



STATE OF KANSAS

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ATTORNEY GENERAL

September 20, 1978

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ATTORNEY GENERAL OPINION NO. 78- 298

Mr. Charles V. Hamm
General Counsel - Legal Division
Department of Social and
Rehabilitation Services
6th Floor - State Office Building
Topeka, Kansas 66612

Attn: Mr. Stephen J. Craeton

Re: Law Enforcement Training--Security Officers, Department
of Social and Rehabilitation Services--Requirements

Synopsis: Security officers appointed pursuant to K.S.A. 76-12a16
constitute police or law enforcement officers as those
terms are defined by K.S.A. 1977 Supp. 75-5602, as
amended by ch. 323, § 5, L. 1978.

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Dear Mr. Hamm:

You advise that various classes of positions at institutions under the supervision of the Department of Social and Rehabilitation Services, and specifically Security Officer and Fire and Safety Officer positions, have recently been reclassified to Patrol Officer and Patrol Sergeant positions. These persons are employed by the Department under K.S.A. 76-12a16, which provides in pertinent part thus:

"The secretary of social and rehabilitation services may authorize any superintendent to employ security policemen at the institution of which he or she is superintendent . . .

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Such security policemen are hereby vested with the power and authority of peace, police and law enforcement officers anywhere within the county in which the institution is located for which the security policeman is employed, when wearing and publicly displaying the badge of office prescribed hereunder. . . . [S]ecurity policemen shall enforce state laws, rules and regulations of the secretary, policies applicable to the institution and city ordinances. The power of arrest of a security policeman shall extend to the state laws and city ordinances the security policeman is directed to enforce."

The question has arisen whether such officers are police and law enforcement officers, as defined by K.S.A. 1977 Supp. 75-5602, as amended by ch. 323, § 5, L. 1978, who are required to complete the course of instruction offered at the Law Enforcement Training Center. The 1978 amendment to the referenced statute does not become effective until July 1, 1979. At present, that section defines "police officer" and "law enforcement officer" as, in pertinent part,

"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 commission; park rangers under the jurisdiction of the park and resources authority; security officers at all state penal institutions for adult offenders; campus policemen at all state colleges and universities; law enforcement agents of the director of alcoholic beverage control; deputies and assistants of the state fire marshal having law enforcement authority; probation and parole officers under the jurisdiction of the secretary of corrections; and capitol area security guards, existing under the authority of K.S.A. 1977 Supp. 75-4503. . . ."

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The 1978 legislature deleted from the definition, effective July 1, 1979, any employee of the Secretary of Corrections, including security officers at all state penal institutions for adult offenders, and parole and probation officers of that department.

The question is raised whether the officers in question here continue to fall within the scope of the referenced definition. The 1978 amendments indicate a legislative intent, it is suggested, to restrict the definition to exclude from those who are subject to the training center course requirements those officers and employees whose principal duties may not include the investigation and detection of crime and the enforcement of state and local laws, ordinances and regulations.

Institutional security officers are primarily engaged in assuring and maintaining security on the premises of the institution, protecting the staff, patients and visitors, and assuring security of all property on the premises. Although law enforcement is a part of their assigned task, their enforcement duties may be sufficiently limited that they do not require the extensive law enforcement training offered by the Center. Thus, the 1978 legislature excluded security officers at correctional institutions from the category of law enforcement officers subject to the training requirements of the act. Security officers at the institutions under the supervision of your department have duties, analogous to those officers, and the legislature's amendment of the section to exclude the one class raises a question whether others, such as those involved here, may be deemed to be excluded by implication.

It may very well be that if it had been proposed to the legislature to exclude the officers in questions here from the training requirements that the legislature would have done so on the same basis and for the same or very similar reasons that it acted to exclude security officers at correctional institutions. However, in my judgment, the exclusion of one group of officers, such as the security officers of the Department of Corrections, does not warrant or support an inference that security officers of other departments are likewise excluded, who otherwise fall within the statutory definition, i.e., full-time salaried officers or employees whose duties include the prevention or detection of crime and the enforcement of the criminal or traffic laws of the state.

Clearly, it is a responsibility of those officers employed under K.S.A. 76-12a16 to enforce state laws and municipal ordinances, and to exercise, anywhere within the county in which the institution is located, the authority of peace, police and law enforcement officers. These officers fall squarely within the scope of the definition of police or law enforcement officers of K.S.A. 1977 Supp. 75-5602. The 1978 amendments do not create any ambiguity or uncertainty respecting the status of security officers of state departments generally.

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The legislature chose to exempt only those of the Department of Corrections, and it did not amend the definition otherwise so as to draw the status of those officers employed under K.S.A. 76-12a16 into question. In my judgment, those officers continue to fall within the definition of police or law enforcement officers under K.S.A. 1977 Supp. 75-5602 as amended.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:jj