



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
ANTITRUST: 296-5299

August 22, 1979

ATTORNEY GENERAL OPINION NO. 79-180

Robert H. Gale, Jr.
Hamilton County Attorney
Syracuse, Kansas 67878

Re: Counties and County Officers -- Sheriff -- Attendance
at Law Enforcement Training Academy

Synopsis: A person appointed to the office of sheriff who has not held the office within two (2) years prior to appointment and has not attended the law enforcement training academy within two (2) years prior to appointment must attend the law enforcement training academy and satisfactorily complete the required training course in accordance with K.S.A. 1978 Supp. 19-801b and 74-5608.

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Dear Mr. Gale:

You have requested our opinion as to whether the recently appointed Sheriff of Hamilton County is required to attend the law enforcement training academy pursuant to K.S.A. 1978 Supp. 19-801b. It is our understanding that the appointee successfully completed the required course of training at the law enforcement training academy seven (7) years prior to his appointment and has since continuously been employed as a deputy sheriff.

Subsection (b) of K.S.A. 1978 Supp. 19-801b provides:

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"Every person elected to the office of sheriff for the first time, or any one reelected or appointed to the office after having been out of the office for two (2) years or more shall be required to attend the law enforcement training academy as established by K.S.A. 74-5601, et seq., and amendments thereto, and satisfactorily complete the required training course of not less than one hundred sixty (160) hours, unless such person has satisfactorily completed such training course within two (2) years prior to election or appointment. Any person elected or appointed to the office of sheriff who has not attended the law enforcement training academy shall hold office on a provisional basis, and such person must attend the next scheduled training program at the law enforcement training academy and satisfactorily complete such training program or the one subsequent to it, or shall forfeit such office."

Since the language of the foregoing statute is arguably ambiguous regarding training requirements for persons who are appointed to the office of sheriff who have not actually held the office prior to their appointment we find it necessary to consider the legislative intent. It is our opinion that the intent of the legislature was to require any person appointed to the office of sheriff who has neither held the office of sheriff within two (2) years prior to appointment nor satisfactorily completed the required training course within two (2) years prior to appointment to attend the law enforcement training academy and satisfactorily complete the required training course or forfeit the office of sheriff. Such an interpretation evinces an effort by the legislature to insure that each person accepting the office of sheriff initially or following a two (2) year absence from the office has completed a current, formal law enforcement training course. In light of the factual situation you have presented, we conclude that the appointee must attend the next scheduled training program or the one subsequent thereto and satisfactorily complete the training program.

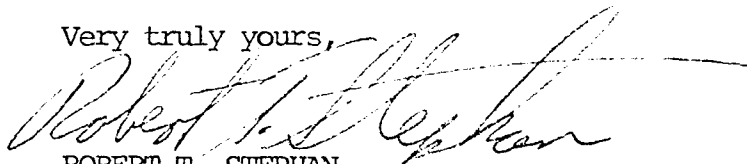
An additional issue which you have not expressly raised, but upon which we feel incumbent to comment, is the number of hours of instruction that Sheriff Hatcher must complete in order to satisfy the requirements of K.S.A. 1978 Supp. 19-801b. Although K.S.A. 1978 Supp. 19-801b alludes to a required training course of not less than one hundred sixty (160) hours, we would direct your attention to K.S.A. 1978 Supp. 74-5608 which establishes a basic course of not less than four hundred (400) hours of accredited instruction. In our opinion the language

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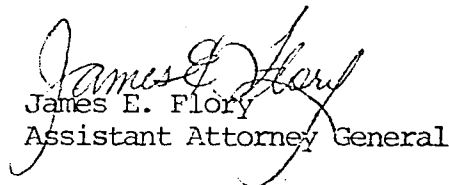
of subsection (b) of K.S.A. 1978 Supp. 19-801b mandates the completion of the required training course in existence at the time of attendance; therefore, we believe that the appointee in this case must complete a course of four hundred (400) hours of instruction. This requirement is subject, however, to the provisions of subsection (b) of K.S.A. 1978 Supp. 74-5608a which permits waiver by the associate director of the law enforcement training academy of unduly burdensome or duplicitous hours of instruction.

Please convey to Sheriff Hatcher our sincere congratulations on his recent appointment and assure him of our cooperation and assistance in matters of mutual concern.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



James E. Flory
Assistant Attorney General

RTS:TDH:JEF:may