



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

May 10, 1978

ATTORNEY GENERAL OPINION NO. 78- 162

Mr. Tim W. Ryan
President
Kansas County and District
Attorneys Association
Clay Center, Kansas 67432

Re: County Attorneys--Costs--General Fund

Synopsis: Costs borne by the county under K.S.A. 1977 Supp. 22-3612 may be paid from the budget of the office of the county or district attorney. If the budget of that office is depleted during the fiscal year due to the operating costs of the office, including costs paid under this section, the board of county commissioners must make provision for paying such costs due under this section from other general fund monies of the county.

* * *

Dear Mr. Ryan:

K.S.A. 1977 Supp. 22-3612 states thus:

"In representing the interests of the state in appeals from criminal actions in the district courts of this state to the supreme court or court of appeals or in other postconviction actions arising from criminal prosecutions, the attorney general shall invoke the assistance of the county or district attorney of the county in which the action

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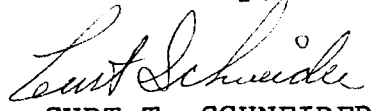
originally commenced. *The reasonable costs of such assistance shall be allowed and paid by the boards of county commissioners from the county general fund for any services rendered by such county's county or district attorney pursuant to this section.* [Emphasis supplied.]

You ask what is meant by the phrase "county general fund," and specifically, whether it includes "those funds budgeted to the county but not specifically assigned to any particular agency or function" or whether it includes funds earmarked for the county attorney's general budget. In *Smith v. Haney*, 73 Kan. 506, 85 Pac. 550 (1906), the court stated thus:

"The phrase 'general fund,' as applied to the fiscal management of a Kansas county, has a definite and well-recognized meaning. It covers the proceeds of a tax levied to provide for the usual current expenses."
73 Kan. at 509.

Secondly, you ask whether, if the budget of the county or district attorney is depleted by operating costs of that office, including the costs paid under this section, the costs of handling further appeals during the remainder of the fiscal year may be shifted to this office, or whether the county must provide funds to meet these costs. This section makes it clear that the costs of assistance furnished by county or district attorneys under this section shall be borne solely by the county, and are not the responsibility of the state.

Yours truly,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj