



STATE OF KANSAS

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July 24, 1979

ATTORNEY GENERAL OPINION NO. 79- 153

Vern Miller
District Attorney
Sedgwick County Courthouse - Annex
535 North Main Street
Wichita, Kansas 67203

Re: Fees and Salaries -- Fees in All Counties -- Prosecuting Attorneys' Training Fund

Synopsis: Disbursements from the prosecuting attorneys' training fund established by K.S.A. 1978 Supp. 28-170a are made upon the order of the county or district attorney, and the county treasurer may not refuse to release such funds when the county or district attorney has ordered the expenditure.

* * *

Dear Mr. Miller:

You have requested our opinion as to whether county officials may refuse to release funds from the prosecuting attorneys' training fund until receipts are presented evidencing the fact that an expenditure for training of personnel has already occurred. The statutory provisions for the establishment and operation of the prosecuting attorneys' training fund are set out in K.S.A. 1978 Supp. 28-170a which provides:

"(a) There is hereby established a prosecuting attorneys' training fund. The clerk of the district court shall charge a fee of fifty cents (50¢) in each criminal case, to be

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deducted from the docket fee as provided in K.S.A. 1977 Supp. 28-172a, and shall charge a fee of fifty cents (50¢) as additional costs in each juvenile and mental illness action as provided by subsection (c) of K.S.A. 1977 Supp. 28-170. The clerk of the district court, at least monthly, shall pay all such fees received to the county treasurer who shall credit the same to the prosecuting attorney's training fund.

"(b) Expenditures from the prosecuting attorneys' training fund shall be paid by the county treasurer upon the order of the county or district attorney and shall be used exclusively for the training of personnel in such attorney's office and costs related thereto. Annually, on or before January 15, each county and district attorney shall submit to the attorney general and the chairperson of the judiciary committee of each house, an accounting that shows for the preceding year the amount of fees paid into the prosecuting attorneys' training fund, the amounts and purpose of each expenditure from such fund and the balance in such fund on December 31 of the preceding year. The purpose for which each expenditure was made shall specifically identify the person or persons for whom the expenditure was made and, where applicable, the time and place where the training was received. If any expenditure was paid to a non-profit organization organized in this state of which the county or district attorney is a member, the county or district attorney shall include information on the training received for such expenditure which information shall show the persons receiving the training and the time and place thereof." (Emphasis supplied.)

It should be noted that the foregoing statute not only establishes the prosecuting attorneys' training fund, but it also specifically provides for the disbursement of such funds. In that regard, it is our opinion that the specific language of the statute controls the method of disbursement rather than the general language of the Uniform Procedure for the Payment of Claims and Other Indebtedness by Municipalities set out in K.S.A. 12-105a and 12-105b and the statutory procedure for the issuance of warrants contained in K.S.A. 10-801 et seq.

K.S.A. 1978 Supp. 28-170a(b) vests the authority in the county or district attorney to order expenditures from the prosecuting attorneys' training fund. Additionally, the county or district attorney is charged with the responsibility of annually submitting an accounting of all expenditures

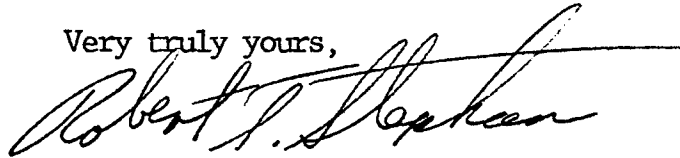
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of such funds to the attorney general and the chairperson of the judiciary committee of each house of the legislature.

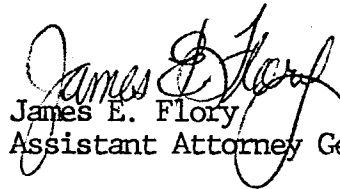
In light of the foregoing statutory language, it is our opinion that county officials may not refuse to release funds from the prosecuting attorneys' training fund when the county or district attorney has ordered the expenditure of such funds. This would be true whether the order by the county or district attorney was for funds to reimburse personnel for training already completed or for funds to enable personnel to participate in designated training in the immediate future.

In our opinion it is not necessary that the county or district attorney present receipts showing that funds have already been expended in order to secure release of such funds. Rather, we conclude from the language of K.S.A. 1978 Supp. 28-170a(b) that the county treasurer must execute warrants or warrant checks for disbursements from the fund upon the order of the county or district attorney.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



James E. Flory
Assistant Attorney General

RTS:TDH:JEF:may