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ARIZONA ATTORNEY GENERAL

September 3, 1949

F. L. Porter, Secretary
Arizona County Attorneys and
Sheriffs' Association
Kingman, Arizona

Dear Mr. Porter:

We have your letter of July 23, 1949 wherein you ask our advice concerning the maximum salary which can be paid to the deputy sheriff in the various county classifications in the State.

Sections 12-704 through 12-707 ACA 1939, as amended, through and including Chapter 20, Laws of 1946, fixes the amount of the salaries to be paid to the county officers enumerated, among which officers is the county sheriff, in the various county classifications. These sections also make express provision for the position of chief deputy for each named officer and fixes the salary of each such chief deputy. As typical of the provisions, Section 12-704, supra, as amended by laws 1944 (2d Special Session) Chapter 31 (1947 Supplement), reads in part:

"(e) In counties of the first class having a population of one hundred thousand (100,000) or over, as determined by the official census of the United States, county officers shall receive the following annual salaries: Sheriff, four thousand five hundred dollars (\$4,500); county attorney, four thousand five hundred dollars (\$4,500); superintendent of schools, three thousand nine hundred dollars (\$3,900); clerk of the superior court, recorder, treasurer and ex officio tax collector, assessor, each three thousand six hundred dollars (\$3,600); members of the board of supervisors, each three thousand six hundred dollars (\$3,600)."

"(b) Each of the officers named in subsection (a) other than the board of supervisors shall appoint a chief deputy, who shall receive an annual salary agreed upon by the officer, appointing the deputy, and the members of the board of supervisors of not more than three thousand six hundred dollars (\$3,600) each for deputy sheriff, deputy county attorney and deputy superintendent of schools, and not more than three thousand dollars (\$3,000) each for deputy clerk of the court, deputy recorder, deputy treasurer and deputy assessor."

Also see subsections (d) and (e). Similarly, Section 12-705, supra, as amended (1947 Supplement) provides:

"(a) In counties of the second class, county officers shall receive the following annual salaries: Sheriff, four thousand dollars (\$4,000); clerk of the superior court, recorder, treasurer and ex officio tax collector, assessor, each two thousand seven hundred dollars (\$2,700); county attorney, three thousand dollars (\$3,000); superintendent of schools, three thousand dollars (\$3,000); chairman board of supervisors, one thousand eight hundred dollars (\$1,800); members of the board, other than the chairman, one thousand five hundred dollars (\$1,500).

(b) Each of the officers named in subsection (a), other than the board of supervisors,

may appoint a chief deputy, who shall receive an annual salary agreed upon by the officer, appointing the deputy, and the members of the board of supervisors, of not more than two thousand four hundred dollars (\$2,400)."

See Sections 12-706 and 12-707, supra. The latest amendment of these sections, Laws 1946 (3d Special Session) Chapter 20, Section 1, is in part as follows:

"(a) The annual salary of the sheriff, county attorney, clerk of the superior court, recorder, treasurer and ex-officio tax collector, assessor and superintendent of schools in the several counties shall be an amount five hundred dollars (\$500) in excess of the salary prescribed for each such officer respectively under the provisions of sections 12-704, 12-705, 12-706 and 12-707, Arizona Code of 1939, as amended by chapter 31, Laws of 1944, second special session."

* * * * *

"(c) The annual salary of the chief deputy of each of the officers named in subsection (a) shall be an amount five hundred dollars (\$500) in excess of the salary prescribed by said sections, subject to the limitations and conditions imposed thereunder."

These salary provisions clearly concern only the officers themselves and their appointed chief deputies and have no applicability to any additional deputies or assistants.

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The statutory authority for appointing and fixing the salary of such additional deputies and assistants, including deputy sheriffs, is in Section 12-708 ACA 1939, which reads:

"Deputies, how appointed and salaries.-- The county officers hereinbefore named may, by and with the consent of and at salaries to be fixed by the board of supervisors, appoint deputies, stenographers, clerks and assistants necessary to properly conduct the affairs of their respective offices."

See also Article 12, Section 4, Constitution of Arizona, and Sections 12-709 and 17-506 ACA 1939. The last quoted section places no maximum upon the salaries which might be fixed by the board of supervisors for such deputies, and we are unable to find any such maximum limitation elsewhere in our laws.

It is therefore our opinion that the boards of supervisors of the various counties are free to fix the salaries of all deputy sheriffs other than the chief deputy (and of the deputies of the other enumerated officers) at such rate or rates as appear to the boards to be a reasonable and proper compensation for the services rendered by such deputies. This same conclusion has been heretofore expressed in two former opinions from this office. The first, dated July 10, 1942, was addressed to the County Attorney of Gila County and concerned salaries properly payable to the deputy sheriffs, the precise factual situation herein discussed. The second, dated July 12, 1945, dealt with salaries payable to deputies of county officers in general and was addressed to the County Attorney of Yuma County. It might be noted that Section 17-602, ACA 1939 limits the salaries to be paid ranger deputies to a maximum of one hundred twenty-five dollars per month.

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We trust this is sufficient answer to your question, and hope that our delay in answering has not caused you any inconvenience.

Yours very truly,

FRED O. WILSON
Attorney General

RICHARD C. BRINEY
Assistant Attorney General

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