



STATE OF KANSAS

Office of the Attorney General

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CURT T. SCHNEIDER
Attorney General

April 23, 1975

Opinion No. 75-180

Mr. Harold F. Gibbon
Assistant Director
Division of Accounts and Reports
Department of Administration
2nd Floor - State Capitol Building
Topeka, Kansas 66612

Dear Mr. Gibbon:

You inquire whether the Children and Youth Commission of Kansas City-Wyandotte County, Kansas, created jointly by Resolution No. 986 by the Board of County Commissioners of Wyandotte County, Kansas, and ordinance of the City of Kansas City, Kansas, article XIV, §§ 2-301 through -309, constitutes a "political subdivision" as that term is defined by K.S.A. 40-2302(f):

"[T]he term 'political subdivision' includes every taxing district in this state and also includes an instrumentality of the state, of one or more of its political subdivisions, or of the state and one or more of its political subdivisions, but only if such instrumentality is a juristic entity which is legally separate and distinct from the state or subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the state or subdivision."

The city ordinance and county resolution, substantially identical in their provisions, provide that there is "hereby established and created for the county and the city a joint children and youth commission." It has twelve members, half appointed by the city commission, and half by the board of county commissioners. Members serve without compensation. The purposes of the commission are

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"to establish a mechanism for coordination of services to children and youth which will assure the maximum use of existing facilities and the orderly development of needed services to prevent and control delinquent behavior."

The commission is required to submit an annual report to the county and city commissioners on or before August 1 of each year. Its duties are as follows:

- "(1) The review of current programs in view of the generally recognized need to combat juvenile crime and delinquency.
- (2) The establishment of a plan and programs to bring about the coordination of services to children and youth so as to assure the most advantageous use of existing facilities, social agencies, and individual efforts, and bring about the prevention and control of juvenile crime and delinquency.
- (3) The systematic analysis of the need for services.
- (4) The review of plans for new services or expansion of existing services and recommendations thereon.
- (5) The coordination of state, federal and local programs to assure the maximum efficiency in the utilization of funds which are or may become available through state and/or federal legislation.
- (6) Advise the board of city commissioners and board of county commissioners on problems affecting children and youth.
- (7) Recommend to the board of city commissioners and the board of county commissioners such measures as the commission feels necessary to carry out its objectives."

The resolution and ordinance creating the Commission make no provision for its adoption of a budget, and they are silent as to the employment of personnel and staff by the commission. The documents you enclose indicate that the city and county

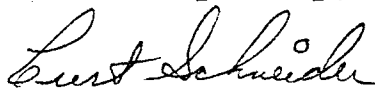
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governing bodies have each adopted "the budget for the fiscal year 1975, submitted by the Children and Youth Commission, and [each] accepts its responsibility for one-half (1/2) of said budget, in the amount of ten thousand dollars (\$10,000.00), which is pledged and will be distributed to the Children and Youth Commission for its continued operation." It appears that at the present time, the Commission employees include a full-time executive director, a full-time drug planning specialist, and a secretary, and that the services of a bookkeeper are engaged by contract.

The Commission does appear to be legally separate and distinct from both the city and the county. Given the lack of explicit provision for the employment of personnel by the Commission, the authority to hire staff is necessarily to be implied from its general powers. Nothing in the resolution and ordinance creating the Commission suggests that it is subject to the over-view and supervision by either the city or county governing bodies in the discharge of its duties. Once either the city or the county appropriates to the Commission funds, as both appear to have done, the expenditure of those funds rests in the discretion of the Commission, so far as its organic ordinance and resolution suggest. Nothing in its founding provisions suggests that either the city or the county retain control over the Commission and its activities to the exclusion of the other, or that both retain some measure of control over the Commission and its performance of the duties, planning, review, analysis and the like which are assigned to it. If, by official action of the Commission, it employs an executive director, nothing in the provisions which give the Commission its duties and responsibilities gives either of the founding governing bodies, the city or the county, authority to gainsay that determination, and similarly, once employed, supervision of such persons as are employed then rests solely with the Commission itself, so far as the documents indicate.

Based on the foregoing, we cannot but conclude that the Commission does constitute a separate juristic entity separate and apart from both the city and the county, pursuant to whose authority it was created.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

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