

OPINION NO. 97-037**Syllabus:**

Pursuant to R.C. 1901.026, the maximum amount of a limited self-government township's portion of the current operating costs of the municipal court in whose jurisdiction it is located is not limited to the amount paid to the township by the municipal court clerk for violations of the township's resolutions adopted under R.C. Chapter 504, but rather to "the total amount of costs, fees, fines, bail, or other moneys that was disbursed [to the township] by the clerk of the court under [R.C. 1901.31(F)]."

To: Richard R. Kuhn, Plain Township Law Director, North Canton, Ohio
By: Betty D. Montgomery, Attorney General, July 16, 1997

You have requested an opinion concerning the calculation of Plain Township's portion of the operating costs of the Canton Municipal Court under R.C. 1901.026. According to additional information you have provided, we understand your question to be whether moneys paid by the Canton Municipal Court Clerk to Plain Township other than from fines for violations of resolutions adopted by Plain Township under R.C. Chapter 504 are to be included as part of "the total amount of costs, fees, fines, bail, or other moneys that was disbursed [to the township] by the clerk of the court under [R.C. 1901.31(F)]," as that phrase is used in R.C. 1901.026(B).

In order to answer your question, it is first necessary to examine the statutory scheme for funding the Canton Municipal Court. R.C. 1901.01 establishes a municipal court in the City of Canton. Pursuant to R.C. 1901.02(B), the Canton Municipal Court has jurisdiction within the corporate limits of the city of Canton, as well as within several townships, including Plain Township, in Stark County. The current operating costs of the Canton Municipal Court are apportioned pursuant to R.C. 1901.026, which states in pertinent part:

(A) The *current operating costs*¹ of a municipal court, other than a county-operated municipal court, that has territorial jurisdiction under [R.C. 1901.02 or R.C. 1901.182] that extends beyond the corporate limits of the municipal corporation in which the court is located shall be apportioned pursuant to this section among all of the municipal corporations and townships² that are within the territory of the court. Each municipal corporation and *each township* within the territory of the municipal court *shall be assigned a proportionate share* of the current operating costs of the municipal court that is *equal to the percentage of the total criminal and civil caseload of the municipal court that arose in that municipal corporation or township*. Each municipal corporation and each township then shall be liable for its assigned proportionate share of the current operating costs of the court, subject to division (B) of this section.

For purposes of this section, the criminal and civil caseload that arose in a municipal corporation or township is the total number of criminal cases filed in the municipal court during the preceding calendar year that arose out of offenses that occurred in the municipal corporation or township and the total number of civil cases filed in the municipal court during the preceding calendar year in which the address of the majority of the defendants that are designated in the caption of the case and that have addresses within municipal corporations or townships within the territory of the court is within the municipal corporation or township....

(B) A municipal corporation or *township* within the territory of a municipal court *is not required to pay that part* of its proportionate share of the current operating costs of the court, as determined in accordance with division (A) of this section, *that exceeds the total amount of costs, fees, fines, bail, or other moneys that was disbursed by the clerk of the court under [R.C. 1901.31(F)], to the municipal corporation or township* during the period for which its proportionate share of the current operating costs was determined. The municipal corporation in which the court is located is liable, in addition to its proportionate share, for any part of the proportionate share of a municipal corporation or township that the municipal corporation or township is not required to pay under this division.

(C) ...The proportionate share of each of the municipal corporations and townships, as reduced or increased in accordance with division (B) of this section,

¹ For purposes of R.C. 1901.026, the phrase "operating costs" means:

the figure that is derived by subtracting the total of all costs that are collected and paid to the city treasury by the clerk of the municipal court pursuant to [R.C. 1901.31(F)] and all interest received and paid to the city treasury in relation to the costs pursuant to [R.C. 1901.31(G)] from the total of the amounts payable from the city treasury for the operation of the court pursuant to [R.C. 1901.10-.12, R.C. 1901.31-.331, and R.C. 1901.36-.38], other than any amounts payable from the city treasury for the operation of the court involving construction, capital improvements, rent, or the provision of heat and light.

R.C. 1901.026(D)(1).

² For purposes of R.C. 1901.026, the term "township" means "a township that has adopted the limited self-government form of government pursuant to [R.C. Chapter 504]." R.C. 1901.026(D)(2).

is payable from the general fund of the municipal corporation or township or from any other fund designated or funds appropriated for the purpose of paying the particular municipal corporation's or township's proportionate share of the current operating costs of the court. (Emphasis and footnotes added.)

Because the Canton Municipal Court is not a county-operated municipal court, R.C. 1901.03(F), and because the court has jurisdiction beyond the city in which it is located, the current operating costs of the Canton Municipal Court are apportioned in accordance with R.C. 1901.026.

Pursuant to R.C. 1901.026(A), the Canton Municipal Court's current operating costs are to be apportioned among the municipal corporations and limited self-government townships within the court's jurisdiction. The proportionate share of each contributing subdivision "is equal to the percentage of the total criminal and civil caseload of the municipal court that arose in that municipal corporation or township." R.C. 1901.026(A). For purposes of R.C. 1901.026, the term "criminal caseload," when used in regard to a township, means "cases arising from a violation of a township resolution for which a fine is imposed under [R.C. Chapter 504]." R.C. 1901.026(D)(3).³

The amount determined to be owing by each subdivision pursuant to R.C. 1901.026(A), however, may be reduced in accordance with R.C. 1901.026(B), by the amount by which such subdivision's share exceeds "the total amount of costs, fees, fines, bail, or other moneys that was disbursed [to the subdivision] by the clerk of the court under [R.C. 1901.31(F)]." Thus, pursuant to R.C. 1901.026(B), "the total amount of costs, fees, fines, bail, or other moneys that was disbursed [to the subdivision] by the clerk of the court under [R.C. 1901.31(F)]" constitutes the maximum amount of the court's operating costs for which a contributing subdivision, other than the municipal corporation in which the court is located, may be liable. The municipal corporation in which the court is located is then responsible for the payment of not only its proportionate share of the court's operating costs but also that part of the proportionate share of costs of any subdivision whose share is reduced by R.C. 1901.026(B).

You specifically question whether moneys paid to a limited self-government township by the municipal court clerk other than for fines resulting from violations of the resolutions adopted by the township under R.C. Chapter 504 are to be included in arriving at the figure that constitutes "the total amount of costs, fees, fines, bail, or other moneys that was disbursed [to the township] by the clerk of the court under [R.C. 1901.31(F)]," as that phrase is used in R.C. 1901.026(B). The suggestion has been made that because a township's criminal caseload, for purposes of R.C. 1901.026, includes only cases arising from a violation of a township resolution for which a fine is imposed under R.C. Chapter 504, the only moneys to be included in "the total amount of costs, fees, fines, bail, or other moneys that was disbursed [to the township] by the clerk of the court under [R.C. 1901.31(F)]," as that phrase is used in R.C. 1901.026(B), are sums

³ Briefly, I note that R.C. Chapter 504 authorizes townships to adopt a form of limited self-government. Pursuant to R.C. 504.04, such townships may adopt resolutions as described in R.C. 504.04(A) that may be enforced by the imposition of civil fines. See R.C. 504.05 (authority of township trustees of limited self-government township to impose civil fines for violation of township's resolutions). Pursuant to R.C. 504.04(B)(1), no resolution adopted under R.C. Chapter 504 shall "create a criminal offense or impose criminal penalties."

paid to the township for fines imposed under R.C. Chapter 504. For the reasons that follow, however, I believe that the phrase about which you ask is not so limited.

Let us begin the analysis of your question by examining the language of R.C. 1901.31(F), which states in pertinent part:

The clerk of a municipal court shall receive, collect, and issue receipts for all costs, fees, fines, bail, and other moneys payable to the office or to any officer of the court. *The clerk shall each month disburse to the proper persons or officers, and take receipts for, all costs, fees, fines, bail, and other moneys that the clerk collects.* Subject to [R.C. 3375.50 and R.C. 4511.193]⁴ and to any other section of the Revised Code that requires a specific manner of disbursement of any moneys received by a municipal court and except for the Hamilton county, Lawrence county, and Ottawa county municipal courts, the clerk shall pay all fines received for violation of municipal ordinances into the treasury of the municipal corporation the ordinance of which was violated and shall pay all fines received for violation of township resolutions adopted pursuant to [R.C. Chapter 504] into the treasury of the township the resolution of which was violated.... Subject to [R.C. 3375.50, R.C. 3375.53, R.C. 4511.99, and R.C. 5503.04]⁵ and to any other section of the Revised Code that requires a specific manner of disbursement of any moneys received by a municipal court, the clerk shall pay all fines collected for the violation of state laws into the county treasury. Except in a county-operated municipal court, the clerk shall pay all costs and fees the disbursement of which is not otherwise provided for in the Revised Code into the city treasury. (Emphasis and footnotes added.)

Thus, the second sentence of R.C. 1901.31(F) imposes upon the municipal court clerk the duty to disburse, each month, *all* moneys received, whether as costs, fees, fines, bail, or otherwise, to the proper person or officer.⁶ The remaining portion of R.C. 1901.31(F) appears merely to

⁴ R.C. 3375.50 provides generally for the payment of a portion of the fines and penalties collected by a municipal court for certain offenses to be paid by the clerk of the court to the law library association of the county in which the court is located. R.C. 4511.193 requires, in part, that twenty-five dollars of any fine imposed for violations of specific municipal ordinances be deposited into the appropriate indigent drivers alcohol treatment fund.

⁵ *See generally* R.C. 3375.53 (requiring fifty percent of certain fines and penalties collected in any court, up to twelve hundred dollars per year, for offenses prosecuted under R.C. Chapters 4301 and 4303 and certain state traffic laws to be paid to the board of trustees of the law library association); R.C. 4511.99 (directing the payment of portions of the fines imposed under this statute into specially designated funds of various law enforcement agencies and subdivisions); R.C. 5503.04 (directing the payment of portions of certain forfeited bail moneys into the state and local treasuries).

⁶ With respect to moneys received by municipal courts, I note that various statutes specify the manner in which the municipal court clerk is to pay out such money. *See, e.g.*, R.C. 3375.50, R.C. 4511.99, and R.C. 5503.04. Other statutes require courts to pay certain moneys specifically to townships. *See, e.g.*, R.C. 4513.35(A)(3)(a) ("[s]ubject to [R.C. 4513.263(E)] and except as

specify the subdivisions to which and persons to whom certain of the moneys collected by the court are to be paid.

It has been suggested, however, that because the third sentence in R.C. 1901.31(F) is the only reference therein to moneys payable specifically to townships, *i.e.*, moneys that result from fines for violations of township resolutions adopted under R.C. Chapter 504, the only moneys that should be considered to be disbursed to a limited self-government township under R.C. 1901.31(F) are those moneys collected by the clerk for violations of township resolutions adopted under R.C. Chapter 504. Such a reading, however, ignores the fact that it is pursuant to the preceding sentence of R.C. 1901.31(F) that the clerk disburses to the proper persons or officers, including limited self-government townships, *all* moneys received by the municipal court clerk, regardless of the purpose for which the moneys were received. Fine moneys paid to a limited self-government township for violations of its resolutions adopted under R.C. Chapter 504 are only part of the total amount disbursed to the township by the municipal court clerk as directed by the second sentence of R.C. 1901.31(F). *See, e.g.*, R.C. 2933.43; R.C. 4513.35(A)(3)(a).

In addition, the suggested reading ignores the specific language of R.C. 1901.026(B) referring to "the total amount of costs, fees, fines, bail, or other moneys that was *disbursed* [to the municipal corporation or township] by the clerk of the court under [R.C. 1901.31(F)]," (emphasis added), which mirrors the language of the second sentence of R.C. 1901.31(F) pursuant to which "the clerk shall each month disburse to the proper persons or officers ... all costs, fees, fines, bail, and other moneys that the clerk collects." Had the General Assembly intended to limit the liability of a limited self-government township for a municipal court's current operating costs to the amount paid to the township for violations of township resolutions adopted under R.C. Chapter 504, it could easily have done so by utilizing in R.C. 1901.026(B) the phrase "all fines received for violation of township resolutions adopted pursuant to [R.C. Chapter 504] into the treasury of the township the resolution of which was violated," the language it used in the third sentence of R.C. 1901.31(F). *See generally Lake Shore Electric Ry. Co. v. PUCO*, 115 Ohio St. 311, 319, 154 N.E. 239, 242 (1926) (had the General Assembly intended a term to have a particular meaning, it could easily have found language to express that purpose, having used such language in other connections).

Finally, it has been suggested that a reading of R.C. 1901.026(B) which imposes liability upon limited self-government townships for payment of a share of a municipal court's operating costs up to a maximum of the "total amount of costs, fees, fines, bail, or other moneys that was disbursed [to the township] by the clerk of the court under [R.C. 1901.31(F)]," rather than to the amount disbursed to the township for violations of its home-rule resolutions, places an unfair burden upon limited self-government townships, as opposed to statutory townships, for payment of a portion of the municipal court's operating costs. The argument appears to be that, pursuant to R.C. 1901.026(D)(2), only limited self-government townships are responsible for payment of a portion of a municipal court's operating costs, even though the moneys paid to limited self-

otherwise provided in division (A)(3)(b) of this section, one-half of all fines collected from, and one-half of all moneys arising from bonds forfeited by, persons apprehended or arrested by a township constable or other township police officer *shall be paid to the township treasury* to be placed to the credit of the general fund" (emphasis added)).

government townships, other than those for violations of its home-rule ordinances, are moneys to which any township within the court's jurisdiction would be entitled.

In response to this argument, it is necessary to bear in mind that, pursuant to Ohio Const. art. IV, § 1, it is the General Assembly that possesses the exclusive power to create courts inferior to the Supreme Court. *See State ex rel. Ramey v. Davis*, 119 Ohio St. 596, 165 N.E. 298 (1929) (syllabus, paragraph three). As part of this responsibility, the General Assembly has established a system of municipal courts throughout the state and has prescribed the scheme for funding the operations of such courts. Pursuant to R.C. 1901.026, the General Assembly has not made statutory townships responsible for payment of any portion of the costs of operating the municipal court in whose jurisdiction such townships are located. Just as the General Assembly is empowered to determine which subdivisions will share in the cost of operating the municipal court in which the subdivisions are located, it may also determine the proportionate share of each such subdivision. *See generally* 1990 Op. Att'y Gen. No. 90-110 (discussing the development of the municipal court system and the differences in jurisdiction and funding of such courts).

In addition, it is presumed that, in enacting legislation, the General Assembly acts with deliberation and with knowledge of all existing laws on the subject. *See Eggleston v. Harrison*, 61 Ohio St. 397, 55 N.E. 993 (1900). We must presume, therefore, that the General Assembly was aware of the portion of a municipal court's caseload that may be generated by limited self-government townships as opposed to statutory townships, and chose to make only limited self-government townships responsible for payment of a portion of a municipal court's operating costs. In determining the share to be borne by limited self-government townships for municipal court operations, the General Assembly chose to fix the maximum amount at "the total amount of costs, fees, fines, bail, or other moneys that was disbursed [to the township] by the clerk of the court under [R.C. 1901.31(F)]." Any change in the method of calculating a limited self-government township's portion of the cost of operating the municipal court in which it is located is a matter within the province of the General Assembly.

Based upon the foregoing, it is my opinion, and you are hereby advised that, pursuant to R.C. 1901.026, the maximum amount of a limited self-government township's portion of the current operating costs of the municipal court in whose jurisdiction it is located is not limited to the amount paid to the township by the municipal court clerk for violations of the township's resolutions adopted under R.C. Chapter 504, but rather to "the total amount of costs, fees, fines, bail, or other moneys that was disbursed [to the township] by the clerk of the court under [R.C. 1901.31(F)]."