



STATE OF KANSAS

## Office of the Attorney General

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Curt T. Schneider  
Attorney General

June 3, 1976

ATTORNEY GENERAL OPINION NO. 76- 161

Mr. Wilbur S. Stakes, Jr.  
City Attorney  
City Hall  
Lansing, Kansas 66043

Re: Cities--Municipal Courts--Costs

Synopsis: The Kansas Code of Procedure for Municipal Courts, K.S.A. 12-4101 *et seq.* provides no authority for the assessment by a municipal judge of a sum, in addition to the fine prescribed by the duly adopted schedule, consisting of the cost of preparation of a presentence report prior to sentencing disposition of an accused person found guilty in a municipal court.

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Dear Mr. Stakes:

You advise that recently, the governing body of the City of Lansing adopted a revised municipal criminal code, to include nearly all of the misdemeanor offenses contained in the Kansas criminal code. In order to assist the court in sentencing, the city has requested the services of the Leavenworth County Probation Department. Among the services provided by the Leavenworth County Probation Department is the preparation of a presentence investigation report, which is requested by the court and filed with the court prior to sentencing. The cost of each report is approximately \$15.

The question which you pose is whether the municipal court may add to the fine the costs of the presentence investigation report. K.S.A. 12-4509 specifies the possible disposition and sentencing procedures available to the municipal judge. Any fine which is imposed must be

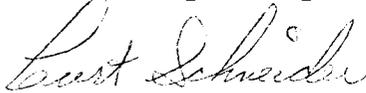
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that which is established in the schedule of fines adopted pursuant to K.S.A. 12-4305. There is no authority under the code of procedure for municipal courts to assess costs in addition to the fines authorized therein. Indeed, K.S.A. 12-4112 states thus:

"No person shall be assessed costs for the administration of justice in any municipal court case, except for witness fees and mileage as set forth in K.S.A. 12-4411."

The cost of a presentence report as proposed to be assessed is a cost of the administration of justice, and it may not be assessed by the municipal court.

Yours very truly,



CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj