



DEPARTMENT OF LAW
OFFICE OF THE
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

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BRUCE E. BABBITT
ATTORNEY GENERAL

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April 22, 1976

Mr. Vernon L. Hoy, Director
Secretary-Treasurer, A.L.E.O.A.C.
P. O. Box 6638
Phoenix, Arizona 85005

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ARIZONA ATTORNEY GENERAL

Dear Director Hoy:

By letter of March 26, 1976, the Arizona Law Enforcement Officer Advisory Council sought our opinion on the following:

1. Pursuant to A.R.S. § 41-1828, can law enforcement agencies be reimbursed for basic training of police assistants?
2. Can law enforcement agencies be reimbursed for basic training of police assistants after their classification has been changed at some later date to that of peace officer?

A.R.S. § 41-1828 states, in pertinent part:

[T]he [Arizona law enforcement officer advisory] council shall allocate and the State treasurer shall pay . . . an amount which will reimburse the political subdivision in an amount not to exceed one-half of the salary paid to each peace officer while participating in training.
[Emphasis added.]

By its terms, the statute cannot be construed to authorize reimbursement for training any employees of political subdivisions other than peace officers. This is so even if non-peace officer employees participate in the very same training provided peace officer employees. This office has previously concluded that the purpose of acts "such as the one creating the Arizona Law Enforcement Officer Advisory Council 'is to attract and hold in police service superior personnel by adequately compensating them for arduous and hazardous duties.'" Op. Atty. Gen. No. 70-24, quoting Police Pension Board v. Warren, 97 Ariz. 180 (1965). The focus of the act creating ALEOAC (Laws 1968, Ch. 209) can also be seen from provisions of the act itself.



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See A.R.S. §§ 41-1822 (The Council shall . . . (4) prescribe minimum courses of training . . . for law enforcement officers . . . [emphasis added]); 41-1824 ([T]he Council shall endeavor to minimize costs of administration . . . so that the greatest possible proportion of the funds available to it shall be expended for the purposes of providing training for local law enforcement officers . . . [emphasis added]).

City of Scottsdale police assistants--who are unsworn (uncommissioned), unarmed, unauthorized to make arrests and who are by job description "distinguished from police officers"--are not "peace officers" (nor "law enforcement officers"). See, also, A.C.R.R. R13-4-01(2) (a peace officer is a "member of a law enforcement unit who is employed to enforce the criminal laws of, and is commissioned by, a city . . .") Op. Atty. Gen. No. 69-17, which correctly concluded that the term "peace officer" as used in A.L.E.O.A.C. legislation "should be broadly construed," does not compel a contrary result; nor does A.R.S. § 38-627.D (added by Laws 1975, ch. 98) which permits local authorities to enforce vehicular parking and standing ordinances through use of "unarmed police aides". This statute clearly distinguishes such personnel from peace officers, and states that "in no way shall this section be construed to grant other powers or benefits to which peace officers of this State are entitled."

Nothing in the A.L.E.O.A.C. statutes (A.R.S. §§ 41-1821 through 41-1829) prohibits reimbursement for council-approved training of a city's peace officers merely because such training took place before the persons trained had been sworn (commissioned). A.R.S. § 41-1822 requires the Council to prescribe "reasonable minimum qualifications for officers to be appointed to enforce the laws . . . Such qualifications . . . shall govern the recruitment [and] appointment . . . of all . . . peace officers and police officers . . .," and to "prescribe minimum courses of training . . . for law enforcement officers." There is nothing in that language to invalidate the City of Scottsdale's unique program. A.R.S. § 41-1824, which calls for minimizing administrative costs so as to expend the maximum funds to provide training for local law enforcement officers, is similarly not inimical to the Scottsdale program. Finally, nothing in A.R.S. § 41-1828 is in conflict with the Scottsdale program.

A.L.E.O.A.C.'s prime reason for being is to promote and regulate approved training for Arizona law enforcement officers. Scottsdale police officers who are "alumni" of the police assistant program have had the same approved training as Scottsdale police officers who lack police assistant experience. A.L.E.O.A.C. does not require Scottsdale police officers in the former category to

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repeat the required and approved course of training. This is clear recognition that the Council considers such officers as fully trained in conformance with the A.L.E.O.A.C. statutes and regulations. To preclude Scottsdale from reimbursement under A.R.S. § 41-1828 for training of such officers merely because they were trained some months before they were commissioned would not only be invalid, but also would contravene public policy, because:

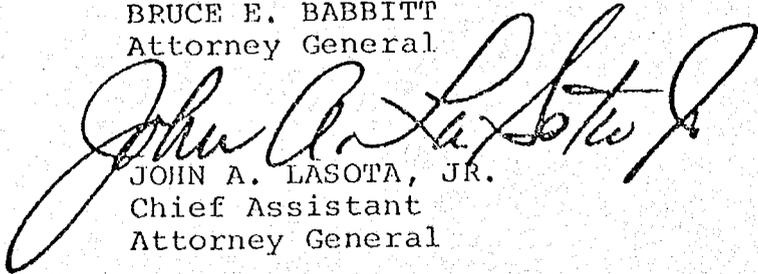
1. Scottsdale presumptively would be "collecting" ALEOAC funds per A.R.S. § 41-1826, but would not be receiving its proper share of such funds for authorized training for some--nearly all--of its officers appointed since 1971.
2. To deny Scottsdale this reimbursement would encourage the City either to abandon or curtail a progressive, salutary program, or to continue the program with lesser-trained police assistants--both courses are detrimental to the public interest in professional law enforcement.

The amount of reimbursement to which Scottsdale is entitled upon the promotion of a fully-trained police assistant to police officer depends on the straight-time police assistant salary paid that person during training-course attendance. See A.C.R.R. R13-4-01 (9). Further, Scottsdale must comply with the notification requirement of A.C.R.R. R13-4-04.

While no change in A.L.E.O.A.C. rules and regulations appears necessary to permit the reimbursement discussed above, the Council may wish to adopt rules and regulations to acknowledge directly the propriety of programs akin to the Scottsdale police assistant program.

Sincerely,

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Attorney General



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JAL:jpr

cc: Richard Filler, Esq., Scottsdale City Attorney
Mr. Walter Nemetz, Scottsdale Chief of Police