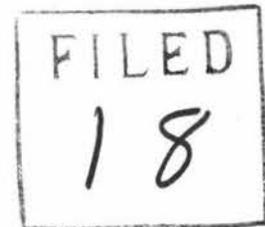


MAGISTRATES) Telephone is necessary equipment in the Office of
the Magistrate and is to be paid for by the County.

November 1, 1949



Honorable J. A. Combs
Probate Judge and Magistrate
Madison County
Fredericktown, Missouri

Dear Sir:

This is in answer to your letter of recent date requesting an official opinion of this Department, and reading as follows:

"May we have your opinion as to whether there is a statute providing that necessary equipment for county offices, including that of the Magistrate Court, shall be paid for by the county in which such offices are located and whether, in your opinion, a telephone would be considered as necessary equipment in the office of the Magistrate Court?"

Section 7, Laws of Missouri, 1945, page 807, provides as follows:

"At the expense of the county the county court, or in the City of St. Louis the board of aldermen by ordinance, shall provide the court and its divisions and officers with proper court rooms and offices at one place in the city, and for the proper care thereof, and with heat, light, furniture, furnishings, office equipment, filing cabinets, typewriters, stationery, office supplies and proper books of account and record, dockets and printed forms of writs, and whatsoever else may be necessary for the proper conduct of the business of the court."

This is the only statute that specifically provides for payment by the city or county of the necessary office expenses of the magistrate, and such law applies only to the City of St. Louis. However, the fact that there is no specific statute authorizing or requiring the payment of the cost of a telephone in the magistrate's office in counties of this state outside the City of St. Louis does not preclude the counties from having the duty of paying the costs of such telephone.

In the case of Rinehart v. Howell County, 153 S.W. (2d) 381, the Supreme Court of Missouri in discussing the contention that since a statute provided that stenographers of prosecuting attorneys in certain counties should be paid by the county, and since no provision was made by statute for payment of such stenographers in other counties, the result must be that where no statute authorized payment by the county, the county was not liable therefor, said at l.c. 383:

"Appellant's statutory citations constitute legislative recognition of the propriety of expenditures for stenographic services in the discharge of the present-day duties of prosecuting attorneys in the communities affected--an approved advance in proper instances for the administration of the laws by county officials and the business affairs of the county and for the general welfare of the public. Such enactments, in view of the constitutional grant to county courts, should be construed as relieving the county courts in the specified communities from determining the necessity therefor and, by way of a negative pregnant, as recognizing the right of county courts to provide stenographic services to prosecuting attorneys in other counties when and if indispensable to the transaction of the business of the county, and not as favoring the citizens of the larger communities to the absolute exclusion of the citizens of the smaller communities in the prosecuting attorney's protection of the interests of the state, the county and the public. * * *"

It is our view therefore that Section 7, Laws of Missouri, 1945, page 807, should be construed as recognizing the right of counties to provide necessary equipment and facilities for magistrates.

Honorable J. A. Combs

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We are enclosing an official opinion of this Department rendered under date of September 15, 1949, to John M. Rice, Prosecuting Attorney, Newton County, having to do with circuit judges, and we believe that the conclusion reached as to circuit judges in that opinion is equally applicable to magistrates.

CONCLUSION

It is the opinion of this Department that a telephone in a magistrate's office is part of the necessary equipment thereof, and that the county shall pay for the cost of such telephone.

Respectfully submitted,

C. B. BURNS, JR.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General