

SHERIFFS: Sheriff in third class county is not authorized to charge county for incidental services supplied prisoners.

May 13, 1948



Honorable G. Logan Marr
Prosecuting Attorney
Morgan County
Versailles, Missouri

Dear Sir:

Reference is made to your request for an official opinion of this department reading as follows:

"The County court of our county called me in conference in relation to the enclosed letter from Cooper county court, and which I enclose.

"An investigation of the facts disclose that two inmates of the Reformatory were lodged in our jail by the sheriff of Cooper county on the order of the circuit judge, and for safekeeping awaiting the trial to be had, on charges of murder. One of these boys 'cracked' and has since been removed from the jail of this county.

"The court informed me that Anna Hughes, wife of the sheriff, who has acted as jailor, has turned in two bills to our county court on these two juveniles from the county of Cooper. One bill was the costs of the average food bill for each prisoner. The other bill was an account for service rendered in caring for these juveniles in the county jail, such as running their errands, taking them food, cleaning their cells, washing their bed clothes and in cooking their food. The charges on this item have been running approximately \$1.00 per day, for each prisoner.

"I submit these facts, and request that you render to this county court and for the benefit of the county court of Cooper County, an-

Honorable G. Logan Marr

opinion as to whether the wife of the sheriff as jailor has the legal right to make this charge for this service."

The question presented is whether or not, under the circumstances outlined in your letter, a sheriff may lawfully make a charge for incidental services rendered prisoners in his custody as such sheriff.

It is noted that Morgan County is one found in the third class under the classification of counties adopted by the General Assembly. It is also noted that this county has a population of 11,140, according to the 1940 census.

The provisions of Section 13547.301, Mo. R. S. A., control the salary paid to a sheriff in a county of the third class. The pertinent portion of this section reads as follows:

"The sheriff in counties of the third class shall receive annually for his official services in connection with the investigation, arrest, prosecution, custody, care, feeding, commitment and transportation of persons accused of or convicted of a criminal offense, the following sums: * * * in counties having a population of 10,000 and less than 11,500 the sum of \$1400; * * *" (Emphasis ours.)

You will note that this statute provides specifically that the salary set forth therein includes compensation for services rendered in connection with the custody, care and feeding of prisoners. Therefore, unless further statutory authority may be found authorizing charges of any nature in connection with these same matters, no such charge may be made.

The provisions of Section 13547.304, Mo. R. S. A., do authorize the reimbursement of the sheriff for the actual cost of feeding persons in his custody. This section reads as follows:

"The sheriff shall have the custody and care of persons lodged in the county jail and shall furnish them with clean quarters and wholesome food. At the end of each month the sheriff shall submit to the county court a statement supported by his oath or affirmation of the actual cost incurred by him in the feeding of persons under his custody together with the names of the persons, the number of days each spent in the jail, and whether or not the

Honorable G. Logan Marr

expenditure is properly chargeable to the county or to the state under the law. The county court shall audit said statement and draw a warrant on the county treasury for the amount of the actual cost payable to the sheriff. The county clerk shall submit quarterly to the State Director of Revenue a statement of the cost incurred by the county in the feeding of the prisoners properly chargeable to the state and the state shall forthwith pay the same to the county treasury."

We have examined the other statutes relating to the duties of the sheriff in connection with prisoners in his custody and are unable to find any statutory authority under which such sheriff may claim compensation for rendering services such as those outlined in your letter of inquiry. It might be noted that under the provisions of the latter statute quoted, the duty is directly imposed upon the sheriff of providing clean quarters for persons in his custody. In the absence of statutory authority for making such charges, it is our thought that a sheriff may not lawfully collect therefor.

CONCLUSION

In the premises, we are of the opinion that a sheriff in a county of the third class may not make any charges for services rendered persons in his custody in the county jail, except that such sheriff may be reimbursed by the county for his actual cost incurred in the feeding of such persons.

Respectfully submitted,

WILL F. BERRY, Jr.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General