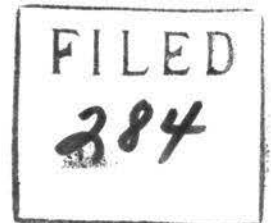


September 4, 1973

OPINION LETTER NO. 284  
Answer by Letter - Klaffenbach

Honorable Wesley A. Miller  
State Representative, District 121  
801 East First Street  
Washington, Missouri 63090



Dear Representative Miller:

This letter is in response to your question asking:

"May a circuit public defender service counties in circuits which do not have sufficient population to qualify for a state public defender if they can obtain 'LEAC' funds to pay the salary of the defender and the costs?"

We understand that the public defender would represent defendants in a circuit other than the one in which he serves and would be paid for such services from a Law Enforcement Assistance Council grant.

We note that House Bill No. 1314 of the 76th General Assembly, commonly known as the public defender act, provides for full-time public defenders for certain circuits. In circuits not having public defenders, private attorneys are appointed and paid for their services.

We held in our Opinion No. 108 dated February 23, 1973, that public defenders are not prohibited from employing additional assistants to be paid from federal grant funds for the purpose of defending indigents in juvenile and misdemeanor cases. However, we do not believe that these situations are comparable. In the premise you pose the defender would be serving an area not included within the circuit for which he was appointed.

Honorable Wesley A. Miller

We believe that the legislature intended that the public defenders devote full-time to the functions they are by law required to perform within their circuits under the provisions of Section 3 of House Bill No. 1314, and that further legislation is required to authorize the defenders to serve areas not within their circuits.

Very truly yours,

JOHN C. DANFORTH  
Attorney General