

JUVENILE OFFICERS:
DEPUTY JUVENILE OFFICERS:
COMPENSATION:

1. It is mandatory that the judge of a judicial circuit comprised of third and fourth class counties appoint a juvenile officer or enter into an agreement under which such an officer is appointed for his circuit and one or more other circuits.
2. It is permissible for a deputy juvenile officer to be appointed when no appointment of a juvenile officer for the circuit has been made.
3. A deputy juvenile officer, although appointed for an entire circuit, may be designated to serve one specific county within a judicial circuit at the exclusive discretion, and under the direction and control of the juvenile court for the circuit.
4. The salary and expense of deputy juvenile officers serving third and fourth class counties comprising a judicial circuit must be prorated amongst all of the counties of the circuit according to their population, regardless of how or where such deputies are directed to serve by the court.

January 5, 1962

Honorable Haskell Holman
State Auditor
Jefferson City, Missouri

Dear Mr. Holman:

This is written in answer to your request for opinions of this office dated June 16, 1961, which read as follows:

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"1. Is it mandatory that the judge or judges of a judicial circuit or circuits in counties of the third and fourth class appoint a juvenile officer for their circuit or circuits?

"2. Would it be permissible for a deputy juvenile officer to be appointed when no appointment of 'a juvenile officer' for the circuit has been made?

"3. May a deputy juvenile officer, serving under a regular appointed juvenile officer, be so designated to serve one specific county within the judicial circuit?

"4. Shall the salary and expenses of the deputy be paid, in the entirety, solely by the county for which he is designated to serve or shall it be prorated against the counties comprising the judicial circuit?"

To these I reply in the order in which they are presented as follows:

I.

It is mandatory that the judge of a judicial circuit comprised of third and fourth class counties appoint a

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juvenile officer or enter into an agreement under which such an officer is appointed for his circuit and one or more other circuits.

This is supported by an opinion from this office to The Honorable Claude E. Curtis, Judge, Nineteenth Judicial Circuit, dated October 29, 1957, which I find to be correct to this date. There have been no pertinent changes in the law since that opinion was rendered and I enclose a copy thereof herewith for your use.

II.

It is permissible for a deputy juvenile officer to be appointed when no appointment of "a juvenile officer" for the circuit has been made.

Two consistent approaches to this question are necessary because of the use of the word "deputy".

First, the purpose of the law should be examined. This law (211.011, et seq, RSMo 1959) pertaining to juveniles, juvenile courts and juvenile officers throughout places the onus of supervision, control and responsibility of the same squarely on the back of the circuit court.

To implement this task and, in some respects to alleviate the burden, the legislature has devolved upon the court the widest possible latitude. But, in any event, all personnel of the juvenile court are directly responsible to the judge thereof.

Second, it appears that the legislature used the word "deputy" in connection with the two words "juvenile officer" merely as a means of designating other officers which the court could, when deemed necessary, appoint, to serve as juvenile officers but, by Section 211.391.1.(3), at a lower maximum compensation.

Legal interpretation of the meaning of the word "deputy", elsewhere and in Missouri, seems to be well settled.

"Merely calling one a deputy is not alone sufficient unless the duties of a 'deputy' apply to his office and are specified by some act of the legislature, . . . Steen v. Nassau County, 38 NYS 2d 496."

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"It is a well settled rule of law that all official acts done by a deputy should be done in the name of the principal. 'A deputy is one who by appointment exercises an office in another's right having no interest therein but doing all things in his principal's name and for whose conduct the principal is answerable'." Halter et al v. Leonard et al, 122 S.W. 706, l.c. 708.

Clearly a "deputy juvenile officer" is not appointed by a "juvenile officer", nor does he act in the right of a "juvenile officer", nor does he do all things in the name of a "juvenile officer", neither is a "juvenile officer" answerable for the misconduct of a "deputy juvenile officer".

All of these a "deputy juvenile officer" does by Section 211.351(1), RSMo 1959, under direction of the juvenile court by whom he is appointed, in whose right he acts, in whose name he acts and to whom he answers for his own misconduct. The juvenile court, of course, answers to its own conscience and, ultimately, to the people.

A "deputy juvenile officer" is not a deputy to a "juvenile officer" but is a deputy to the court in matters pertaining to juveniles. This, however, must not be construed to mean that the juvenile court cannot direct that a "deputy juvenile officer" serve in a capacity subordinate to a "juvenile officer".

III.

A deputy juvenile officer, although appointed for an entire circuit, may be designated to serve one specific county within the judicial circuit at the exclusive discretion, and under the direction and control, of the juvenile court for the circuit.

As was sufficiently demonstrated under II above, the assignment of all personnel under the aegis of the juvenile court is purely a matter of judicial discretion. The court may direct that a "deputy juvenile officer" serve in any particular manner or place as the needs of the court require.

IV.

The salary and expense of deputy juvenile officers serving third and fourth class counties comprising a judicial

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circuit must be prorated amongst all of the counties of the circuit according to their population.

This is so because of the provisions of Section 211.351.2, RSMo 1959:

" . . . the total cost to the counties [third and fourth class counties comprising a judicial circuit] for the compensation of these persons [a juvenile officer and other juvenile court personnel] shall be prorated among the several counties and upon a ratio to be determined by a comparison of the respective populations of the counties."

A fortiori, Section 211.391.4, RSMo 1959, provides:

"The salaries and expenses of juvenile officers and other juvenile court personnel serving two or more counties of the third and fourth classes which comprise one or more judicial circuits are payable out of county funds and prorated among the several counties served upon a ratio determined by a comparison of the respective populations of the county."

CONCLUSION

Entertaining these views, it is my opinion that:

1. It is mandatory that the judge of a judicial circuit comprised of third and fourth class counties appoint a juvenile officer or enter into an agreement under which such an officer is appointed for his circuit and one or more other circuits.
2. It is permissible for a deputy juvenile officer to be appointed when no appointment of a juvenile officer for the circuit has been made.
3. A deputy juvenile officer, although appointed for an entire circuit, may be designated to serve one specific county within a judicial circuit at the exclusive discretion, and under the direction and control of the juvenile court for the circuit.

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4. The salary and expense of deputy juvenile officers serving third and fourth class counties comprising a judicial circuit must be prorated amongst all of the counties of the circuit according to their population, regardless of how or where such deputies are directed to serve by the court.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Howard L. McFadden.

Yours very truly,

THOMAS F. EAGLETON
Attorney General

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