

073-458—December 11, 1973

## STATE ATTORNEYS

## TRANSPORTATION SERVICES FURNISHED BY COUNTIES

To: J. Edward Worton, State Attorney, Key West

Prepared by: Enoch J. Whitney, Assistant Attorney General

## QUESTION:

What transportation services are the counties within each judicial circuit required to provide the state attorney's office?

## SUMMARY:

Transportation services provided by counties for common use by county governmental units are available for use by the state attorney's office.

The statutory background against which your questions are posed is as follows: Section 27.34, F. S., as amended by Ch. 73-215, Laws of Florida, provides, in pertinent part:

(1) No county or municipality shall appropriate or contribute funds to the operation of the various state attorneys.

(2) The state attorney shall be provided by the counties within their judicial circuits with such office space, utilities, telephone service, custodial services, library services, *transportation services* and communication services *as may be necessary for the proper and efficient functioning of these offices*. The office space to be provided by the counties shall not be less than the standards for space allotment promulgated by the department of general services. The counties shall not provide less of these services and office space than were provided in fiscal year 1972-1973. (Emphasis supplied.)

Chapter 73-335, Laws of Florida, the 1973 General Appropriations Act, provides in §13 thereof as follows:

Notwithstanding the provisions of Section 27.34(1) and 27.54(2), F. S., no county shall appropriate or contribute to the operation of the offices of the state attorneys and public defenders except those items specified in Sections 27.34(2) and 27.54(3), F. S.

The legislative intent respecting the expenditure of state and county funds to finance the state attorneys of this state is further clarified by the legislative comments appended to the appropriations for the several state attorneys (items 653 through 672) in the 1973 General Appropriations Act. This comment reads as follows:

As authorized by SB 1367 [73-215, *supra*], the funding formula for offices of the State Attorney was reviewed based upon increased duties and workload funded by supplementary appropriation in FY 1972-73 and State assumption of support by local government other than certain services currently provided by local government. Counties are required to provide adequate housing for offices of the State Attorney. Services allowed, other than office space and related utilities and janitorial services, are common services such as Central PBX and legal library, *provided for common use by county governmental units* in which the State Attorney was allowed to participate, as opposed to specific services acquired per se for the office of the State Attorney . . . . (Emphasis supplied.)

The legislative intent that a county shall not be responsible for the cost of the operation of the office of its state attorney is made clear in §27.34(1), *supra*, and again in the legislative comments appended to the appropriations for these offices for the fiscal year 1973-1974, quoted above. Too, it seems clear that travel expenses of the state attorney, assistant state attorneys and investigators of the state attorney's office are not to be borne by the counties inasmuch as these expenditures are required to be part of the state attorney's annual budget submitted to the Department of Administration pursuant to §27.33(1)(d) and (e), F. S. as amended by Ch. 73-305, Laws of Florida.

However, transportation services "provided for common use by county governmental units" are now to be made available to each state attorney "as may be necessary for the proper and efficient functioning of these offices." Pending legislative or judicial clarification, this conclusion is required under the authorities cited above. Exactly what transportation services are provided for common use by county governmental units, and thus are now available for use by the state attorney's office, must be determined on a county-by-county basis, because such services would, of course, vary, depending upon each county's particular circumstances.

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### DECEPTIVE AND UNFAIR TRADE PRACTICES ACT

#### ENFORCEMENT BY STATE ATTORNEYS—CONDITIONS

To: *Donald G. Nichols, State Attorney, Jacksonville*

Prepared by: *Rodney Lee Tennyson, Assistant Attorney General*

#### QUESTIONS:

1. Does a state attorney have concurrent jurisdiction with the Department of Legal Affairs in matters arising under part II, Ch. 501, F. S., when the violation occurs in both the state attorney's judicial circuit as well as other judicial circuits?

2. Does part II, Ch. 501, F. S., provide for the Department of Legal Affairs to confer jurisdiction upon a state attorney when the department has referred the matter to the state attorney even though the violation is occurring in both the state attorney's judicial circuit as well as other judicial circuits?

#### SUMMARY:

Under §501.203(4), F. S., both the appropriate state attorney and the Department of Legal Affairs have concurrent jurisdiction to enforce the Deceptive and Unfair Trade Practices Act, even when the violation is also occurring in, or affecting, other judicial circuits, when the matter has been referred to the state attorney by the department.

Your questions are both answered in the affirmative when the department has referred the matter of violation to the state attorney.

Section 501.203(4), F. S., defines the enforcing authority under the Deceptive and Unfair Trade Practices Act as:

. . . [T]he office of the state attorney if a violation of this part occurs in or affects the judicial circuit under the office's jurisdiction and if a complaint of such violation has been referred to the state attorney by the Department of Legal Affairs. "Enforcing authority" means the Department of Legal Affairs if the violation occurs in or affects more than