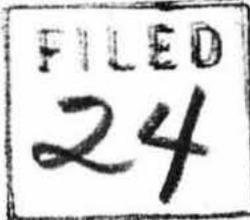


FEES:  
CITY POLICE:

A policeman of the city of the first class is not entitled to the fee provided by Section 57.290, RSMo 1949, for making an arrest under a warrant issued by a magistrate.

February 15, 1952



2-18-52

Honorable John E. Downs  
Prosecuting Attorney of  
Buchanan County  
St. Joseph, Missouri

Dear Sir:

Reference is made to your recent request for an official opinion of this department, which request reads as follows:

"Since the Police Officers in a city of the first class have the power to arrest under Sections 85.060 and 85.230, RSMo 1949, for violation of all state laws with or without process, the question arises as to the cost involved when a warrant issued by a Magistrate is directed to the Chief of Police of the City of St. Joseph.

"As you know, St. Joseph is a city of the first class and as such maintains a municipal police department who derive their authority in part from Section 85.060, RSMo 1949. When a state warrant is directed by a Magistrate to the Chief of Police of St. Joseph, Missouri and, the person named in the warrant is apprehended by the Chief of Police who executes the warrant and the defendant is ultimately found guilty, a question arises in my mind as to the cost involved relative to the service and return on such

Honorable John E. Downs

warrant. Does the one dollar fee provided for in Section 57.290, RSMo 1949 apply under the set of facts herein above set out for the service and return on such warrant and if so, does the one dollar fee accrue to the office of the Sheriff even though the warrant is served and executed by the Chief of Police?"

The question you have presented requires an interpretation of Section 57.290, RSMo 1949, said section provides in part as follows:

"Sheriffs, county marshals or other officers shall be allowed fees for their services in criminal cases and for all proceedings for contempt or attachment as follows:

|   |        |
|---|--------|
| For serving and returning each capias, for each defendant . . . . .   | \$1.00 |
| For serving a writ of attachment, for each person actually brought into court . . . . .                                   | 1.00   |
| For serving every writ of execution . . . . .   | 1.00   |
| For entering return of non est on a capias or attachment . . . . .  | .50    |
| For a return of nulla bona . . . . .  | .50    |
| For summoning a jury to ascertain the sanity or pregnancy of a convict, drawing inquisition, and returning same . . . . . | 2.00   |
| For summoning a grand jury . . . . .  | 4.20   |
| For summoning a petit jury and calling same at the trial . . . . .  | 1.00   |
| For executing a special venire when one shall have been actually ordered and issued . . . . .                             | 2.00   |
| For summoning each witness . . . . .  | .50    |

|  |      |
|--|------|
| For every return of non est on a subpoena . . . . .        | .25  |
| For serving any rule of court or notice . . . . .          | .50  |
| For calling each witness . . . . .                         | .05  |
| For taking recognizance . . . . .                          | .50  |
| For committing any person to jail . .                      | 1.00 |
| For every trial in a criminal case or confession . . . . . | 1.00 |
| For every trial in a capital case . .                      | 3.00 |

"In cities and counties having a population of three hundred thousand inhabitants and over, each deputy sheriff, not more than two, shall be allowed for each day during the term of court three dollars, to be paid by the city or county of three hundred thousand inhabitants or over. For the services of taking convicts to the penitentiary, the sheriff, county marshal or other officer shall receive the sum of three dollars per day for the time actually and necessarily employed in traveling to and from the penitentiary, and each guard shall receive the sum of two dollars per day for the same, and the sheriff, county marshal or other officer and guard shall receive five cents per mile for the distance necessarily traveled in going to and returning from the penitentiary, the time and distance to be estimated by the most usually traveled route from the place of departure to the penitentiary; the sum of five cents per mile for each mile traveled, while being taken to the penitentiary, shall be allowed to the sheriff to cover all expenses of each convict while being taken to the penitentiary, and all persons, convicted and sentenced to imprisonment in the penitentiary at any term or setting of the court, shall be taken to the penitentiary at the same time, unless prevented by sickness or unavoidable accident.\* \* \*"

Before taking into consideration Section 57.290 RSMo 1949, relative to your inquiry, we note that Section 85.090 provides

Honorable John E. Downs

that the chief of police shall be compensated for his services by a salary fixed by the board of police commissioners at not less than \$2670 and not more than \$3870 per annum.

The section provides that the "sheriff, county marshal or other officer" shall be entitled to the enumerated fees for their services in criminal cases. It is quite obvious that the chief of police acting in such capacity does not fall within the terms sheriff or county marshal, leaving for determination whether or not the chief of police, executing a warrant, issued by a magistrate falls within the phrase "or other officer" for the purpose of compensation under this section. It is a primary rule of statutory construction that in arriving at the intention of the legislature, all parts of a statute should be read and construed together.

Therefore, the term "or other officer" must be read and construed with the terms sheriff and county marshal as used throughout this section. The sheriff is a county officer exercising jurisdiction within the county for which he was elected. His duties involve attending the respective courts and executing such legal processes as may be directed to his office.

Turning now to the term county marshal, we note that there is no officer specifically designated as such. However, we presume that such term was intended to embrace such persons as a county jailer (State v. Wofford, 116 Mo. 220), who is charged with the care and custody of prisoners within the county. The stated prerequisite of being a county marshal, coinciding with the fact that a sheriff has county-wide jurisdiction would seem to indicate the class of officers sought to be compensated by this provision.

It is likewise fundamental that where general words in a statute follow specific words designating special things or persons the general words are, as a rule, limited to cases of the same general nature as those which are specified. This rule is stated in the case of State ex rel. Goodloe v. Wurdman, 286 Mo. 160, as follows:

"\* \* \*It is a familiar rule of statutory construction that where an enumeration of specific things is followed by some more general word or phrase, such general word or phrase should be construed to refer to things of the same kind. (19 C.J. p. 1255.)  
\* \* \*."

Honorable John E. Downs

We note that throughout Section 57.290, RSMo 1949, reference is made to deputies and guards, and are of the opinion that the term "other officers" was intended to include such officers as are specifically enumerated in addition to the sheriff and county marshal.

Under the foregoing rules of construction, we are of the opinion that the chief of police, executing a warrant issued by a magistrate, is not entitled to compensation as provided in Section 57.290, but that such provision was intended to compensate those officers whose regular duties involve the attendance upon the courts having jurisdiction in criminal matters and who were prior to 1945, not compensated on a salary basis but solely upon fees.

We are likewise of the opinion that the one dollar fee provided by Section 57.290, RSMo 1949, for executing a warrant of arrest would not accrue to the sheriff's office under the facts that you have presented, since no service has been performed by that office.

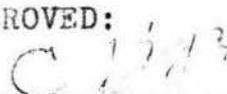
CONCLUSION

Therefore, it is the opinion of this department that the chief of police of the City of St. Joseph, who executes a warrant or arrest issued by a magistrate and directed to such officer is not entitled to the fee provided for such service by Section 57.290, RSMo 1949, since such officer does not fall within said provision.

Respectfully submitted,

D. D. Guffey  
Assistant Attorney General

APPROVED:

  
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J. E. TAYLOR  
Attorney General

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