

MA

Opinion No. 392  
Answered by letter - Wood

October 14, 1968

FILED  
392

The Honorable William R. Antoine  
State Representative, District 23  
12101 Newbury Lane  
Independence, Missouri 64052

Dear Representative Antoine:

We acknowledge receipt of your recent letter in which you stated the following question:

"What are the specific duties and responsibilities of a County Civil Defense Agency as are required by Chapter 44.080 (1) Missouri Revised Statutes when jurisdictionally all political subdivisions (cities, towns, villages, and fire districts) within such county are in immediate contiguity and no territorial area remains outside of such politically defined subdivisions?"

The question postulates the factual situation of a county in which the entire area is absorbed by cities, towns, villages, or fire districts, all of which have their own civil defense organizations. Assuming this to be the actual situation in one or more counties of the State, then it is our view that the county civil defense organization would have no immediate duties or responsibilities in such a county. We can discern no legislative intention to give to the counties any superintending control over the civil defense organization of cities, towns, villages, or fire districts.

"Generally speaking, the function of a county is to serve as an agency or instrumentality of the state for purposes of political organization and local administration. Counties possess only such powers as have been expressly delegated to them by statute or which are necessarily or reasonably implied from the powers expressly granted to them. These powers, of course,

Honorable William R. Antoine -

may be modified or taken away. A county is generally clothed with duties of a local administrative character. \* \* \*"  
14 Am. Jur., Counties, §5, p. 188

We believe civil defense to be in the nature of a police power normally delegated by the state to municipalities, and not to counties, which are mere arms of the state government.

"A county is a subdivision of the state, organized for judicial and political purposes. In other words, it is a political organization of certain of the territory within the state, particularly defined by geographical limits. It is not invested with any of the attributes of sovereignty. In other words, a county is a constituent part of the state government -- a wholly subordinate political division or instrumentality, created and existing with a view to the policy of the state at large and serving as an agency of the state for certain specified purposes. \* \* \*"  
14 Am. Jur., Counties, §3, p. 185

Since counties are not the repository of general governmental powers, but possess only such powers as are specifically conferred upon them by the state legislature, it is our opinion that counties are not to perform civil defense functions in areas of the county within cities, towns, villages, or fire districts having their own civil defense organization.

However, we note that political subdivisions are authorized, with the governor's approval, to enter into mutual aid agreements with other public agencies for reciprocal emergency aid (§44.090, RSMo. 1967 Cum. Supp.). Furthermore, during an emergency the governor may direct the officers and employees of any political subdivision to render services and provide facilities as may be needed for carrying out civil defense functions within the state (§44.110, RSMo. 1967 Cum. Supp.). In this event, the governor might well direct a county civil defense organization to carry out civil defense functions throughout the county.

Very truly yours,

NORMAN H. ANDERSON  
Attorney General