

OPINION NO. 96-015**Syllabus:**

A board of county commissioners is obligated to comply with an appropriation request from the court of common pleas for implementation of a courthouse security plan, unless the board demonstrates that the request is either unreasonable or unnecessary for the proper administration of the court's business.

To: John R. Allen, Perry County Prosecuting Attorney, New Lexington, Ohio
By: Betty D. Montgomery, Attorney General, March 12, 1996

I have before me your opinion request in which you ask: "May a court of common pleas require a board of county commissioners to appropriate funds to implement a courthouse-wide security plan?" By way of background, your request letter states that the county security advisory committee, meeting under the aegis of the court of common pleas, has adopted a plan for various security measures to be taken in and around the county courthouse.

As noted in your opinion request, R.C. 307.01 imposes upon the board of county commissioners certain duties with respect to providing a courthouse and other county buildings when, in the board's judgment, they are needed. R.C. 307.01(A) also requires the board to provide equipment "as it considers reasonably necessary for the proper and convenient conduct of county offices." The language of R.C. 307.01 thus grants the board of county commissioners a certain discretion in determining what equipment is necessary for county offices. Recognizing the need to preserve the autonomy of the courts as a separate branch of government, however, numerous cases have established certain limitations on the authority of a board of county commissioners with respect to honoring requests for funds by the courts in the county.

The duty of a board of county commissioners to fund the operations of a court of common pleas was addressed in *State ex rel. Lake County Bd. of Comm'rs v. Hoose*, 58 Ohio St. 3d 220, 569 N.E.2d 1046 (1991), in which the juvenile court sought an additional appropriation for salary increases, citing as justification for its request, salary inequities and the

resulting loss of valuable personnel, which affected court operations. In defining the county's duty to fund court operations, the *Hoose* court stated:

A court of common pleas in this state has the inherent authority to require funding which is reasonable and necessary to the administration of the court's business. This court has held, time and again, that it is incumbent upon the legislative authority to provide funds which are reasonable and necessary to operate a court which requests such funding. Therefore, a board of county commissioners must provide the funds requested by a court of common pleas unless the board can show that the requested funding is unreasonable and unnecessary. The burden of proof is clearly upon the party who opposes the requested funding. In effect, it is presumed that a court's request for funding is reasonable and necessary for the proper administration of the court. The purpose of this "presumption" is to maintain and preserve a judicial system and judiciary that are independent and autonomous. (Various citations omitted.)

58 Ohio St. 3d at 221-22, 569 N.E.2d at 1048. The *Hoose* court thus concluded that the board of county commissioners has a duty to appropriate funds requested by a court of common pleas for its operations, unless the board demonstrates that the requested funds are unreasonable and unnecessary. See also *State ex rel. Morley v. Lordi*, 72 Ohio St. 3d 510, 651 N.E.2d 937 (1995).

The supreme court has, at the same time, recognized a number of factors that bear on the question of whether particular requests for funds are reasonable and necessary. For example, the court in *State ex rel. Weaver v. Lake County Bd. of Comm'rs*, 62 Ohio St. 3d 204, 206-07, 580 N.E.2d 1090, 1093 (1991), another case involving appropriations for court personnel salaries, concluded that "government hardship may be considered, but is not enough by itself to establish an abuse of discretion in determining the required amount of court funding." See also *State ex rel. Donaldson v. Alfred*, 66 Ohio St. 3d 327, 329, 612 N.E.2d 717, 719-20 (1993) ("[t]he financial condition of the funding authority...is one factor in determining reasonableness"). While noting that the county's lack of unappropriated or unencumbered funds from which to make the requested appropriation would not relieve the county of its duty to make such an appropriation, the *Weaver* court suggested that a defense to a mandamus action for court funding might be available if relief were impossible to grant. In order to demonstrate impossibility, however, the county would have to show, at a minimum, that the court's "reasonable and necessary expenses could not be funded without taking money from other county offices and rendering them unable to perform their statutory duties." 62 Ohio St. 3d at 207, 580 N.E.2d at 1094.

In the situation about which you ask, the court has requested funding for certain items, e.g., a metal detection device, ballistic materials for the judges' benches, surveillance cameras. The court has indicated that the requested items are part of a security plan for the areas in and around the courthouse, which is, of course, a consideration in weighing the necessity and reasonableness of the requested funds. In light of the other expenses which the Ohio Supreme Court has determined to be reasonable and necessary to the operation of the judiciary, it would appear that requests for funds needed to ensure a secure judiciary would also constitute reasonable and necessary expenses for which the county would be required to appropriate funds. See 1993 Op. Att'y Gen. No. 93-043 (appropriation for the cost of private parking for the judges as part of a security plan for the court).

In summary, I note that it is presumed that a court's request for funding is reasonable and necessary to the operation of the court. The board of county commissioners, therefore, has a duty to comply with the request, unless it can demonstrate that the request is unreasonable and unnecessary, which is a question of fact that cannot be determined by means of an opinion of the Attorney General. *See* 1992 Op. Att'y Gen. No. 92-038; 1991 Op. Att'y Gen. No. 91-070. Rather, such question is better evaluated by those at the local level who are familiar with the particular circumstances.

Based on the foregoing, it is my opinion, and you are hereby advised that a board of county commissioners is obligated to comply with an appropriation request from the court of common pleas for implementation of a courthouse security plan, unless the board demonstrates that the request is either unreasonable or unnecessary for the proper administration of the court's business.