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Opinion No. 86-213

February 2, 1986

The Honorable Joe Kelly Hardin
Prosecuting Attorney
P. O. Box 507
Benton, Arkansas

Dear Prosecutor Hardin:

You have requested an opinion from this Office concerning Ark. Stat. Ann. § 22-719 as it relates to hot check violations. You pose the following questions:

1. If a hot check is written within the city limits of Sheridan, does the fine go into the city treasury or the county treasury?
2. Should the hot check warrants for violations within the city limits be handled by the city police and the hot check warrants for violations outside the city limits be handled by the county?
3. Is it legal for the county to handle all hot check violations, even those occurring within the city limits?

Ark. Stat. Ann. § 22-719 provides:

Sums collected for violations of city ordinances and state laws kept separate--Payment of funds to city and county treasuries.-- The municipal court clerk shall keep two (2) separate accounts of all fines, penalties, forfeitures, fees and costs received by him for any of the officers of the city, township or county, as in this Act provided. The first class shall embrace all sums collected in the municipal court in all civil cases and criminal cases arising out of violations of the city ordinances and cases arising out of violation of state laws, committed within the corporate limits of the city

The Honorable Joe Kelly Hardin
February 2, 1987
Page 2

where the court sits, where the arresting officer was a policeman or other officer of the city or where the arresting officer was a state policeman. The second class shall embrace all cases arising out of violation of any of the laws of the state where the arresting officer was not a policeman or other officer of the municipality, or where the offense was committed outside the corporate limits of the city and the arrest was made by a state policeman, and in all other criminal proceedings not specifically enumerated in this section. The municipal court shall, after deducting the fees and costs due the sheriff and constables, pay into the city treasury all sums arising from the first class of accounts, and he shall pay all sums rising out of said second class accounts into the county treasury, settlement between the municipal court clerk and the county clerk being had for that purpose each year between the fifth and fifteenth days of January of the succeeding year.

We construe this section to mean that the city treasury is to receive the fines collected in municipal court if the arresting officer was a city policeman, city official or a state policeman, and the offense was committed within the city limits. In cases where the arresting officer is not a city policeman or where the violation was committed outside the city limits and the arresting officer was a state policeman, the county receives the fine. The county receives the fine in all other proceedings not specifically mentioned in this section.

If a hot check is written within the City of Sheridan the fine money goes into the city treasury if the arrest was made by a city policeman or a state policeman. If the arrest was made by a deputy sheriff the fine money is to be paid into the county treasury.

Both the city police and the sheriff's office have jurisdiction over crimes committed within the city. The jurisdiction of the sheriff's office encompasses the entire county including municipalities. Ark. Stat. Ann. § 22-703.

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General Arnold M. Jochums.

Sincerely,


STEVE CLARK
Attorney General