



STATE OF ARKANSAS
ATTORNEY GENERAL
LESLIE RUTLEDGE

Opinion No. 2015-084

September 21, 2015

The Honorable Dwight Tosh
State Representative
4513 Butler Road
Jonesboro, AR 72404-8829

The Honorable Jack Ladyman
State Representative
2204 Doral Drive
Jonesboro, AR 72404-6816

The Honorable Dan Sullivan
State Representative
P. O. Box 19406
Jonesboro, AR 72403-2406

Gentlemen:

This is in response to your request for an opinion regarding the operation of Ark. Code Ann. §§ 16-10-202, 16-17-707, 16-17-906 and 16-17-1203. Your request states that following implementation of electronic tickets (e-tickets) by the Arkansas State Police, all fines relating to citations for offenses occurring in the different cities of Craighead County written by the State Police are being held by Craighead County and are not being distributed to the cities in which the offense occurred. In light of this situation, you pose the following questions:

1. Does the implementation of electronic tickets change in any way the process by which the fines are distributed amongst the cities within a county in Arkansas?
2. Arkansas Code Annotated § 16-17-906 states [that] Craighead County shall have one district court with two departments, one in Jonesboro and one in Lake City. If another city in Craighead County (i.e., the City of Brookland) has a docket called within this District Court, does this mean that city [has] a district court as referenced in Ark. Code Ann. § 16-17-1203?

3. Arkansas Code Annotated § 16-17-707 lists three (3) separate classes of accounting records for fines, penalties, forfeitures, fees, and costs received by the district court clerk. This statute also states that a city that operates a police department but does not operate a district court shall receive prorated sums collected pursuant to Ark. Code Ann. § 16-17-1203. However, Ark. Code Ann. § 16-17-1203 does not specifically state the way in which fines, fees, penalties, and costs are to be distributed. How is a city that has a police department but does not operate a district court to receive fines, fees, penalties, and costs associated with offenses committed within said city?
4. What option does a city have if a county refuses to enter into a written agreement as stated in Ark. Code Ann. § 16-17-1203?
5. Does the cost proration in Ark. Code Ann. § 16-17-1203 also apply to the proration of fines, fees, penalties and costs for offenses occurring within a city?
6. If Craighead County has not distributed funds to cities for fines, fees, penalties, and costs relating to offenses occurring within a city, does the county owe these funds to said city back to the date the county refused to distribute said funds?

RESPONSE

The answer to your first two questions is “no,” in my opinion. With respect to Question 3, a city that has a police department but does not operate a district court may choose to contribute its prorated share to the operating expenses of the nearest district court in its county by entering into a written agreement with all of the other political subdivisions that contribute to the district court in consideration for receiving its prorated amount of revenue deriving from certain offenses occurring within its corporate limits. The answer to Question 5, in my opinion, is “yes.” I am unable to provide definitive answers to Questions 4 and 6, as they are beyond the scope of an Attorney General’s opinion.

DISCUSSION

Question 1: Does the implementation of electronic tickets change in any way the process by which the fines are distributed amongst the cities within a county in Arkansas?

The answer to this question is “no,” in my opinion. Electronic tickets, defined as “an electronic citation or warning printed by a law enforcement officer and issued to a person accused of violating the law,”¹ are merely an alternative to the hand-written method in which law-enforcement officers issue citations to people accused of violating the law. I can find no statute that would suggest that electronic tickets are or should be treated differently than hand-written citations in the context you describe.

Question 2: Arkansas Code Annotated § 16-17-906 states [that] Craighead County shall have one district court with two departments, one in Jonesboro and one in Lake City. If another city in Craighead County (i.e., the City of Brookland) has a docket called within this District Court, does this mean that city [has] a district court as referenced in Ark. Code Ann. § 16-17-1203?²

The answer to this question is “no,” in my opinion. The district court in Craighead County and its departments are established by statute. Craighead County has a district court, the 19th State District Court.³ It is one countywide district court with two departments,⁴ one in Jonesboro and one in Lake City.⁵ The district court

¹ Ark. Code Ann. § 16-10-202(3) (Supp. 2013).

² Arkansas Code § 16-17-1203 (Supp. 2013), as will be discussed below, establishes a procedure whereby a city or town that has a police department but does not have a district court may contribute a prorated share to the operational expenses of its nearest district court within its county.

³ Ark. Code Ann. § 16-17-1111(b)(3) (Supp. 2013).

⁴ “Department” means the physical location where sessions of court are held. Ark. Code Ann. § 16-17-901 (Repl. 2010).

⁵ Ark. Code Ann. § 16-17-1111(b)(3).

is served by two district judges who are elected districtwide,⁶ that is, countywide. While the judges may establish dockets and hold court in other cities and towns in the county as the Quorum Court by ordinance deems it necessary,⁷ such occurrences do not mean that those localities themselves have a district court or should be considered departments of that district court.

Question 3: Arkansas Code Annotated § 16-17-707 lists three (3) separate classes of accounting records for fines, penalties, forfeitures, fees, and costs received by the district court clerk. This statute also states that a city that operates a police department but does not operate a district court shall receive prorated sums collected pursuant to Ark. Code Ann. § 16-17-1203. However, Ark. Code Ann. § 16-17-1203 does not specifically state the way in which fines, fees, penalties, and costs are to be distributed. How is a city that has a police department but does not operate a district court to receive fines, fees, penalties, and costs associated with offenses committed within said city?

In my opinion, a city or town that has a police department but does not operate a district court is entitled to receive a prorated share of revenue deriving from certain offenses that occur within its corporate limits⁸ if two conditions are met. First, the city must enter into a written agreement to contribute a prorated share to the operating expenses of the nearest district court in its county. Second, the city must actually contribute its prorated share of operating expenses of the district court.

⁶ *Id.*

⁷ Ark. Code Ann. § 16-17-108(a)(19)(A) (Supp. 2013).

⁸ *See* Ark. Code Ann. § 16-17-1203 (Supp. 2013); *see also* Acts 2007, No. 663, § 37 (codified at Ark. Code Ann. § 16-17-707(b)(3)) (“A town or city that has a police department and does not operate a district court shall receive only the prorated sums collected as provided in § 16-17-1203.”). I must note that the 2010 replacement of Volume 14A of the official Arkansas Code omits the quoted subsection (b)(3) above; it is also omitted from the 2013 supplement to Volume 14A. It is clear, though, from Act 663 that this language is intended to be part of the Code, effective January 1, 2012. *See* Acts 2007, No. 663 at §§ 37, 56(b). Accordingly, when I refer in this opinion to Ark. Code Ann. § 16-17-707(b)(3), I am referring to the language found in Act 663, § 37. I also note that unofficial online versions of Ark. Code Ann. § 16-17-707(b)(3) contain a slightly different and expired version of this language that retain a reference to city courts that no longer exist following their consolidation with district courts. *See id.* at § 16 (codified at Ark. Code Ann. § 16-17-1201 *et seq.*).

The clear statutory purpose, as expressed in Ark. Code Ann. § 16-17-1201, is that cities or towns that have their own law-enforcement officers but do not operate a district court are to receive at least a portion of the revenue derived from cases originating within their corporate limits:

It is the intent of the General Assembly that a town or city that has operated a city court is to continue to receive revenue from cases that originate in its town or city limits and *to establish a procedure to allow a town or city that has never operated a city court but that now or in the future may have law enforcement officers to be able to receive a portion of the revenue from cases that originate in its town or city limits.*⁹

The statutory procedure established allows such a city or town to enter into a written agreement with the county and other political subdivisions in the county to contribute its prorated share toward the operational expenses of the nearest district court in the county.¹⁰ In return, that city or town can receive an equally prorated share of fines and other revenue from certain violations of state laws or local ordinances that occur within its corporate limits.¹¹

The statute requires there be a written agreement between the governing bodies of all of the political subdivisions that contribute to the district court's operation.¹² The share of expenses from each contributing city is to be "a prorated amount based on the number of cases filed in the district court from each of the towns and cities and the county during the preceding calendar year."¹³ As mentioned above, that proportion is also used to determine each contributing city's share of its revenue.

⁹ Ark. Code Ann. § 16-17-1201(b) (Repl. 2010) (emphasis added).

¹⁰ See Ark. Code Ann. § 16-17-1203(a)(1)(A). For clarity, I will refer to these towns or cities as "contributing cities."

¹¹ See *id.* at §§ 16-17-1203(c), 16-17-707(b)(3).

¹² See *id.* at § 16-17-1203(a)(1)(B).

¹³ *Id.* at § 16-17-1203(a)(2)(A).

The question arises whether a county is required to enter into this written cost-sharing agreement if would-be contributing cities request it. In my opinion, the answer is “yes.” The statute states that a written agreement “is mandatory *and is to be* entered into between the governing body of the town or city and the governing bodies of the political subdivisions that contribute to the operational expenses of the district court.”¹⁴ If a county could unilaterally refuse to allow towns or cities that have a police department but not a district court to contribute to the expenses of the district court—and in turn be able to receive some revenue—so that the county paid all the expenses and kept all the revenue, this would defeat the statutory purpose.¹⁵

Question 4: What option does a city have if a county refuses to enter into a written agreement as stated in Ark. Code Ann. § 16-17-1203?

I am unable to answer this question as it is beyond the scope of an Attorney General’s opinion and I lack the authority to counsel a city in this regard. Any options a city may have must be addressed to and considered by that city’s attorney.

Question 5: Does the cost proration in Ark. Code Ann. § 16-17-1203 also apply to the proration of fines, fees, penalties and costs for offenses occurring within a city?

The answer to the question is “yes,” in my opinion. Please refer to my response to Question 3.

Question 6: If Craighead County has not distributed funds to cities for fines, fees, penalties, and costs relating to offenses occurring within a city, does the county owe these funds to said city back to the date the county refused to distribute said funds?

The answer to this question is contingent upon whether a written agreement discussed above—or a prior interlocal agreement for district-court expense and revenue sharing—is in place, its effective date, and the terms of any such

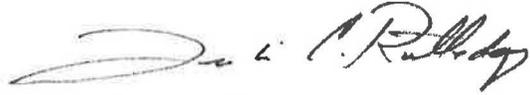
¹⁴ *Id.* at § 16-17-1703(a)(1)(B) (emphasis added). A county is a political subdivision of the state. See Ark. Code Ann. § 14-14-102 (Repl. 2013).

¹⁵ See text accompanying note 9 *supra*.

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agreement. Consequently, I cannot provide an answer to this question. I am not authorized to undertake the necessary factual review to determine these matters.

Sincerely,

A handwritten signature in black ink, appearing to read "Leslie Rutledge". The signature is fluid and cursive, with a large initial "L" and "R".

LESLIE RUTLEDGE
Attorney General