

SHERIFFS: The requirements of Section 57.220, RSMo, requiring that
DEPUTIES: the number of deputy sheriffs in a second class county be
not less than one chief deputy sheriff and one additional
deputy for each five thousand inhabitants of the county,
are met by the appointment of a chief deputy, five "full-time"
deputies and four "half-time" deputies in a second class county with
a population of 42,020.

OPINION NO. 97
NO. 427 (1967)

February 6, 1968



Honorable Bill D. Burlison
Prosecuting Attorney
Cape Girardeau County
238 Broadway
Cape Girardeau, Missouri 63701

Dear Mr. Burlison:

Reference is made to your request for an official opinion of
this office, which request reads as follows:

"At the request of the Cape Girardeau
County Sheriff, I seek some clarifica-
tion of Section 57.220 Missouri Revised
Statutes.

As I interpret the statute, Cape Girardeau
County is required to have a minimum of
eight deputies and a chief deputy inasmuch
as the population by the last census stands
at just over 42,000.

At the present time, the county has one
chief deputy, five full-time deputies and
four part-time deputies. Two of the full-
time deputies are female secretaries who
have been deputized. The four part-time
deputies work half-time and receive one-
half of the pay they would receive as full-
time deputies.

Does the statute require that the county
have eight full-time deputies?

Is it permissible or required to count two
part-time (half-time) deputies as one deputy?

Is it permissible or required that the female
clerical help that has been deputized be
counted toward the eight required deputies?

Honorable Bill D. Burlison

Is it permissible to deputize female clerical help merely for the purpose of complying with the deputy minimum requirement? Or should such clerical help be pursuant to Section 57.240?"

In your letter of November 3, 1967, you state:

" * * * The two employees in question were not employed for the purpose of performing duties of the Sheriff as set out in Chapter 57. However, in unusual situations, they have performed such duties as serving defendants with legal papers when such defendants happened by the Sheriff's Office and they have, on rare occasions, accompanied the Sheriff or his deputies in the apprehension of female defendants and for transportation of female subjects to state institutions."

With regard to the first question, "does the statute require that the county have eight full-time deputies?", we find that Cape Girardeau County has a population of 42,020 according to the last decennial census and is a second class county. The appointment of deputies in class two counties is definitely set forth as to numbers in Section 57.220, RSMo 1959, which among other things, provides:

" * * * such number of deputies appointed by the sheriff shall not be less than one chief deputy sheriff and one additional deputy for each five thousand inhabitants of the county according to the last decennial census * * *."

The circuit court determines the necessary number of deputies. The employment of one chief deputy, five full-time deputies and four part-time deputies, of which two of the full-time deputies are female secretaries and also perform some of the duties of a deputy sheriff, who have been deputized meets the requirements of Section 57.220, RSMo 1959. This statute is clear in its provision and states that the number of deputies "shall" not be less than as above quoted.

There is no law that requires that a deputy in a second class county shall perform all of the duties of the sheriff; nor is there any provision for the length of time, as to the amount of hours or portions of the day, that a deputy shall be employed by the sheriff.

Honorable Bill D. Burlison

It is believed that the rule to be followed here is set out in the case of State ex rel. Gray vs. Wilder, 206 Mo. 541, 105 S.W. 272, l.c. 274, where the court said:

" * * * It is fundamental and one of the cardinal rules in the construction of statutes that the true intent and meaning of the lawmaking authority, as expressed in the language employed, should, if possible, be ascertained and declared. On the other hand, it is equally well settled that words and phrases shall be taken in their plain or ordinary and usual sense, and that it is incumbent upon the courts to construe a statute as written, without regard to the results of the construction, or the wisdom of the law as thus construed. * * * "

Your second question, "is it permissible or required to count two part-time (half-time) deputies as one deputy?", has been answered above since there is no distinction so far as Section 57.220 is concerned between "full-time" and "half-time" deputies.

In your third question you ask whether female clerks who have been deputized may or should be classed as deputies. Clerks have been appointed deputies by the sheriff and such appointments, approved by the circuit court, must be counted in determining the number of deputies in the county. You state that the deputized clerical help are performing some of the duties imposed on the sheriff under Chapter 57, RSMo 1959. Since this is true, your third question is answered by our ruling on your first question.

Your fourth question asks whether the female clerks who have been appointed deputies should be counted in determining the number of deputies in the county. You have stated that such deputies are performing duties imposed by law on the sheriff and his deputies. Therefore, your fourth question is answered by the discussion of question number one since such persons are deputy sheriffs.

CONCLUSION

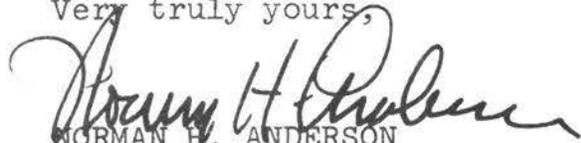
It is the opinion of this office that the requirements of Section 57.220, RSMo, requiring that the number of deputy sheriffs in a second class county be not less than one chief deputy sheriff and one additional deputy for each five thousand inhabitants of the

Honorable Bill D. Burlison

county, are met by the appointment of a chief deputy, five "full-time" deputies and four "half-time" deputies in a second class county with a population of 42,020.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Arnold Brannock.

Very truly yours,



NORMAN H. ANDERSON
Attorney General