

FILE

Subject

*Fees & Salaries
County Officers
Court Judge*

Copy to



STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

March 28, 1974

Opinion No. 74- 103

Rick J. Eichor
Bourbon County Attorney
Bourbon County Court House
Fort Scott, Kansas 66701

Dear Mr. Eichor:

As you point out, under K.S.A. 28-806, the salary of the judge of the county court is based upon the number of "cases . . . filed." You inquire concerning the interpretation of this phrase with relation to traffic citations. In many instances, an individual will receive more than one citation, and if each is treated as an individual case, this will substantially increase the number of "cases . . . filed," and perhaps, the salary of the judge of the county court.

As you observe, many traffic offenses could permissibly be joined together in complaint, and prosecuted in one case. K.S.A. 8-5,127e states thus:

"In the event the form of citation provided for in section 3 [8-5,127c] of this act includes information, and is sworn to as required under the laws of this state, in respect to a complaint charging commission of the offense alleged in said citation to have been committed, then such citation when filed with a court having jurisdiction shall be deemed to be a lawful complaint for the purpose of prosecution under this act or of the uniform act regulating traffic on highways."

It is the present practice, as you are aware, of the Highway Patrol that a separate citation, or complaint, is issued for each separate offense.

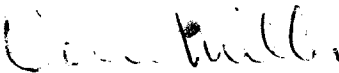
Each citation constitutes a separate complaint, and each charges, based upon the practice currently followed, a separate offense.

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Each may appropriately, and doubtless should, be considered as a separate case unless the court directs otherwise. Although separate complaints might appropriately be joined under the joinder provision of the Kansas criminal procedure code, K.S.A. 22-3203, they need not be joined. When separate complaints are filed, they may appropriately be considered as separate cases, notwithstanding each charges a separate offense which is joinable with others separately charged. When docketed as separate cases, of course, the court would necessarily be required to assess costs individually in each case, and otherwise to treat each complaint or citation as a separate case.

If you should have further questions concerning this matter, please feel free to call upon us.

Yours very truly,


VERN MILLER
Attorney General

VM:JRM:jsm