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UNIFORMS FOR DEPUTIES AND EMPLOYES OF COUNTY SHERIFFS—COUNTY COMMISSIONERS, IN EXERCISE OF SOUND DISCRETION, MAY DEEM UNIFORM NECESSARY FOR PROPER AND CONVENIENT CONDUCT OF SHERIFF'S OFFICE—UNIFORMS MAY BE PURCHASED DIRECTLY BY COUNTY COMMISSIONERS FROM COUNTY GENERAL FUND—APPROPRIATION MAY BE MADE TO SHERIFF'S OFFICE FOR PURCHASE OF SUCH UNIFORMS—SECTION 307.01 RC.

SYLLABUS:

The county commissioners, pursuant to the provisions of Section 307.01, Revised Code, may furnish uniforms for deputies and employes of the county sheriff, if, in the exercise of a sound discretion, the commissioners deem such uniforms necessary for the proper and convenient conduct of the sheriff's office. Such uniforms may be purchased directly by the county commissioners from the general fund of the county, or an appropriation may be made to the sheriff's office for the purchase of such uniforms.

Columbus, Ohio, December 28, 1954

Hon. Alva J. Russell, Prosecuting Attorney
Summit County, Akron, Ohio

Dear Sir :

Your request for my opinion reads as follows :

"The Sheriff's department of Summit County is adopting the recommendations of the State Sheriff's Association for a statewide uniform for its deputies. They are asking the commissioners for assistance by way of an allowance towards these uniforms. The Summit County Commissioners do not have a Road and Bridge Fund levy.

"I have examined 1939 O.A.G., No. 1066 and 1946 O.A.G., No. 1058 and have checked Shepard's Citor. We request an opinion on the following :

"(1) May the Summit County Commissioners grant an allowance for uniforms to its regular deputy sheriffs?

"(2) If they may, may such an allowance be granted to inside men, inside deputies, such as jailor, matron, and clerical staff as well as those assigned to the road patrol service?

"(3) Could the County Commissioners make such an allowance if granted from the general funds of the County?"

Section 307.01, Revised Code, formerly Section 2419, General Code, provides in part as follows :

"A courthouse, jail, public comfort station, offices for county officers, and a county home shall be provided by the board of county commissioners when in its judgment any of them are needed. Such buildings and offices shall be of such style, dimensions, and expense as the board determines. The board shall also provide equipment, stationery, and postage, as it deems necessary for the proper and convenient conduct of county offices, and such facilities as will result in expeditious and economical administration of such offices. * * *"

It was held in the first branch of the syllabus of Opinion No. 1066, Opinions of the Attorney General for 1939, page 1518, to which you have referred, that :

"County commissioners, by virtue of Section 2419, General Code, have the authority to purchase for the sheriff and his deputies the uniforms required by Section 12616-2, General Code."

Section 12616-2, General Code, referred to in that opinion is now Section 4549.15, Revised Code. It provides in part as follows:

“Every member of the state highway patrol and every other peace officer, while such officer is on duty for the exclusive or main purpose of enforcing motor vehicle or traffic laws of this state, provided the offense is punishable as a misdemeanor, shall wear a distinctive uniform. * * *”

The opinion held that by virtue of this section, uniforms became necessary equipment for sheriffs and their deputies in the enforcement of traffic laws; and that in line with previous opinions authorizing the purchase by the commissioners of handcuffs and pistols, Opinion No. 101, Opinions of the Attorney General for 1927, page 151, cameras, sirens, and rifles, Opinion No. 1952, Opinions of the Attorney General for 1938, page 364, for the use of the sheriff's office, this necessary equipment could also be purchased under the provisions of Section 2419, General Code, Section 307.01, Revised Code.

You now ask whether Section 307.01, supra, is broad enough so that the holding of the 1939 opinion can be expanded to cover “inside men,” jailors, matrons and clerical employes whose duties do not require that they wear uniforms in order to enforce the traffic laws. In this connection the statute provides that “the board shall also provide equipment * * * as it deems necessary for the proper and convenient conduct of county offices.”

In this situation it seems to me that the matter is one for the sound discretion of the county commissioners. If they find that it is necessary for the proper conduct of the sheriff's office that all deputies be uniformed, then they properly can purchase such uniforms. I, of course, cannot pass on the soundness of their discretion in each case, but it seems to me that it would depend upon such factors as the amount of money available for such expenditure, the cost of the uniforms, and the other needs of the county offices.

Your third question is concerned with the fund from which such uniforms should be purchased. I know of no provision of law which designates a special fund for such purchases, and they therefore can be made from the general fund as other current expenses are provided for.

One other matter should be discussed so that the import of the above holdings will be clear. I have dealt with the power of the commissioners to purchase uniforms for sheriff's deputies. You have asked whether the commissioners may "grant an allowance for uniforms." Your language is susceptible of two interpretations: If you are asking whether the commissioners can make an appropriation to the sheriff's office so that he can purchase uniforms rather than the commissioners doing it directly, the answer to that question is in the affirmative. If you are asking whether the commissioners can grant cash allowances to deputy sheriffs for the purpose of purchasing uniforms, I do not find any such authority in the statute which we have been discussing.

In view of the above it is therefore my opinion that the county commissioners, pursuant to the provisions of Section 307.01, Revised Code, may furnish uniforms for deputies and employes of the county sheriff, if, in the exercise of a sound discretion, the commissioners deem such uniforms necessary for the proper and convenient conduct of the sheriff's office. Such uniforms may be purchased directly by the county commissioners from the general fund of the county, or an appropriation may be made to the sheriff's office for the purchase of such uniforms.

Respectfully,

C. WILLIAM O'NEILL

Attorney General