

Opinion No. 2014-016

April 2, 2014

The Honorable John Payton  
State Representative  
Post Office Box 181  
Wilburn, Arkansas 72179-0181

Dear Representative Payton:

You have requested my opinion regarding A.C.A. § 16-23-102, which in relevant part addresses the expenditure of excess county law library funds. You have asked “whether an expenditure from the County Law Library Fund to finish space in the new Cleburne County Court Building is a lawful expenditure of funds ‘necessary for improvement in the administration of justice in the county’ pursuant to A.C.A. § 16-23-102.” As background for this question, you state:

The Cleburne County Law Library Board, established pursuant to A.C.A. § 16-23-102, (hereinafter the “Board”) has accumulated some \$90,000 plus in the County Law Library Fund. The Board has tentatively agreed to contribute \$25,000 to the County General Fund for the purpose of completing an unfinished portion of the Court Building in order to house juvenile court staff. The total proposed project will cost approximately \$50,000 and will take unfinished, unused space and put up walls, ceilings and utilities so that it may be occupied by the current Juvenile Court Judge and 2-3 staff members. These court personnel are presently housed elsewhere in the County several blocks away from the Court Building where court is conducted. It would be advantageous to have the court personnel in the Court Building for convenient access to the courtroom.

## RESPONSE

Resolution of this question turns, as an initial matter, on whether the funds to be devoted to the project are “excess” and “necessary” for the stated purpose. Because these criteria essentially entail factual determinations outside the scope of this opinion, I will assume they are met for purposes of your question. The remaining issue is a legal one – whether the expenditure of law library funds to finish space in the court building for housing juvenile court staff is a purpose for “improvement in the administration of justice in the county.” The answer to that question is “yes,” in my opinion.<sup>1</sup>

## DISCUSSION

The controlling statute, A.C.A. § 16-23-102, states in relevant part:

Any excess funds in the county law library book fund not needed for the operation and maintenance of the county law library may be expended by the board for any other purpose necessary for improvement in the administration of justice in the county.<sup>2</sup>

In considering this subsection, we are guided by well-established principles of statutory interpretation:

The first rule in considering the meaning and effect of a statute is to construe it just as it reads, giving the words their ordinary and usually accepted meaning in common language. *Weiss v. McFadden*, 353 Ark. 868, 120 S.W.3d 545 (2003). We construe the statute so that no word is left void, superfluous, or insignificant; and meaning and effect are given to every word in the statute if possible. *Ozark Gas Pipeline Corp. v. Arkansas Pub. Serv. Comm’n*, 342 Ark. 591,

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<sup>1</sup> You state that a contribution will be made to the “County General Fund,” and I assume in this regard that there will be some record reflecting the direction of the funds for this purpose – such as an appropriation ordinance or perhaps some specific order – to ensure that the funds are properly expended.

<sup>2</sup> A.C.A. § 16-23-102(c)(2) (Supp. 2013). The funds at issue are presumably moneys that were allocated to the County Law Library Fund from the County Administration of Justice Fund. See A.C.A. § 16-10-307 (Supp. 2013) (part of the codification of Act 1256 of 1995, as amended, which established a uniform state costs and fees system for financing the judicial system). Such funds fall within the Law Library Board’s grant of authority under A.C.A. § 16-23-102(c)(1) to “direct the expenditure of funds derived for county law library purposes ... and any other funds received by the county, or the board, for use of the county law library.”

29 S.W.3d 730 (2000). When the language of the statute is plain and unambiguous, there is no need to resort to rules of statutory construction. *Weiss v. McFadden*, *supra*. When the meaning is not clear, we look to the language of the statute, the subject matter, the object to be accomplished, the purpose to be served, the remedy provided, the legislative history, and other appropriate means that shed light on the subject. *Id.*<sup>3</sup>

Guided by these principles, I interpret the words “any other purpose” under subsection 16-23-102(c)(2) just as they read to mean a purpose other than “operation and maintenance of the county law library.”<sup>4</sup> The “purpose” is qualified, however, by the requirement that it be one “necessary for improvement in the administration of justice in the county.” Read as a whole, therefore, the statute contains three predicates for the redirection of funds from law library operation and maintenance, which I will identify by question:

1. Are there “excess funds?”
2. Is the “other purpose” a “necessary” one?
3. Is the “other purpose” one for “improvement in the administration of justice?”

The first two criteria for assessing the legality of the proposed expenditure require factual analyses that I am neither equipped nor authorized to undertake in the context of this opinion.<sup>5</sup> The inquiry thus focuses on the third element. The

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<sup>3</sup> *MacSteel v. Arkansas Oklahoma Gas Corp.*, 363 Ark. 22, 30, 210 S.W.3d 878 (2005).

<sup>4</sup> I note in this regard that had the general words “any other purpose” followed an enumeration of items – and not the single item “operation and maintenance of the county law library” – then under the doctrine of *ejusdem generis* (Latin meaning “of the same kind or class”) the general words might require a more narrow construction as embracing only things similar in nature to those specifically enumerated. See 2A Singer, *Sutherland Statutory Construction* § 47.17 (7th ed. 2007); *Agape Church v. Pulaski County*, 307 Ark. 430, 821 S.W.2d 21 (1991); *Woodruff v. Shockey*, 297 Ark. 595, 764 S.W.2d 431 (1989).

<sup>5</sup> I will note, however, that the word “necessary” might give rise to a legal issue, given that it is undefined and its meaning can vary. See *New Oxford American Dictionary* 1171 (Oxford University Press, 2010) (defining “necessary” as “required to be done, achieved, or present; needed; essential.”); Op. Att’y Gen. 99-348 (quoting 5th edition of *Black’s Law Dictionary*, which notes that the word is “susceptible of various meanings” and that it “may import absolute physical necessity or inevitability, or it may import that which is only convenient, useful, appropriate, suitable, proper, or conducive to the end sought.”). While some uncertainty may thus attend the term, the Arkansas Supreme Court has observed that “[t]he word ‘necessary’ must be considered in the connection in which it is used...” *Parker v. Pace & Davis*, 190 Ark. 950, 954, 182 S.W.2d 259 (1935) (quoting *Madison County v. Simpson*, 173 Ark. 755, 759, 293 S.W. 34 (1927)). This leads me to conclude that the more flexible of the alternative meanings should apply in deciding what expenditures are suitable to the purpose of “improvement in the administration of justice in the county.” As explained further herein, A.C.A. § 16-23-102(c)(2) is reflective of the legislature’s charge

phrase “administration of justice” is not defined. This gives rise, in my opinion, to some uncertainty as to the “other purposes” covered by the statute. Of course, the basic rule of statutory construction to which all other interpretive guides must yield is to ascertain and give effect to the intent of the legislature.<sup>6</sup> To reiterate in this regard, the Arkansas Supreme Court looks to appropriate sources that clarify the matter, including the language of the statute and its object and purpose, as well as other statutes relating to the same subject matter.<sup>7</sup> Additionally, the rules of statutory construction require that undefined terms be placed beside other statutes relevant to the subject and given a meaning and effect derived from the combined whole.<sup>8</sup>

The application of these principles leads me to conclude that finishing out space in a courthouse to be occupied by juvenile court staff is a lawful purpose under A.C.A. § 16-23-102(c)(2). This conclusion finds initial support in subsection 16-23-101, which authorizes the use of law library funds for “for any purpose relating to the establishment, maintenance, and operation of a county law library, including ... *construction, renovation, and maintenance of facilities* to house such libraries.”<sup>9</sup> It seems evident from this provision that the phrase “improvement in the administration of justice” in section 16-23-102 should be read to include the expense of facilities construction and renovation.

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to the counties to “provide for the necessary services of the administration of justice.” *Villines v. Tucker*, 324 Ark. 13, 16-17, 918 S.W.2d 153 (1996) (citing A.C.A. § 14-14-802(a)(1)). This charge undoubtedly includes the authority to provide for those things which, while perhaps not absolutely essential, are nevertheless reasonably useful and proper for improving the administration of justice. Given the similarity in purposes between A.C.A. §§ 14-14-802(a)(1) and 16-23-102(c), I believe the same can be said of the library board’s charge under subsection 16-23-102(c)(1) to “direct the expenditure of funds” for a “purpose necessary for improvement in the administration of justice in the county.”

<sup>6</sup> *Thomas v. Cornell*, 316 Ark. 366, 872 S.W.2d 370 (1994).

<sup>7</sup> *MacSteel*, *supra* n. 2. See also *Burford Distributing, Inc., v. Starr*, 341 Ark. 914, 20 S.W.3d 363 (2000); *Bd. of Trustees v. Stodola*, 328 Ark. 194, 942 S.W.2d 255 (1997); *Chism v. Phelps*, 228 Ark. 936, 8311 S.W.2d 297 (1958).

<sup>8</sup> *City of Blytheville v. McCormick*, 56 Ark. App. 149, 939 S.W.2d 855 (1997). See also *Stribling v. United States*, 419 F.2d 1350 (8th Cir. 1969) (where interpretation of particular statute is in doubt, express language of another statute not strictly in *pari materia* but employing similar language and applying to similar persons and things may control by force of analogy).

<sup>9</sup> A.C.A. § 16-23-101(b)(1) (Repl. 1999) (emphasis added).

This reading is buttressed, moreover, by A.C.A. § 14-14-802, a part of the County Code that includes the “administration of justice” among the “necessary services” that must be provided by the county:

A county government, acting through the county quorum court, shall provide, through ordinance, for the following necessary services for its citizens:

- (1) The administration of justice through the several courts of record of the county[.]<sup>10</sup>

This statute does not define “administration of justice” services; but as interpreted by the Arkansas Supreme Court, this language plainly includes “the costs of courthouse space.”<sup>11</sup> If faced with the question, the court in my opinion would say the same of the phrase “improvement in the administration of justice in the county” under A.C.A. § 16-23-102(c)(2). When placed beside A.C.A. § 14-14-802(a)(1), this language can be understood as recognizing the county’s obligation to provide for the administration of justice. I believe it reasonably follows that the proposed improvements to the courthouse to support the operation of the juvenile court constitute an administration-of-justice purpose for which excess county law library funds may be expended.

Deputy Attorney General Elisabeth A. Walker prepared the foregoing opinion, which I hereby approve.

Sincerely,

DUSTIN MCDANIEL  
Attorney General

DM:EAW/cyh

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<sup>10</sup> A.C.A. § 14-14-802(a)(2) (Repl. 1998).

<sup>11</sup> *Villines v. Tucker*, 324 Ark. at 16 (“[t]he General Assembly requires the respective counties to fund the other expenses of the trial court system under Ark. Code Ann. § 14-14-802 (a)(1) (1987). These other expenses include the costs of courthouse space, operating expenses for the office of the judge and prosecutor, court and prosecuting attorney personnel, public defender staffs, and court clerk staffs and operating expenses.”). The court in *Villines* upheld the constitutionality of A.C.A. § 14-14-802(a)(1), observing that “this court has made itself clear that our respective counties are responsible for the administration of justice.” *Id.* at 17.