



STATE OF KANSAS

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February 6, 1980

ATTORNEY GENERAL OPINION NO. 80- 36

Arthur M. Schenk
Sheriff of Montgomery County
Independence, Kansas 67301

Re: Counties and County Officers -- Sheriff -- Deputies

Synopsis: The authority to appoint deputy sheriffs and to revoke such appointments is vested solely in the sheriff by K.S.A. 19-805, and such authority may not be altered by a general resolution adopted by the board of county commissioners.

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Dear Sheriff Schenk:

You inquire whether the Montgomery County Board of County Commissioners may by general resolution regulate the manner in which you appoint or revoke the appointment of deputy sheriffs. It is our understanding that the basis for your inquiry is the adoption of a document entitled, "Montgomery County Employees, Personnel Policies," which in section XII purports to establish discipline and discharge procedures.

The statutory authority for the appointment of deputy sheriffs and revocation of such appointments is set out in K.S.A. 19-805 which provides:

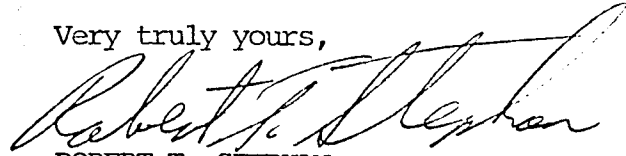
"Each sheriff may appoint such and so many deputies as he may think proper, for whose official acts and those of his undersheriffs he shall be responsible, and may

revoke such appointments at his pleasure; and persons may also be deputed by such sheriff or undersheriff in writing, to do particular acts; and the sheriff and his sureties shall be responsible, on his official bond, for the default or misconduct of his undersheriff and deputies." [Emphasis supplied]

From the foregoing statute it is clear that the authority to appoint deputy sheriffs and the authority to revoke such appointments is vested solely in the sheriff, and that the sheriff may exercise that authority in his or her discretion. To the extent that the aforementioned document which was adopted by the Board of County Commissioners attempts to impinge upon the sheriff's authority to appoint or revoke the appointment of deputy sheriffs, it is invalid.

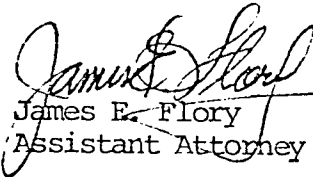
It should be noted, however, that the sheriff's appointment authority as established by K.S.A. 19-805 is not uniformly applicable to all counties (see K.S.A. 19-4303 et seq.); therefore, the statute may be subject to alteration by charter resolution in accordance with K.S.A. 19-101b. Absent utilization of the charter ordinance power, the board of county commissioners may not regulate the discretion of the sheriff in appointing or revoking the appointments of deputy sheriffs.

Very truly yours,



ROBERT T. STEPHAN

Attorney General of Kansas



James E. Flory

Assistant Attorney General

RTS:TDH:JEF:may