"(2) The minimum salary of any adult probation officer, regardless of the court to which he is attached, shall not be less than four thousand dollars per year. If the adult probation officer is employed on a per diem basis, the per diem shall not be less than twenty dollars: Provided, That the total amount of per diem pay received by any adult probation officer in any one year shall not exceed the sum of four thousand dollars."

The emphasized portion of the above title calls attention to the fact that the 1959 Act adds to or supplements Section 1 of the 1951 Act. Section 1 of the 1951 Act, being Burns’ 9-2214d, supra, applies only to the chief adult probation officers. Nothing in the 1959 Act indicates that it was the Legislature’s intention to amend or supplement Section 2 of the 1951 Act as it applies to the salaries of assistant adult probation officers. It would seem then that the Legislature did not intend to disturb the existing provisions of Section 2 of the 1951 Act and intended only to supplement Section 1 of the 1951 Act by adding Section 1a to provide and establish a minimum for the salaries of chief adult probation officers.

Therefore, it is my opinion that the phrase "any adult probation officer" as used in the 1959 Act refers only to the chief adult probation officer and does not disturb the provisions of Section 2 of Ch. 316 of the Acts of 1951, supra, as it pertains to the salary of an assistant adult probation officer.

OFFICIAL OPINION NO. 42
August 14, 1959

Honorable Charles W. Kirk, Jr.
State Representative, Floyd County
213 East Spring Street
New Albany, Indiana

Dear Representative Kirk:

You have requested my Official Opinion concerning salaries paid to prosecuting attorneys by counties. Your letter making this request declares:
"During the past session of the Legislature we passed House Bill No. 68, which I believe is now Chapter 277, Acts of 1959. This act concerned the salary of Prosecuting Attorneys in the State of Indiana.

"Section 5 of this act permitted the Counties to pay a salary to the Prosecutors in addition to the amount paid by the State. Under the 1953 Act the Counties could also pay additional salaries subject to a ceiling set by the Statute.

"Many of the Prosecutors were drawing this additional salary by virtue of action of their Councils. When the 1959 Act became effective March 13 of this year the State Board of Accounts notified the County Auditors to cease paying any salary under the 1953 Act. As a result some Prosecutors are not receiving the additional salary for which their Councils had already appropriated funds. Also, the State Board of Accounts letter was not sent out until June 15 of this year and the prosecutors had already been paid up to that date.

"I am requesting an official opinion on this Act and in particular on Section five of said Act. I would like to know whether or not the County can continue to pay the additional salary for 1959, which has already been appropriated legally under the 1953 Act, without having the Council call a special meeting and make another appropriation."

Acts of 1959, Ch. 277, Sec. 5, as found in Burns' (1959 Supp.), Section 49-2605, declares:

"There shall be allowed and paid to the several prosecuting attorneys in the state for services rendered by them, the following annual salaries based upon the classification of the various judicial circuits as set out above. The annual salary as provided in section six (6) to eighteen (18) both inclusive of this act, for prosecuting attorneys, shall be paid monthly out of the state treasury from the general fund of the state and there is hereby appropriated annually out of the general fund of the state sufficient funds to pay any such amount as may be necessary; Provided, however, That
the salaries fixed herein are determined to be minimum salaries and to limit only the amount to be paid therefor from the state treasury and *nothing in this act shall limit the power of counties to pay additional salaries upon proper action by the appropriate county officials.*”

(Our emphasis)

The above act became effective on March 13, 1959, as mentioned in your letter, and expressly repealed the Acts of 1953, Ch. 270, also mentioned therein. Sections 20 and 21 of the Acts of 1959, Ch. 277, provide as follows:

“All laws and parts of laws in conflict herewith are hereby repealed and an act entitled ‘An Act concerning the office of prosecuting attorney in the various judicial circuits of the state,’ approved March 14, 1953, is hereby specifically repealed.”

“Whereas an emergency exists for the immediate taking effect of this act, the same shall be in full force and effect on and after its passage.”

The emphasized portion of Sec. 5 of the 1959 Act states clearly that it was not the intention of the General Assembly to limit the power of counties to pay additional salaries to prosecuting attorneys upon proper action by appropriate county officials. The 1953 Act, heretofore mentioned, provided that county councils could increase the amount paid to prosecuting attorneys by a sum not to exceed a stipulated figure. This figure varied depending upon population, Acts of 1953, Ch. 270,Secs. 4 through 16.

Since the 1953 Act was in effect until expressly repealed by the 1959 Act on March 13, 1959, it was entirely proper for appropriate county officials, prior to said date, to take action in appropriating money for 1959 to be paid to prosecuting attorneys during said year. Therefore, in my opinion, appropriations for 1959 made by appropriate county officials for prosecuting attorneys prior to the effective date of the 1959 Act were valid when made and have not been vacated by any provision of said new law. It therefore follows that, in my opinion, counties can continue to pay to prosecuting attorneys the additional salary for 1959 which had been properly appro-
priated prior to March 13, 1959, under the 1953 Act. In 1960 and thereafter, additional compensation paid to prosecuting attorneys by counties would require proper action by the appropriate county officials.

OFFICIAL OPINION NO. 43
August 14, 1959

Honorable Walter A. Baran
Indiana State Senator
5128 Walsh Avenue
East Chicago, Indiana

Dear Senator Baran:

This is in answer to your letter, requesting an Official Opinion in connection with the impounding of overweight vehicles, wherein you state:

“My question is, does a bail bond for the total amount placed at the time of arrest cover the word ‘stayed,’ release the truck or release the defendant only and keep the truck impounded until the time of trial?”

The question concerns Acts of 1931, Ch. 83, Sec. 8a, as amended, and as found in Burns’ (1959 Supp.), Section 47-536a, the pertinent parts of which read as follows:

“When a person is apprehended operating or causing to be operated a vehicle or combination of vehicles on any public highway in the state of Indiana with a weight in excess of the limitations set out in section 8, said vehicle or combination of vehicles shall be impounded and kept within the custody of the officer apprehending such vehicle or combination of vehicles and to be moved only as directed by said officer; and such officer shall cause said truck to be kept impounded until its weight is so reduced as to comply with the limitations expressed in section 8 and until all fines and costs levied on the basis of such excess weight are paid or stayed, and any person so apprehended who shall move said vehicle or combination of vehicles or cause