

Note from the Attorney General's Office:

1967 Op. Att'y Gen. No. 67-123 was modified by
1984 Op. Att'y Gen. No. 84-008.

OPINION NO. 67-123**Syllabus:**

1. Mandatory police training, prescribed by Section 109.77, Ohio Revised Code, is required by any sheriff's deputy unless the rights, powers, and duties of such deputy were significantly limited by the appointing sheriff.

2. A county sheriff may employ general office personnel, who do not perform specific duties of the sheriff, without

formally deputizing such employees and without age limitation of said employees.

To: C. Howard Johnson, Franklin County Pros. Atty., Columbus, Ohio
By: William B. Saxbe, Attorney General, December 19, 1967

I have before me a copy of your inquiry, a pertinent part of which reads as follows:

- "(1) Is the 120-hour mandatory police training required for the following categories of persons employed by the sheriff or commissioned by the sheriff?

Chaplain
Security Police on grounds of private industry only
Funeral escort - motorcycle units - no other duties
Office Deputies (female) who serve and sign papers over the counter in a sheriff's office.

- (2) Under what Section of the Revised Code of Ohio may sheriffs' departments employ clerical, stenographic, general office or any other civilian help who would not make arrests or carry weapons, without deputizing them? Are they permitted to employ persons under 21 years of age for these duties?"

Section 109.77, Ohio Revised Code, provides as follows:

"Notwithstanding any general, special, or local law or charter to the contrary, no person shall after January 1, 1966, receive an original appointment on a permanent basis as a peace officer of any county, township, or municipal corporation unless such person has previously been awarded a certificate by the executive director of the Ohio peace officer training council attesting to his satisfactory completion of an approved state, county, or municipal police basis training program; and every person who is appointed on a temporary basis or for a probationary term or on other than a permanent basis as a peace officer of any county, township, or municipal corporation, shall forfeit his position as such unless he previously has satisfactorily completed, or within the time prescribed by regulations promulgated by the attorney general pursuant to section 109.74 of the Revised Code, satisfactorily completes a state, county, or municipal peace officer basic training for temporary or probationary officers and is awarded a certificate by such director attesting thereto."

(Emphasis added)

The term "peace officer" is defined by Rule PC 1-02 (E), Rules and Regulations and Procedures of the Ohio Peace Officer Training Council, as follows:

"(E) The term 'Peace Officer' means a member of a police force or other organization, employed or commissioned by a township, a county, or municipal corporation, who is responsible for the enforcement of general criminal laws of the state, and empowered to carry firearms, but shall not include any person serving as such solely by virtue of his occupying other office or position, nor shall such term include a sheriff, or any person having an equivalent title who is appointed or employed by a county to exercise equivalent supervisory authority."

The foregoing rule contains three requirements for a person who must undergo police officer training. First, the person must be a police force member employed or commissioned by a township, county, or a municipal corporation.

Secondly, he must be responsible for the enforcement of general criminal laws of the state. Thirdly, such person must be empowered to carry firearms. The foregoing three requirements must be met by a person for whom mandatory police training is initiated.

Your inquiry concerns, in part, four "categories of persons" and the necessity of their completion of police training.

I held in Opinion No. 177, Opinions of the Attorney General for 1965, that:

"5. There is, in Ohio, the position of 'special deputy' and the length of his appointment is to be determined by the appointing sheriff. The rights, powers, and duties of a 'special deputy' can be no greater than those of a regular deputy, but the said rights, powers, and duties can be reduced by the appointing sheriff." (Emphasis added)

Section 311.04, Ohio Revised Code, provides the sheriff with authority to appoint deputies. Such deputies, if not limited in rights, powers, or duty by the sheriff, generally have the same authority as the sheriff under whom he serves (49 O. Jur 2d Sheriffs, Marshals, etc., Section 25, Page 54).

It is generally agreed that deputies appointed pursuant to Section 311.04, Ohio Revised Code, without restrictions placed upon their rights, powers, or duties, must undergo mandatory police training. This is so because such deputies may perform in his superior's stead, and, therefore such deputies meet the requirements of Rule PC 1-02 (E) Rules and Regulations and Procedures of the Ohio Peace Officer Training Council.

Special deputies appointed by the sheriff, but restricted from carrying firearms, are not "police officers" within Rule PC 1-02 (E), supra, and, therefore such special deputies are not required to undergo mandatory police training. It is my opinion that a chaplain, funeral escort, and female office

deputies may be included in the classification of special deputies, if they are so appointed, and need not undergo mandatory police training. It would be necessary to review the scope of the rights, duties, and powers conferred on those deputized by the appointing sheriff.

Regarding security police on grounds of private industry, please be advised that a similar question was answered in Opinion No. 179, Opinions of the Attorney General for 1966. In that opinion I held that even though special policemen are paid and employed by private citizens, such private policemen, being duly commissioned police officers with powers as such, must complete a basic training course and receive certification from the Executive Director of the Ohio Peace Officer Training Corps.

Therefore, my response to this inquiry is as before. Security police on duty on grounds of private industry only must complete the approved police training which is prescribed in Section 109.77, supra.

Your second question can be directly answered by reference to Section 325.17, Ohio Revised Code, which provides, in part, as follows:

"The officers mentioned in section 325.27 of the Revised Code (the county sheriff is included therein) may appoint and employ the necessary deputies, assistants, clerks, bookkeepers, or other employees for their respective offices * * *"

The sheriff may, pursuant to the foregoing section, employ necessary general office assistants without deputizing them so long as they do not perform duties prescribed to the sheriff by law. Such employees may be under twenty-one years of age. Therefore, it is my opinion and you are accordingly advised that:

(1) Mandatory police training, prescribed by Section 109.77, Ohio Revised Code, is required by any sheriff's deputy unless the rights, powers, and duties of such deputy were significantly limited by the appointing sheriff.

(2) A county sheriff may employ general office personnel, who do not perform specific duties of the sheriff, without formally deputizing such employees and without age limitation of said employees.