

Prisoners Board in County Jail

County Court cannot order
different amounts to be
spent for board of misde-
meanor and felony prisoners.



January 3, 1935.

Hon. Forrest Smith,
State Auditor,
Jefferson City, Missouri.

Dear Sir:-

We have your letter of December 3, 1934, in which
is contained a request for an opinion as follows:

"I am in receipt of Certified Copy of County
Court Order of Greene County, Missouri, as follows:

'It is ordered by the Court that the Sheriff
be and is hereby allowed during the year 1934, compen-
sation, as follows:

For each prisoner confined in said jail for
misdemeanor, the sum of 50¢ per day;

For each prisoner confined in said jail for
felony, the sum of 75¢ per day;

It is further ordered that the Clerk of this
Court furnish the Clerk of the Circuit Court of Green
County with a certified copy of this order.'

This Court Order is made in compliance with
Section 11794, R. S. Mo. 1929 which authorizes the County
Court to fix the board bill of prisoners during the
November term. As this order is written it forces the
state to pay 75¢ a day for the board of prisoners, where
the County will only be required to pay 50¢ per day, as
all felony cases are chargeable to the state. This seems
to be a discrimination between the state and the county.

I will appreciate an opinion from your office
as to the authority of the County Court of Greene County
in making such an order."

Section 11794, Revised Statutes of Missouri, 1929,
provides as follows:

"Sec. 11794. Allowance to sheriffs and marshals for board for prisoners. Hereafter sheriffs, marshals and other officers shall be allowed for furnishing each prisoner with board, for each day, such sum, not exceeding seventy-five cents, as may be fixed by the county court of each county and by the municipal assembly of any city not in a county in this state: Provided, that no sheriff shall contract for the furnishing of such board for a price less than that fixed by the county court."

Section 11795, Revised Statutes of Missouri, 1929, provides as follows:

"Sec. 11795. Duty of county courts at November term in each year to fix such allowances.--It shall be the duty of the county courts of each county in this state at the November term thereof in each year to make an order of record fixing the fee for furnishing each prisoner with board for each day for one year commencing on the first day of January next thereafter, and it shall be the duty of the clerk of the county court to certify to the clerk of the circuit court of such county a copy of such order, and the same shall be filed in the office of the clerk of the circuit court for the use of the said clerk and the judge and prosecuting attorney in making and certifying fee bills."

Neither of the sections above quoted, nor any section of the Statutes that we have been able to locate, provides for any differentiation, as to payment of board, between prisoners confined for a felony and those confined for a misdemeanor. On the contrary, the word "prisoner" is used generally and must be taken to mean anyone confined, without regard to the offense committed.

The provision for the allowance by the county court, within the limit set, of so much for each prisoner for each day, is obviously intended by the legislature as a mere measure of the amount to be allowed. The offense in question can have nothing to do with the cost of board, hence the prisoners must all be treated equally with reference to such matters.

The order referred to in your letter is, in our opinion, based on no statutory authority, and should not be allowed

Hon. Forrest Smith

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January 3, 1935.

to stand.

Very truly yours,

CMHJr:LG

CHAS. M. HOWELL, Jr.
Assistant Attorney General

APPROVED:

Attorney General.