

Note from the Attorney General's Office:

1973 Op. Att'y Gen. No. 73-071 was overruled in part by
1995 Op. Att'y Gen. No. 95-017.

OPINION NO. 73-071

Syllabus:

The board of trustees of a county law library association has no authority, under R.C. 3375.54, to purchase or lease videotape equipment for the viewing of educational materials and use in the trial of cases. (Opinion No. 69082, Opinions of the Attorney General for 1969, distinguished).

To: William R. Hughes, Knox County Pros. Atty., Mt. Vernon, Ohio
By: William J. Brown, Attorney General, July 16, 1973

Your request for my opinion reads as follows:

I would appreciate an opinion as to whether or not it would be legal for the Knox County Law Library Association to purchase video taping equipment from Law Library funds. The equipment would be used by the Library Association for the viewing of educational materials now being made available on video tape and would also be used in the trial of cases in the Knox County Courts. For this latter use, a charge would be made for the purpose of offsetting the purchase and operational costs of the equipment.

The Law Library Association operates on public funds and this is why we are asking for your opinion.

Your office has also provided the following information:

You will recall that the County Law Library is supported from fines derived from the Municipal Court. It is anticipated that the machinery would be stored in the library and would be available to all members of the Bar Association in connection with research and trial preparation by members of the Bar and on occasion, the developed film would be presented in Court.

My predecessor answered a similar question in Opinion No. 69-082, Opinions of the Attorney General for 1969, whose syllabus reads as follows:

A county law library association may expend its funds in order to obtain a computer communications console as a means of access to the system of computerized legal research.

The writer began by pointing out the distinction between the two types of funds used to support county law library associations, one type contributed, and the other paid by political subdivisions as required by statute. He stated as follows:

The funds of a county law library association come from two separate sources. The first source is made up of contributions by private individuals. There is no limitation on the use of these funds. They may be used for any purpose, including obtaining a computer communications console. Van Wert County Law Library Association v. Stuckey, 42 O.O. 1 at 8 (C.P. Van Wert Co. 1949); Opinion No. 5308, Opinions of the Attorney General for 1955; Opinion No. 4856, Opinions of the Attorney General for 1955.

Naturally, such donated funds could also be expended to purchase or lease a videotape machine.

The Opinion continues as follows:

The other funds are court fines allocated to the law library association under the provisions of Sections 3375.50 to 3375.53, inclusive, Revised Code. Section 3375.54, Revised Code, provides for the expenditure of these funds as follows:

"The money paid to the board of trustees of a law library association under sections 3375.50 to 3375.53, inclusive, of the Revised Code, shall be expended in the purchase of lawbooks and in maintenance of such law library association."

While a system of computerized legal research is not specifically mentioned in this section, it is my opinion that funds may be expended for such a system. Such an expenditure can be authorized either under the authority to purchase law books or under the authority to maintain the law library. Although a computerized legal research system is not technically a law book, it serves precisely the same purpose. Both are means of legal research; both provide access to the law. The system of computerized legal research is merely a technological improvement over law books. It is the newest development in legal research.

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The obvious purpose of Section 3375.54, supra, is to authorize the library trustees to expend funds to provide means for legal research for the judges and other specified officials. Computerized legal research is the newest development in legal research. An interpretation of the statute which permits the use of such a system gives effect to the statutory purpose. Any other interpretation would hinder and obstruct the purpose.

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A system of computerized legal research, while a means of legal research similar to law books, also provides a service similar to library cards, catalogs, and indexes. It operates as an index in that it furnishes citations to cases and statutes. Such a system is reasonable to maintaining a modern up-to-date law library. It would thus be authorized as a reasonable expense necessary for the maintenance of the law library.

After considering the foregoing reasoning, I do not see how the statutory language could be construed to authorize the purchase or lease of video tape equipment, with those funds derived from fines, penalties, etc. and allocated to the law library association under R.C. 3375.50 to 3375.53. Even in its educational function, as distinguished from its function as an aid to trial practice, the equipment could not be classed under the rubric of "lawbook" (R.C. 3375.54). While a computer console is not a book either, it provides direct access to the contents of lawbooks. In fact, the memory bank of the computer contains the exact language of a large number of lawbooks, and little else. However, it is difficult to imagine how, or why, the contents of a lawbook would be recorded on videotape. My predecessor advised, in effect, that a "lawbook" need not have printed pages, but might take the form of a computer printout, or (by implication) a microfilm projection. I can see no justification for further expanding the definition of the term to include materials which may provide instruction in legal research, or supplements to such research, but do not actually record statutes or decisions.

Nor can the videotape equipment be considered "maintenance" of the law library association, even under the broad definition of that term adopted by my predecessor. He advised that a computer console may be considered "maintenance", for purposes of R.C. 3375.54, because it "provides a service similar to library cards, catalogs, and indexes." The primary use of computer research is as a type of index to statutory and case law, and as such it is a useful alternative to the more traditional forms of indexing. But I am not aware of any indexing function of videotape equipment. Hence, its acquisition cannot be justified, on this basis, as "maintenance" of a library association.

The foregoing does not imply that videotape equipment cannot, *per se*, be useful for the "maintenance" of a law library association. In the future, such equipment may be widely employed to train library staff members, instruct lawyers in the use of research aids, and other library-related uses. However, from the facts provided by your letter, I cannot advise that acquisition of the equipment can be justified on that basis.

The primary purpose of the equipment would probably be as an aid to trial preparation. Rule 40 of the Ohio Rules of Civil Procedure, which became effective in July, 1972, reads as follows:

All of the testimony and such other evidence as may be appropriate may be presented at a trial by videotape, subject to the provisions of the Rules of Superintendence.

(See also, Superintendence Rule 15, Rules of Superintendence of the Supreme Court of Ohio.) While there is a need for videotape equipment, to enable the local bar to take advantage of Civil Rule 40, the purchasing or leasing of such equipment could not be described as "the purchase of lawbooks or * * * maintenance of such law library association." Hence, R.C. 3375.54 does not authorize the expenditure of library funds for the purchase or lease of such equipment.

I reiterate, however, that R.C. 3375.54 applies only to funds derived from fines and penalties, not to contributed funds, which are not subject to the restrictions discussed above. Hence, such contributed funds may be expended to purchase or lease the videotape equipment.

In specific answer to your question, it is my opinion and you are so advised that the board of trustees of a county law library association has no authority, under R.C. 3375.54, to purchase or lease videotape equipment for the viewing of educational materials and use in the trial of cases. (Opinion No. 69082, Opinions of the Attorney General for 1969, distinguished).