

SHERIFFS:
COUNTY COURTS:
DEPUTIES:

County court of a first class county has authority to authorize the appointment of deputy sheriffs in addition to statutory number and to appropriate money for their compensation regardless that the sheriff has voluntarily stated to the court that he proposes to have such additional deputies attend a full-time, two-month training course while employed as deputy sheriff.



October 28, 1953

Honorable Hilary A. Bush
County Counselor
Suite 202, Courthouse
Kansas City, Missouri

Dear Mr. Bush:

We render herewith our opinion based on your request of September 24, 1953, which request reads as follows:

"The Sheriff has requested that the County Court authorize the appointment of fifteen additional deputies. He stated in open court that he intended to appoint these fifteen men from the list of qualified applicants for positions in the State Highway Patrol; that some, and perhaps most of them, would not be residents of Jackson County at the time of the appointment; that he intended to send these men, immediately upon placing them upon the payroll, to a two month school for peace officers about to be conducted by the State Highway Patrol in Sedalia, Missouri; that upon their graduation from that school he intends to discharge fifteen of his present deputies and use the fifteen new men in their place and assign them to patrol duty.

"The County Court has requested that I ask your opinion as to whether or not the County Court has the power to appropriate

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money to pay the salaries of these deputies while they are attending school and not performing normal duties of the Sheriff's office?"

The precise question presented by your request is a novel one, and so far as our research has revealed, has never confronted any court. We believe, however, that the statement of the sheriff to the county court as to his intention to have the deputies attend a training course for the first two months of their employment would not take from the county court the authority to appropriate funds for payment of their salaries. The order of the court would, we assume, simply fix the number of deputies allowed to the sheriff (above the number authorized by statute without county court approval) and appropriate the money for payment of their salaries. It would not include any reference to the activities in which such deputies were to be engaged for any given time.

Certainly the fixing of the number of deputies above the statutory number and the budgeting and appropriation of money for their compensation is within the power of the county court. Section 57.200, Mo. R. S., Cum. Supp., 1953, (Senate Bill No. 373, 67th General Assembly); Section 50.550, RSMc 1949.

We do not see that the voluntary statement of the sheriff that he intends to send these deputies to a training course for two months after they have been employed makes any difference as to the county court's power to appropriate the money.

The county court, before making its appropriation order, need not inquire precisely what are the duties of the sheriff and his deputies, how or whether they will perform them properly, or how much latitude they have in such matters as taking time from their routine duties for training. The court is bound to assume, so far as the order we are considering is concerned, that the sheriff's office will be conducted in compliance with law.

As to the propriety of one's attending a two-month training course while employed as a deputy sheriff, we specifically reserve our opinion. But it is the sheriff and his deputies for that; the county court before making its appropriation order need not inquire into it.

We think, too, that a different question might be presented should the court's order authorizing appointment of additional deputies and appropriation of money for their pay

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make reference to attendance on the training course by the deputies authorized to be used. On this question, too, we reserve our opinion.

CONCLUSION

It is the opinion of this office that the county court of a first class county has authority to authorize the appointment of deputy sheriffs in addition to the statutory number and to appropriate money for their compensation regardless that the sheriff has voluntarily stated to the court that he proposes to have such additional deputies attend a full-time, two-month training course while employed as deputy sheriff.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. W. Don Kennedy.

Very truly yours,

JOHN M. DALTON
Attorney General

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