



STEVE CLARK  
ATTORNEY GENERAL

STATE OF ARKANSAS  
OFFICE OF THE ATTORNEY GENERAL  
JUSTICE BUILDING, LITTLE ROCK 72201

(501) 371-2007

OPINION NO. 85-38

February 12, 1985

Mr. Scott Hunter  
Prosecuting Attorney  
514 W. Washington Ave.  
P.O. Box 926  
Jonesboro, AR 72401

Dear Mr. Hunter:

This letter is in response to the letter of your deputy, Mr. Fogleman, for an opinion regarding the following issues:

Whether a police court may charge the \$3.00 court costs that is authorized by Ark. Stat. Ann. §22-706.9.

Whether every city in Crittenden County must approve the levy of any court costs for the public defender system in Crittenden County before any court in Crittenden County may add this court cost.

Whether the police court may charge the cost provided in Ark. Stat. Ann. §12-1731.

Article 7, Section 1 of the Arkansas Constitution authorizes the General Assembly to inter alia, grant jurisdiction to municipal corporation courts. Pursuant to this provision, the General Assembly has created three(3) types of municipal corporation courts, municipal courts (Ark. Stat. Ann. §22-701 et seq (Repl. 1962)), police courts (Ark. Stat. Ann. §22-801 et seq (Repl. 1962)) and city courts (Ark. Stat. Ann. §19-1102 and 1102.1 (Repl. 1980)). Although the jurisdiction and the nature of the cases handled by these courts are very similar, a reference to one does not necessarily refer to all.

The question that you have raised highlights this point. Ark. Stat. Ann. §22-1706.9 authorizes the governing body, wherein a municipal or city court is located, to enact an ordinance levying a court cost of \$3.00 to be used for the purpose of the administration of justice. This statute only authorizes city courts and municipal courts to collect the \$3.00 court cost. The legislature has created these three(3) types of courts. I must presume that they recognize the difference between these three(3) types of courts. Applying the maxim expressio unis est exclusio alterius (mention of one thing implies exclusion of another), it appears that the General Assembly intended for only city and municipal courts to apply this court cost and not police courts. Had the legislature intended to include police courts they would have so stated.

With regards to your second question, the legislature has specifically authorized Crittenden County to create a public defender system. See Act 318 of 1981. Furthermore, Act 919 of 1983 authorizes the Crittenden County Quorum court to levy a court cost to fund the system. The Act specifically states that each city within the county must approve the court cost. It appears that each city must approve the cost prior to the court cost being levied in any court within the county.

As to your final question, Ark. Stat. Ann. §44-115 (Repl. 1977) provides, inter alia, that a police court may charge the same costs as a justice of the peace. Ark. Stat. Ann. §12-1731 (Repl. 1980) provides the costs that a justice of the peace may charge. It appears that the police court may charge these costs.

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General Randel K. Miller.

Sincerely,



STEVE CLARK  
Attorney General

SC/RKM/ljm

cc: John Fogleman