

**OPINION
60-76**

June 13, 1960(OPINION)

COUNTIES

RE: State's Attorney - Institute - Expenses

This is in reply to your letter of June 8, 1960, requesting the opinion of this office. You state the following facts:

"The North Dakota States Attorneys' Association, of which I am a member, are planning to conduct a two day institute for the training of states attorneys to be conducted at the University of North Dakota law school at Grand Forks, on December 2 and 3 of 1960.

:In order to defray the expense of such an institute, it was deemed necessary to request of the county to contribute \$20.00 per county towards such institute."

You further state that the county commissioners desire the opinion of this office as to whether or not the county can properly expend the sum of money for this purpose as outlined above.

The county commissioners are the governing body of the county. Under the statutes they have the duty to superintend the fiscal affairs of the county and the authority to furnish to the county officers all things necessary and incidental to the performance of their respective affairs.

The institute for state's attorneys, when properly conducted and emphasis placed on North Dakota law enforcement problems and on prosecution of violators according to North Dakota procedure, would be beneficial to the counties. Changing times and changes in criminal law do create new problems. It is also recognized that where individuals interpret and enforce the laws some variations will result. Uniformity in the interpretation and enforcement of the laws is desired, not for the sake of uniformity itself, but for the ultimate effect and respect for the law. Thus, when the institute is devoted to the interpretation of North Dakota criminal law, the enforcement and preservation thereof, the respective counties and the state as a whole will benefit therefrom. We are in no position to say that an institute as set out above is necessary or essential, but we have no doubt that it will improve law enforcement and respect for the laws, and as such would be deemed incidental to the performance of the duties.

In researching this question we found that the authorities are not in full accord. The weight of authority lies in the direction that such expenditures are authorized.

On the basis of the above it is our opinion that the counties are authorized to participate in the institute and pay the cost as set out above. But we cannot and do not advise that they must. The decision rests within the sound discretion of the commissioners, the governing body of each county.

We might add that any purpose reaches the point of maximum return and in this respect the county commissioners are within their authority to determine at what point the expenditure exceeds the direct benefits derived from such institute.

Being that this institute is a rather new innovation, there is no immediate criteria upon which any conclusion can be made as to its success or benefit to the county. Nevertheless, the proposed program is devised to produce beneficial results to the county and its law enforcement officials. Should the program fail in this respect, the expenditure would no longer be warranted. It is contemplated, and the counties have a right to demand, that any state's attorney attending will diligently participate in such institute to the fullest extent as a prerequisite for reimbursing the state's attorney on the basis outlined above for attending such institute.

LESLIE R. BURGUM
Attorney General