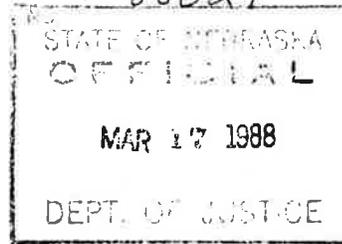


DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509



ROBERT M. SPIRE
Attorney General
A. EUGENE CRUMP
Deputy Attorney General

DATE: March 17, 1988
TO: Nebraska County Attorneys
FROM: Robert M. Spire
Attorney General of Nebraska
RE: Opinion Requests from Nebraska County Attorneys

The purpose of this memorandum is to state and to clarify the policies of the Nebraska Department of Justice with regard to the issuance of formal opinions of the Attorney General in response to opinion requests from County Attorneys. We hope that this memorandum will clear up any misunderstandings, and help facilitate our response to future opinion requests.

Neb.Rev.Stat. §84-205(2) (Reissue 1981) provides, in pertinent part:

The duties of the Attorney General shall be: ... (2) to consult with and advise the county attorneys, when requested by them, in all criminal matters and in matters relating to the public revenue; and he shall have authority to require their aid and assistance in all matters pertaining to his duties in their respective counties, and may, in any case brought to the Supreme Court from their respective counties, demand and receive the assistance of the county attorney from whose county such case is brought;

(Emphasis added).

In spite of this clear statutory limitation on our authority to respond to opinion requests from County Attorneys, our office has traditionally responded to opinion requests on a broad range of topics, many of which had no connection either to criminal law or to the public revenue. Indeed, many of these matters involved questions of purely local concern, where we were not acting as counsel for the local governmental entity involved, and where our opinion was not in any way binding once it was issued. Our

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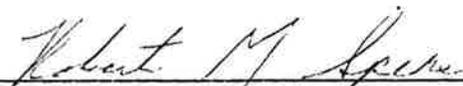
consideration of opinion requests of this nature was motivated by our desire to be of as much assistance as possible to Nebraska's County Attorneys.

In recent years, our general caseload and the number of opinions requested of our office have increased markedly. Given these additional demands upon our limited resources together with our limited statutory authority, we simply cannot continue to respond to all opinion requests from County Attorneys no matter what the topic and provide a formal opinion of the Attorney General. Henceforth, we must limit our formal opinions to "all criminal matters" and "matters relating to the public revenue" as required by §84-205(2).

While we can no longer do the initial research and issue formal opinions concerning matters outside the scope of §84-205(2), we remain willing to offer our assistance on a more informal basis. For example, if you have an opinion request from local county officials or if you have a question outside the scope of §84-205(2), we will be happy to review your research and/or your opinion, and offer our thoughts on the issue on an informal basis. However, the final product must necessarily be your responsibility. We would also note Neb.Rev.Stat. §23-1203 (Reissue 1983) which allows the county board of any county to employ additional outside counsel for assistance in civil matters.

We regret that our increasing caseload and limited resources make it necessary for us to, at least partially, restrict the issuance of formal opinions of the Attorney General. However, we believe that this action is more in conformance with our authority under the statutes, and that it will result in a more expeditious resolution of the opinion requests which we do consider. Ultimately, that, in turn, will result in better service to the people we all serve - the people of the State of Nebraska.

Sincerely yours,



ROBERT M. SPIRE
Attorney General of Nebraska

RMS:pa