

**LEGAL OPINION NO. 2000-01**

TO: Judge Mark J. Fishburn  
Metropolitan General Sessions Court  
301 Metropolitan Courthouse  
Nashville, TN 37201

DATE: April 20, 2000

You have requested a legal opinion from the Metropolitan Department of Law on the following question.

**QUESTION**

Does Tennessee Code Annotated § 16-15-302 require all General Sessions Court officers to be paid the identical salary as Criminal Court officers without regard to merit or length of service?

**ANSWER**

No. Court officers may be paid within a salary range so long as it is the same salary range which applies to Criminal Court officers.

**ANALYSIS**

Tennessee Code Annotated § 16-15-302 states, "In counties governed by a metropolitan government as provided in Title 7, the salaries of court officers of circuit, chancery and general sessions courts shall be the same and equal to the salaries of the court officers of the criminal courts of those counties." Section 14.24 of the Code of Laws of the Metropolitan Government also provides that the pay of court officers in General Sessions Court "shall be the same as that paid to the officers of the criminal court."

Tennessee Code Annotated § 8-8-201(2)(B), which took effect in 1994, provides for trial judges to appoint their court officers and specifies such officers shall be paid "in accordance with the general pay plan of such municipality." This is the current practice and in accordance with the general pay plan, court officers are classified as a Judicial Assistant I or Judicial Assistant II and paid within a range of pay for the respective position. The Judicial Assistant II position includes experience requirements and managerial responsibilities not included in the Judicial Assistant I position. There have apparently never been any General Sessions court officers classified as Judicial Assistant II and there currently are no court officers in Criminal Court with this classification. Therefore, all court officers in both General Sessions and Criminal Court receive pay based on a range of \$38,521 to a maximum of \$45,122.

There are no predetermined "steps" within the Judicial Assistant I (or Judicial Assistant II) pay range. The amount an individual court officer makes within the range is left to the discretion of the judge for whom he or she works, subject to budgetary constraints. There apparently have been informal timetables for moving individuals through the range but they have been adjusted from time to time due to budget pressures. The pay of individual court officers from both courts is scattered throughout the range although both courts have more individuals near the upper end of the scale due to the longevity of most people in these positions. Some General Sessions Court officers make more than some Criminal Court officers. The lowest paid Criminal Court officer makes less than the lowest paid General Sessions Court officer.

Although individual General Sessions Court officers may not be paid the same amount as individual Criminal Court officers, as a group they are all paid as a Judicial Assistant I. Under the current system, a General Sessions court officer could make more or less than a given Criminal Court officer just as a given Criminal Court officer may make more or less than another Criminal Court officer. They all have the same maximum pay.

Our research has found no Tennessee cases or Attorney General Opinions interpreting Tennessee Code Annotated § 16-15-302 and this office has not previously issued an opinion on the issue.

In the absence of any controlling authority, our opinion is guided by the presumed intent of the legislature in

passing T.C.A. § 8-8-201(2)(B) and § 16-15-302. The directive that court officers "...shall be paid in accordance with the general pay plan..." suggests a range of pay if so provided in the general pay plan. Since all court officers are paid within the same range, it is our opinion that the pay is "the same and equal" as required by T.C.A. § 16-15-302. We are not prepared to say the legislature intended metropolitan governments to ignore length of service and merit when determining the pay of court officers. It is more likely the legislature intended the General Sessions Court officers *as a group* to receive the same and equal pay as Criminal Court officers *as a group*.

Prior to 1994, the pay of court officers in Criminal Court was established pursuant to an order issued by a Criminal Court judge which specified a range of pay. Once the Criminal Court officer pay was established, the General Sessions Courts applied the same range used in Criminal Court. Then, as now, all the court officers were in the same pay range even if individual court officers did not receive the exact same pay as other court officers. It is our opinion that both the current and prior practice complied with T.C.A. § 16-15-302 because court officers were all paid within the same range and therefore the pay was "same and equal."

Respectfully submitted,

THE DEPARTMENT OF LAW OF THE  
METROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON COUNTY

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Michael Bligh

Metropolitan Attorney

APPROVED:

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Karl F. Dean

Director of Law

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cc: Mayor Bill Purcell

Vice Mayor Ronnie Steine

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