

FILE

Subject

*Courts - Cost of Fees
City and Police Court*

Copy to



STATE OF KANSAS

Office of the Attorney General

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

VERN MILLER
Attorney General

June 27, 1974

Opinion No. 74- 213

Mr. Charles Menghini
Pittsburg City Attorney
316 National Bank Building
Pittsburg, Kansas 66762

Dear Mr. Menghini:

My opinion letter to you of June 19 was not responsive to the question posed in your letter of June 14, and I regret this oversight. The question you pose arises in light of opinion no. 74-175, concluding, first, that candidates for the offices of judge and marshal of the City Court of Pittsburg, elected pursuant to K.S.A. 20-1425, may not constitutionally be restricted to residents of the City of Pittsburg, but may include any otherwise qualified person who is a resident of Crawford County, and secondly, that any qualified elector of the county must be eligible to vote for candidates for that office.

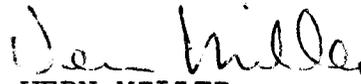
The question is now raised whether the expense of the operation of the City Court should be borne by the county as a whole, rather than by the City of Pittsburg only. Under K.S.A. 21-1424c, the governing body of the city fixes the salary of the judge and marshal of the court, to be paid from the city treasury, and the city is likewise obligated to provide such sums for clerk hire as shall be deemed necessary. Under K.S.A. 20-1441, all fees and costs collected by the court are to be deposited with the city treasurer, who shall credit them, except as otherwise specifically provided, to the city funds.

Certainly, it may reasonably be argued that the costs of the court would be more equitably apportioned were the county required to share that burden. However, the Equal Protection question involved in the classification of candidates and electors solely on the basis of residence is not so clearly presented here. The city is given the power to fix the salaries of the judge and marshal, and thus, enjoys some measure of control of the costs of the court. In addition, the city receives the costs and fees

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assessed and collected by the court. The Legislature might reasonably have determined that given this measure and control and the benefit of the funds collected by the court, that the city should bear the costs thereof. It has long been settled that the Equal Protection Clause does not require a precise correlation between the incidence of a tax and its benefits. Thus, we do not find any compelling constitutional objection to the present statutory requirement that the city bear the costs of the court. Although the taxpayers of the county outside of the city are thus relieved to that extent of any responsibility to support the costs of the court, the city in turn enjoys certain powers regarding the court and its operation, some of fiscal consequence, which in our view would provide a basis of reasonableness to support the present statutory scheme, sufficient, certainly, to overcome any objection raised under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

Yours very truly,



VERN MILLER
Attorney General

VM:JRM:jsm