other professional or technical persons or firms for a period or for specified projects and pay the necessary compensation therefor.

(g) To adopt, promulgate and enforce reasonable rules and regulations for the operation and the conduct of persons using such parks and playgrounds as provided by this act. . . . " [Emphasis supplied.]

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Further authority for the boards power to adopt rules and prescribe penalties for violation of such rules is found at K.S.A. 19-2873 which provides in pertinent part:

"The board may by resolution adopt rules and regulations for the operation of the park and recreation district and rules and regulations applying to any particular park or playground and prescribe penalties for violation of any rules and regulations relating to the conduct of persons in the parks and playgrounds or park or playgrounds, such penalties not to exceed imprisonment in the county jail for not to exceed three (3) months or by fine of not to exceed one hundred dollars (\$100) or both such fine and imprisonment. Any rules and regulations for the conduct of persons applying to all parks or any park and providing penalties shall be published once in the official county paper and copies of the rules and regulations shall be posted and kept posted in all parks to which they are applicable, and the violation of any penal rule or regulation when so published and posted shall constitute a misdemeanor. . . . " [Emphasis supplied.]

You have advised that the Shawnee Mission Park Patrol officers have been commissioned by the Johnson County Park Authority and do attend the Law Enforcement Training Center, Hutchinson, Kansas.

K.S.A. 1977 Supp. 74-5602(e) relating to the Law Enforcement Training Center police officer, and provides in part:

"(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. Such terms shall include, but not be limited to, the sheriff, undersheriff and full-time salaried deputies in the sheriff's office in each county; game protectors in the employ of the forestry, fish and game

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commission; park rangers under the jurisdic-
tion of the park and resources authority
. . . ." [Emphasis supplied.]

Under this definition the Patrol Division of the Shawnee Mission Park are police officers whose principal duties include the enforcement of the rules and regulations of the Shawnee Mission Park. Additionally, the members of the patrol division have the authority to prevent or detect crime as well as enforcing the criminal laws of the State within the jurisdictional territory of the Shawnee Mission Park.

Under Chapter 12, K.S.A. 12-4113(j) law enforcement officer is defined as "any person who by virtue of office or public employment is vested by law with a duty to maintain order and to make arrests for violations of the laws of the State of Kansas or ordinances of any municipalities thereof." City police, then, have authority to arrest offenders against the laws of the state or of the city for offenses committed within the city.

It has been a long-standing rule in Kansas that although a city police officer is a public servant and an instrumentality of the state and not a mere agent of the city, he is an officer of limited jurisdiction. See Haney v. Cofran, 94 Kan. 332 (1915); Anderson v. Shawnee County Commissioners, (1913). Such officers have jurisdiction within the limits of the city, with such additional jurisdiction as may be provided by statute. As the Shawnee Mission Park is located in both the Shawnee and Lenexa city limits, the police officer's authority exists only to those violations of municipal ordinances occurring in that portion of the park within the respective city limits unless the officer is in fresh pursuit of a person. These officers also have the authority to enforce state laws and prevent crime in their respective jurisdictions.

The powers of sheriffs are set forth in K.S.A. 19-813 which provides:

"It shall be the duty of the sheriff and undersheriffs and deputies to keep and preserve the peace in their respective counties, and to quiet and suppress all affrays, riots and unlawful assemblies and insurrections, for which purpose, and for the service of process in civil or criminal cases, and in apprehending or securing any person for felony or breach of the peace, they, and every coroner, may call to their aid such person or persons of their county as they may deem necessary."

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In State v. McCarty, 104 Kan. 301, the Kansas Supreme Court found that the Sheriff is the state's chief executive and administrative officer in his county and the sheriff is oftentimes called the chief law enforcement officer of the county. However, the sheriff is not authorized to enforce local ordinances enacted by the respective cities in his county. Thus, the sheriff's authority is limited in this particular situation to the prevention of crime and enforcement of state laws within the Shawnee Mission Park.

In summary to your first question, each of the aforementioned law enforcement agencies has the legal authority to conduct criminal investigations and enforce the Kansas Criminal Code in Shawnee Mission Park.

As to whether one of the forementioned law enforcement agencies has primary or exclusive responsibility for conducting criminal investigations and making arrests in cases of felony and misdemeanor violations of Kansas statutes in Shawnee Mission Park, it is my opinion that the Sheriff, city police and park patrol have coextensive responsibilities in the enforcement of state laws. I would hope that any conflicts which may rise could be resolved agreeably and urge that law enforcement authorities act in a cooperative fashion in the discharge of their common responsibilities.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:DLW:jj