

SHERIFFS:  
COUNTY COURT:

Sheriffs of class two counties are required to purchase supplies in accordance with Sections 50.760 to 50.790, inclusive, RSMo 1949.

October 10, 1951

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FILED

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Honorable Gerald W. Gleason  
Assistant Prosecuting Attorney  
Greene County  
Springfield, Missouri

Dear Sir:

This is in reply to your recent request for an opinion, which reads as follows:

"Sheriff Glenn Hendrix, of Greene County, Missouri, has asked us to write to you for an opinion on the following matter.

"As Sheriff, he is desirous of purchasing daily supplies for the jail without going through the County Court. These supplies consist of soap, disinfectant and other necessary and ordinary jail needs, exclusive of the food and care of the prisoners. The expenditures would be under the sum of \$25.00. The Sheriff has stated that it is necessary to spend a great deal of time waiting on the Court for permission to buy these articles. The Court has told him that all the purchases in the county must be made through the County Court.

"We would appreciate your opinion as to whether or not these daily supplies could be purchased by the Sheriff without consultation and permission of the County Court and chargeable to the county as its debt."

In regard to purchases by class two counties, we quote Section 50.760, RSMo 1949, as follows:

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"It shall be the duty of the judges of the county court in all counties of the second class, on or before the first day of February of each year, to determine the kind and quantity of supplies, including any advertising or printing which the county may be required to do, required by law to be paid for out of the county funds, that will be necessary for the use of the several officers of such county during the current year, and to advertise for sealed bids and contract with the lowest and best bidder for such supplies. Before letting any such contract or contracts the court shall cause notice that it will receive sealed bids for such supplies, to be given by advertisement in some daily newspaper of general circulation published in the county, such notice to be published on Thursday of each week for three consecutive weeks, the last insertion of which shall not be less than ten days before the date in said advertisement fixed for the letting of such contract or contracts, which shall be let on the first Monday in March, or on such other day and date as the court may fix between the first Monday of March and the first Saturday after the second Monday in March next following the publication of such notice; provided, that if by the nature or quantity of any article or thing needed for any county officer in any county of this state to which sections 50.760 to 50.790 apply, the same may not be included in such contract at a saving to such county, then such article or thing may be purchased for such officer upon an order of the county court first being made and entered as provided in sections 50.760 to 50.790; and provided further, that if any supplies not included in such contract be required by any such officer or if the supplies included in such contract be exhausted then such article or thing may be purchased for such officer upon order of the county court first being made and entered of record as provided in sections 50.760 to 50.790."

Section 50.780, RSMo 1949, among the sections referred to in the above section, declares it to be unlawful for a county

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officer to purchase supplies not contracted for as provided in Sections 50.760 to 50.790, RSMo 1949, unless he first applies to and obtains an order from the county court under its official seal for the purchase of such supplies. This section also sets out that such an order shall be in the form of a requisition and any such requisition filed without the aforementioned approval of the county court shall not be paid for out of county funds.

The sections referred to above may be the provisions which your county court has in mind. These sections require that the purchase of supplies be made through the method as prescribed. In regard to this matter, in 1909, our Supreme Court held that a county sheriff could purchase supplies for keeping his jail in good and sufficient condition without authority from a county court. The court stated in the case of Harkreader v. Vernon Co., 216 Mo. 696, 116 S.W. 523, l.c. Mo. 708, 709:

"It is written in the statutes that jails should be 'kept and maintained in a good and sufficient condition,' etc. (R.S. 1899, sec. 8104), that is, 'good and sufficient' in a modern sanitary sense, having an eye to the sure results established by scientific investigation of the disease-breeding effects of filth and bad air. That statute is broad enough to cover the extraordinary condition disclosed by the record.

"We are driven to the conclusion there was more pique than principle at bottom in the action of the county court.

"Let the judgment be affirmed. It is so ordered. All concur, except Graves, J., who took no part."

Again, in regard to supplies needed for county jails, we quote from Kansas City Sanitary Co. v. Laclede County, 307 Mo. 10, 269 S.W. 395, l.c. 398:

"\* \* \* No question of that sort can be successfully raised as to any part of the goods ordered for and used at the county jail. Under Section 12549 the jail is required to be kept in good and sufficient condition and under Section 12551 the sheriff of the county has the

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custody, keeping, and charge of the jail. He therefore has full authority to purchase all supplies necessary to keep such jail in good and sufficient condition, which includes sanitary condition, and needed no authorization by the county court to render the county liable for purchases for such jail for such purpose. \* \* \*

This case was decided in 1925.

There has been no material change in the statute requiring the sheriff to keep the jail. Sections 221.010 and 221.020, RSMo 1949, now refer to the keeping of the jail in good and sufficient condition and repair, and are now as follows:

"221.010. Location of county jails.- There shall be kept and maintained, in good and sufficient condition and repair, a common jail in each county within this state, to be located at the permanent seat of justice for such county."

"221.020. Sheriff to be jailer.- The sheriff of each county in this state shall have the custody, rule, keeping and charge of the jail within his county, and of all the prisoners in such jail, and may appoint a jailer under him, for whose conduct he shall be responsible."

At the time that the above decisions were made by our Supreme Court, the authority of a county officer to purchase necessary supplies for his office was not limited by statute as it is and has been since 1933. It must not be forgotten that at the time the above quoted Supreme Court decisions there was no county budget law, nor were there any statutes at that time directing the manner and means of making county court purchases as there are now. Sections 50.760 to 50.790, RSMo 1949, were first enacted as Laws of 1933, pages 201, 202, and 203. These sections provided a method for the purchase of supplies by counties, and we believe that they are mandatory.

In view of the definite provisions of Section 50.760, supra, it is our opinion that the sheriff as one of the officers of the county is required to purchase his supplies for the jail in accordance with Sections 50.760 to 50.790, RSMo 1949.

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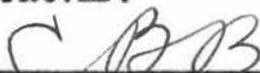
CONCLUSION

It is, therefore, the opinion of this department that sheriffs of class two counties are required to purchase supplies in accordance with Sections 50.760 to 50.790, RSMo 1949, under the contract as outlined therein, if any supplies not included in such contract be required or if the supplies included in such contract be exhausted, then such article or thing may be purchased for the sheriff upon order of the county court first being made and entered of record.

Respectfully submitted,

JAMES W. FARIS  
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APPROVED:

  
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J. E. TAYLOR  
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