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October 23, 2013

ATTORNEY GENERAL OPINION NO. 2013- 14

Michael A. Montoya
Saline County Counselor
256 S. Santa Fe Ave.
Salina, KS 67402-1220

Re: State Departments; Public Officers and Employees–Firearms–Personal and Family Protection Act

Synopsis: For the purposes of the Personal and Family Protection Act (PFPA), a "state or municipal building" does not include a single floor within a county courthouse. A county may restrict the carrying of firearms into a county courthouse only by providing adequate security measures at the public entrances to the courthouse and by posting the courthouse as prohibiting the concealed carry of handguns in accordance with the PFPA and regulations promulgated by the Attorney General. The chief judge of a judicial district may prohibit the carrying of concealed handguns into courtrooms or ancillary courtrooms within the district provided that other means of security are employed.

"Adequate security measures" and "adequate security" are not synonymous for the purposes of K.S.A. 2013 Supp. 75-7c20. Cited herein: K.S.A. 2013 Supp. 75-7c01; 75-7c10; 75-7c20; K.A.R. 16-11-7.

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Dear Mr. Montoya:

As Saline County Counselor, you request our opinion whether Saline County may restrict the concealed carry of handguns into part, but not all, of the Saline County courthouse. You also ask whether the terms "adequate security" and "adequate security

measures" are synonymous for the purposes of the Personal and Family Protection Act (PFPA).[1]

Prohibiting Weapons on One Floor of a Municipal Building

Your first question involves several provisions of the PFPA. First, K.S.A. 2013 Supp. 75-7c20(a) states:

> The carrying of a concealed handgun as authorized by the personal and family protection act shall not be prohibited in any state or municipal building unless such building has adequate security measures to ensure that no weapons are permitted to be carried into such building and the building is conspicuously posted in accordance with K.S.A. 75–7c10, and amendments thereto.

"State or municipal building" is defined as:

> [A] building owned or leased by such public entity. It does not include a building owned by the state or a municipality which is leased by a private entity whether for profit or not-for-profit or a building held in title by the state or a municipality solely for reasons of revenue bond financing.[2]

In your letter, you state that the Saline County courthouse currently is posted as prohibiting concealed carry. You further state that only the third floor of the courthouse has electronic equipment and security personnel to detect and restrict the entry of all weapons on that floor. Public visitors may only access the third floor through elevators, and must pass through security upon exiting the elevator.

You ask whether the courthouse may allow concealed carry on the other floors but continue to restrict all weapons on the third floor. In other words, you ask whether the third floor of the Saline County courthouse may be considered a separate "building" for the purposes of the PFPA.

We note that the term "building" itself is not defined in the PFPA, so we ascertain its meaning from its ordinary definition.[3] One ordinary definition of a building is "a structure with a roof and walls, such as a house or factory."[4] Another ordinary definition is "a relatively permanent enclosed construction over a plot of land, having a roof and usually windows and often more than one level, used for any of a wide variety of activities, as living, entertaining, or manufacturing."[5] Based upon these definitions, it is our opinion

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[1] K.S.A. 2013 Supp. 75-7c01 et seq.
[2] K.S.A. 2013 Supp. 75-7c20(l)(5)(A).
[3] "In the absence of a statutory or common-law definition of [a phrase], this court will employ the ordinary meaning of the words used by the legislature." *State v. Taylor*, 27 Kan. App. 2d 539, 541 (2000).
[4] "Building." Oxford Dictionaries. Oxford University Press. http://oxforddictionaries.com/definition/english/building (accessed on August 21, 2013).
[5] "Building." Dictionary.com. *Dictionary.com Unabridged*. Random House, Inc. http://dictionary.reference.com/browse/building (accessed on August 21, 2013).

that the Saline County courthouse *as a whole* is a building for the purposes of K.S.A. 2013 Supp. 75-7c20. However, a single floor within a courthouse cannot be reasonably defined as a "building" because the ordinary definition of "building" includes all floors within the building.

Because the Saline County courthouse is a municipal building as defined in the PFPA, the county may restrict the concealed carry of handguns into the courthouse only by providing adequate security measures at public entrances to the courthouse and posting signs in accordance with the PFPA and regulations promulgated by the Attorney General.[6] However, the chief judge of each judicial district may prohibit the carrying of a concealed handgun by any person into *courtrooms* or ancillary courtrooms within the district "provided that other means of security are employed such as armed law enforcement or armed security officers."[7]

Adequate Security vs. Adequate Security Measures

We now turn to your second question. K.S.A. 2013 Supp. 75-7c20(i) states that the governing body or chief administrative officer of a municipal building may exempt such building from the provisions of K.S.A. 2013 Supp. 75-7c20 for a period of four years beginning January 1, 2014, by adopting a resolution or drafting a letter with the following statement: "A security plan has been developed for the building being exempted which supplies adequate security to the occupants of the building and merits the prohibition of the carrying of a concealed handgun as authorized by the personal and family protection act."

Although "adequate security" is not defined by statute, K.S.A. 2013 Supp. 75-7c20(l)(1) defines "adequate security measures" as follows:

> "Adequate security measures" means the use of electronic equipment and personnel at public entrances to detect and restrict the carrying of any weapons into the state or municipal building, including, but not limited to, metal detectors, metal detector wands or any other equipment used for similar purposes to ensure that weapons are not permitted to be carried into such building by members of the public. Adequate security measures for storing and securing lawfully carried weapons, including, but not limited to, the use of gun lockers or other similar storage options may be provided at public entrances.

You ask whether the phrase "adequate security" referred to in K.S.A. 2013 Supp. 75-7c20(i) has the same meaning as "adequate security measures."

> It is presumed the legislature understood the meaning of the words it used and intended to use them; that the legislature used the words in their ordinary and common meaning; and that the legislature intended a

[6] *See* K.S.A. 75-7c10(i) and K.A.R. 16-11-7.
[7] K.S.A. 2013 Supp. 75-7c20(h).

> different meaning when it used different language in the same connection in different parts of a statute.[8]

Following this rule of statutory construction, we note that the legislature chose not to use the defined term "adequate security measures" as part of the statement that must be included in a resolution or letter claiming the four-year exemption from the provisions of K.S.A. 2013 Supp. 75-7c20. In addition, we note that the statement about "adequate security" is required to obtain a four-year exemption, but no exemption is necessary if the building provides "adequate security measures." Therefore, the terms "adequate security" and "adequate security measures" cannot be synonymous.

Instead, "adequate security" must be construed according to its ordinary meaning. The ordinary meaning of "adequate" is "satisfactory or acceptable in quality or quantity."[9] Thus, whether security is "adequate" must be determined on a case-by-case basis for each building.

Sincerely,

Derek Schmidt
Attorney General

Sarah Fertig
Assistant Attorney General

DS:AA:SF:sb

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[8] *Rogers v. Shanahan*, 221 Kan. 223-24 (1976).
[9] "Adequate." Oxford Dictionaries. Oxford University Press. http://oxforddictionaries.com/definition/english/adequate (accessed on October 1, 2013).