

SHERIFFS', DEPUTIES'
MILEAGE:



The sheriff and his deputy may collect up to \$75. per month each for mileage in the performance of their official duties in connection with the investigation of persons accused of or convicted of a criminal offense.

November 21, 1955

Honorable Don W. Owensby
Prosecuting Attorney
Buffalo, Missouri

Dear Sir:

Your recent request for an official opinion reads as follows:

"This office would like an opinion from your office concerning the amount payable to the sheriff and his deputy for mileage. It involves an interpretation of Section 57.430 R.S. Mo. 1949, as revised.

"The exact matter involved is whether or not the \$75.00 spoken of in the section is the limit that the county court is permitted to pay or is it \$75.00 to the sheriff and an additional \$75.00 to each of his deputies, of course providing that they by their statement to the court show that they actually traveled the miles necessary to be entitled to the full amount allowable."

Section 57.430, RSMo 1949, reads as follows:

"In addition to the salary provided in Sections 57.390 and 57.400, the county court shall allow the sheriffs and their deputies, payable at the end of each month out of the county treasury, as actual and necessary expenses for each mile traveled in serving warrants or any other criminal process not to exceed seven cents per mile, and actual expenses not to exceed seven cents per mile for each mile traveled, the maximum amount allowable to be seventy-five dollars during any one calendar month in the performance of their official duties in connection with the investigation of persons accused of or convicted of a criminal offense. When mileage is allowed, it shall be computed from the place where court is usually held, and when court is usually held at one or more places, such mileage shall be computed from the place from which the sheriff or deputy sheriff travels in performing any service. When two or more persons who are summoned, subpoenaed,

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or served with any process, writ, or notice, in the same action, live in the same general direction, mileage shall be allowed only for summoning, subpoenaing or serving of the most remote.

"At the end of each month, the sheriff and each deputy shall file with the county court an accurate and itemized statement, in writing, showing in detail the miles traveled by such officer, the date of each trip, the nature of the business engaged in during each trip, and the places to and from which he has traveled. Such statement shall be signed by the officer making claim for reimbursement, verified by his affidavit and filed by him with the county court. Whenever claim for reimbursement is made by a deputy, his statement shall also be approved in writing by the sheriff.

"The county court shall examine every claim filed for reimbursement, and if found correct, the county shall pay to the officer entitled thereto, the amount found due as mileage."

A reading of this section convinces us that its meaning is that the total amount allowed is not \$75.00 for any one month. We believe, on the contrary, that a sheriff may be paid this amount for one month and that his deputies, one or more in number, may each be paid a like amount, if, of course, they certify that they have traveled in their official business the miles necessary to make up this sum. This would seem to be the reasonable construction to be put upon this section even if it were not that the plain wording of the section would seem to have the above meaning. At different times, according to different circumstances, the amount of miles necessarily traveled by the personnel of the sheriff's office will differ considerably, and different offices in different counties will vary greatly. If, therefore, the sheriff and his deputies are to be compensated for the mileage necessarily traveled by them, as seems to be the intent of the statute, the statute must necessarily have a considerable amount of elasticity.

CONCLUSION

It is the opinion of this department that the sheriff and his deputies may each collect from the county up to a maximum of \$75.00 per month for mileage in the performance of their official duties in connection with the investigation of persons accused of or convicted of a criminal offense.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Hugh P. Williamson.

Yours very truly

John M. Dalton
Attorney General

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