



STATE OF DELAWARE
THE COURTS OF THE JUSTICES OF THE PEACE
820 NORTH FRENCH STREET, 11TH FLOOR
WILMINGTON, DELAWARE 19801

NORMAN A. BARRON
CHIEF MAGISTRATE

POLICY DIRECTIVE 85-098

TO: ALL JUSTICES OF THE PEACE, STATE OF DELAWARE
ALL CLERKS OF THE COURT, JUSTICE OF THE PEACE COURTS

FROM: NORMAN A. BARRON
CHIEF MAGISTRATE

DATE: JULY 26, 1985

RE: DISPOSITION OF FINES AND COSTS IN TRAFFIC CASES

On July 4, 1985, Governor Castle signed into law House Bill No. 276, as amended by House Amendment No. 2, a copy of which is attached hereto. 65 Del.Laws, c. 141.

Therefore, effective July 1, 1985,¹ any fine imposed for a violation of a Title 21 offense which occurred on or after July 1, 1985 and where the arrest was made by the New Castle County Police, shall be paid to New Castle County.²

This new law, in effect, gives New Castle County government the same status as a municipality. It should be noted that only

¹The date of the traffic offense shall be used to determine whether the fine shall be paid to the County or the State. Any traffic offense occurring on or after July 1, 1985, where the arrest was effectuated by a New Castle County police officer shall be subject to the new law.

²The Clerk of the Court shall prepare monthly a "Municipal Cash Collection Report" and forward same along with a bank check to: New Castle County Finance Department, 800 N. French Street, Wilmington, DE 19801, Attention William Graden.

finer, not costs, VCF, or restitution, are payable to the incorporated city or town or County, as is applicable.

While on the subject of Title 21 fines, in any case where police services are under contract to a municipality by either the Delaware State Police or New Castle County Police, the municipality shall receive all fines for any violations of Title 21. For example, Delaware City contracts with the Delaware State Police for police protection. All Title 21 summonses issued under contract shall have written across the top - "SPECIAL DUTY - DELAWARE CITY" or "SPECIAL DUTY - SLAUGHTER BEACH", etc. This "special duty" designation indicates that the officer was "working for" the municipality.

NAB:pn

Attachment

cc: The Honorable Daniel L. Herrmann
The Honorable Dennis Greenhouse
The Honorable Rita Justice
The Honorable Frank Newton
Colonel Daniel L. Simpson
Colonel John R. McCarnan
Michael McLaughlin
Dennis Phifer
Earl Shockley
All Chiefs of Police
Files



JUL 4 1985 65 141

HOUSE OF REPRESENTATIVES
133RD GENERAL ASSEMBLY

HOUSE BILL NO. 276

AS AMENDED BY

HOUSE AMENDMENT NO. 2

AN ACT TO AMEND SECTION 706, CHAPTER 7, TITLE 21 OF THE DELAWARE CODE REGARDING DISPOSITION OF FINES AND COSTS.

WHEREAS, New Castle County in the State of Delaware maintains its own police department; and

WHEREAS, the cost to the County taxpayer of that department on an annual basis exceeds \$10 million; and

WHEREAS, the presence of that highly trained department results in tremendous saving in personnel and equipment costs to the State; and

WHEREAS, New Castle County presently expends more than \$50,000 per year on police overtime associated with the prosecutions of motor vehicle offenses under Title 21 of the Delaware Code; and

WHEREAS, New Castle County must purchase its ticket books from the State at an approximate annual cost of \$1,500; and

WHEREAS, New Castle County, unlike the incorporated cities and towns of the State, presently is not entitled to any of the revenue resulting from arrests made for violations of Title 21 of the Delaware Code made by its authorized representatives; and

WHEREAS, it is fitting and proper that New Castle County be placed on equal footing with the incorporated cities and towns of the State in this regard and that it be given the benefit of its industry for enforcement of the provisions of Title 21 of the Delaware Code.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-quarters of all members elected to each House thereof concurring therein):

Section 1. Amend Section 706(a), Chapter 7, Title 21 of the Delaware Code by - -

(a) striking the words "of any incorporated city or town" after the words "in the limits" and substituting "any County, incorporated city or town"; and

(b) striking the words "of the incorporated city or town" after the phrase "authorized representatives" and substituting "of that County, incorporated city or town"; and

(c) striking the words "to the incorporated city or town" after the word "paid" and substituting "to that County, incorporated city or town"; and

(d) striking the words "for the use of the city or town" after the word "committed" and substituting "for the use of that County, incorporated city or town."

Section 2. Amend §706(a), Chapter 7, Title 21, Delaware Code by striking the words "and costs" as they appear in the first sentence thereof.

Section 3. Amend §706(a), Chapter 7, Title 21, Delaware Code by adding a sentence after the first sentence thereof to read as follows:

"Nothing in this section shall be construed to entitle any County to fines, penalties or forfeitures arising from an arrest made under this Title by an authorized representative of that County for a violation committed within any incorporated city or town."

Section 4. Amend §706(a), Chapter 7, Title 21, Delaware Code by adding a new sentence at the end of subsection (a) to read as follows:

"All costs collected for the violation of any of the provisions of this Title shall be paid to the jurisdiction whose court imposed said costs.

Section 5. The provisions of this Act shall become effective on July 1, 1985.



STATE OF DELAWARE
THE COURTS OF THE JUSTICES OF THE PEACE
820 NORTH FRENCH STREET, 11TH FLOOR
WILMINGTON, DELAWARE 19801

NORMAN A. BARRON
CHIEF MAGISTRATE

TELEPHONE (302) 571-2485

POLICY DIRECTIVE 85-098 (SUPPLEMENT)

TO: ALL JUSTICES OF THE PEACE, STATE OF DELAWARE
ALL CLERKS OF THE COURT, JUSTICE OF THE PEACE COURTS

FROM: NORMAN A. BARRON
CHIEF MAGISTRATE

DATE: AUGUST 27, 1985

RE: DISPOSITION OF FINES AND COSTS IN OTHER THAN TRAFFIC
CASES

On July 26, 1985, I issued Policy Directive 85-098 entitled Disposition of Fines and Costs in Traffic Cases. While researching the issue discussed in said Policy Directive, it came to light that the Justice of the Peace Courts have been paying the various municipalities all fines that result from all violations of the Delaware Code where the arrest was effectuated by a municipal police officer. For example, if a defendant was arrested by Dover City Police on a charge of Disorderly conduct in violation of 11 Del.C., §1301, and was subsequently convicted for said offense, the resulting fine has been paid to the City of Dover.

This is apparently an incorrect payment. Section 5915 of Title 11, Delaware Code, states, in pertinent part, as follows:

" . . . All fines and penalties collected for each calendar month shall be paid over by the justices to the State Treasurer within 15 days after the first day of the succeeding calendar month, provided that any such fines or forfeitures which, by the laws of this State, are due and payable to municipalities thereof shall be paid by each justice to the municipality entitled thereto." (Emphasis added.)

There is no such law found within the Delaware Code, other than 21 Del.C., §706, which would authorize payment of fines to anyone other than the State Treasurer. Clearly, 11 Del.C., §5915 nowhere authorizes the payment of fines for violations of Title 11 to municipalities where municipal police officers effectuated the arrest.¹

In light of the above, effective September 1, 1985, such fines shall be paid to the State of Delaware regardless of the arresting police agency.

I do not believe the payments heretofore erroneously disbursed to the municipalities are substantial; thus, lost revenue will be minimal. Further, I have no opposition from a practical standpoint disbursing to the applicable municipality the fine for a Title 11 arrest effected by the municipal police officer. However, I need legal authority to do so. The fact that the Justice of the Peace Court system has been making these disbursements to the municipalities for years does not cloak them with legality. As was stated in Wilmington Trust Co. v. Barron, Del.Supr., 470 A.2d 257, 264 (1983):

1

It should be noted that this policy is consistent with that of the Court of Common Pleas which has never paid any fines other than Title 21 fines to the arresting municipality.

"An error of law does not become justified by mere passage of time."

We need statutory authority if such disbursements are to continue. Additional subsections to 11 Del.C., §§5915 and 5917 are realistic options which should be explored by the appropriate authorities.

In any event, until such authorization is given, all such fines shall be paid to the State of Delaware.

NAB:pn

cc: The Honorable Janet Rzewnicki
The Honorable Dennis Greenhouse
Michael McLaughlin
Earl Shockley
Richard Golt
Files



STATE OF DELAWARE
THE COURTS OF THE JUSTICES OF THE PEACE
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WILMINGTON, DELAWARE 19801

NORMAN A. BARRON
CHIEF MAGISTRATE

TELEPHONE (302) 571-2485

POLICY DIRECTIVE 85-098 (2ND SUPPLEMENT)

TO: ALL JUSTICES OF THE PEACE
STATE OF DELAWARE

FROM: NORMAN A. BARRON
CHIEF MAGISTRATE

DATE: SEPTEMBER 9, 1985

RE: DISPOSITION OF FINES AND COSTS IN OTHER THAN TRAFFIC
CASES

Policy Directive 85-098 (Supplement), dated August 27, 1985, presented the problem encountered over the erroneous disbursements to municipalities of fine money emanating from Title 11 cases where the arrests were effected by municipal police officers. I directed that, effective September 1, 1985, until statutory authority is given for such disbursements, the fine money should go to the State Treasurer.

On the next day, August 28, 1985, the General Assembly passed Senate Bill No. 385, a copy of which is attached hereto. On September 6, 1985, Governor Castle signed Senate Bill No. 385 into law. 65 Del.Laws, c. 218. This new law allows the applicable County or municipality to receive the fine money resulting from a Title 11 offense or a violation of a County or municipal ordinance, code or regulation where the arrest was effected or summons issued by a County or municipal police

officer. The new law became effective on the date the Governor signed it into law, to wit: September 6, 1985. Thus, all such arrests effected or summonses issued on and after September 6, 1985, shall be subject to the new law.

It should be noted that only fines, not costs, VCF, or restitution, are payable to the County or municipality, as is applicable. The Clerk of the Court shall prepare monthly a "Municipal Cash Collection Report" and forward same along with a bank check to the applicable County or municipality.

While on the subject of Title 11 fines and County and municipal ordinances, codes and regulations, in any case where police services are under contract to a municipality by either the Delaware State Police or New Castle County Police, the municipality shall receive all fines for any violation of Title 11 or of the municipality's ordinances, code or regulations where such a police officer effected the arrest or issued the summons while on duty to the municipality. All such summonses/warrants issued under contract shall have written across the top -- "SPECIAL DUTY - DELAWARE CITY", for example. This "special duty" designation indicates that the officer was "working for" the municipality named.

NAB:pn

Attachment

cc: The Honorable Dennis Greenhouse
The Honorable Janet Rzewnicki
The Honorable Rita Justice
Michael E. McLaughlin
Earl L. Shockley
All Mayors/City Managers
All Police Chiefs
Files



Signed by Gov. 9/6/85
65 Del.Laws, c. 218

SPONSOR: Reps. Bennett, Barnes, West
and Sens. Cordrey, Sharp,
Adams; Reps. Anderson,
Buckworth, Campanelli, Carey,
Caulk, Clark, Cordrey, B.
Bemis, Fallon, Houghton, Jester,
Oberia, Outten, Petrilli,
Quillen, Reynolds, Soles,
Steels, Van Sant, Wingate,
Sens. Cook, Minner, Slatcher,
Torbert, Vaughn, Zimmerman

HOUSE OF REPRESENTATIVES

133RD GENERAL ASSEMBLY

HOUSE BILL NO. 385 AUG 28 1985

AN ACT TO AMEND SECTIONS 5915 AND 5917, CHAPTER 59, TITLE 11 OF THE DELAWARE CODE REGARDING DISPOSITION OF FINES AND COSTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (three-fourths of all members elected to each House thereof concurring therein):

1 Section 1. Amend §5915(a), Chapter 59, Title 11 of the Delaware Code by striking the last full
2 sentence of §5915(a) and substituting in lieu thereof a new sentence to read as follows:

3 "All fines and penalties collected for each calendar month shall be paid over by the justices to
4 the State Treasurer within 15 days after the first day of the succeeding calendar month, provided
5 that any such fines or forfeitures which, by the laws of this State, are due and payable to a County
6 or municipality thereof shall be paid by each justice to the County or municipality entitled thereto."

7 Section 2. Amend §5915, Chapter 59, Title 11 of the Delaware Code by adding a new subsection (d)
8 thereof to read as follows:

9 "(d) All fines collected for the violation of any of the provisions of this Title, in the limits of
10 any County, incorporated city or town in this State where arrests are procured by the authorized
11 representatives of that County, incorporated city or town, shall be paid to that County, incorporated
12 city or town within which such offense was committed for the use of that County, incorporated city
13 or town. Nothing in this subsection shall be construed to entitle any County to fines, penalties or
14 forfeitures arising from an arrest made under this Title by an authorized representative of that
15 County for a violation committed within any incorporated city or town. All the fines, penalties and
16 forfeitures imposed and collected in any County of this State for violation of any of the laws of this
17 Title, where the arrests are procured by the authorized representatives of the Department of Public

1 Safety, shall incur and be paid to the State Treasurer for the General Fund. Such fines, penalties
2 and forfeitures shall be collected as other fines, penalties and forfeitures are collected under the
3 laws of this State, and the officers collecting them shall make a monthly report thereof to the State
4 Treasurer on blanks to be furnished for that purpose by the Department of Public Safety. All costs
5 collected for the violation of any of the provisions of this Title shall be paid to the jurisdiction
6 whose court imposed said costs."

7 Section 3. Amend §5917, Chapter 59, Title 11 of the Delaware Code by adding a new subsection (d)
8 thereof to read as follows:

9 "(d) All fines collected for the violation of any ordinance, code or regulation of any County or
10 municipality of this State where a summons was issued or where an arrest was procured by the
11 authorized representatives of that County or municipality, shall be paid to that County or
12 municipality within which such violation occurred for the use of that County or municipality;
13 otherwise such fines shall incur and be paid to the State Treasurer for the General Fund. Nothing in
14 this subsection shall be construed to entitle any County to fines, penalties or forfeitures arising
15 from a summons issued or an arrest made under this Section by an authorized representative of that
16 County for a violation committed within any incorporated city or town. Fines, penalties and
17 forfeitures collected under the provisions of this Section shall be collected and disbursed as other
18 fines, penalties and forfeitures are collected and disbursed under the laws of this State, and the
19 officers collecting them shall make a monthly report thereof to the State Treasurer on blanks to be
20 furnished for that purpose by the Department of Public Safety. All costs collected for the violation
21 of any County or municipal ordinance, code or regulation shall be paid to the jurisdiction whose
22 court imposed said costs."

SYNOPSIS

A county or incorporated city or town of this State is entitled to the revenue resulting from arrests made for violations of Title 21 of the Delaware Code made by its authorized representatives. 65 Del. Laws, c. 141. The same should be true for Title 11 criminal code violations and for violations of County and municipal ordinances, codes or regulations. This Bill gives to the Counties and municipalities the benefit of their industry for enforcement of the provisions of Title 11 of the Delaware Code and of any ordinance, code or regulation of the County or municipality.