

CIRCUIT COURT:  
COUNTIES:  
JUVENILE OFFICERS:  
JUVENILE COURTS:  
OFFICE EXPENSES:

Third and fourth class counties, comprising one or more judicial circuits and served by juvenile officials appointed by the Circuit Court, must pay office expenses of said juvenile officials, which are approved by the Circuit Court, by prorating said expenses among the counties served upon a ratio determined by population of the respective counties.

May 17, 1962

OPINION No.  
166[1962].

Honorable Lewis B. Hoff  
Prosecuting Attorney  
Cedar County  
Stockton, Missouri



Dear Mr. Hoff:

This is in reply to your opinion request of April 2, 1962.

In said letter you advise that Cedar County is a fourth class county, and one of four counties comprising the 26th Judicial Circuit of Missouri; that the Circuit Judge has appointed a Juvenile officer to serve all four counties in this circuit; that an estimated budget, including office expenses for 1962, has been prepared by the Juvenile officer, approved by the Court, and submitted to the County Court.

You then submit the following question:

"Must a county of the Fourth Class pay its part of the office expense of the Juvenile Officer appointed by the Circuit Judge under Section 211.351 in view of Paragraph 2 of Section 211.391?"

The position of "Juvenile Officer" is solely statutory and created by Section 211.351, RSMo 1959, which states in part as follows:

"1. The juvenile court shall appoint a juvenile officer and other necessary juvenile court personnel to serve under the direction of the court in each county of the first and second class and the circuit judge in cir-

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cuits comprised of third and fourth  
class counties

"(1) May appoint a juvenile of-  
ficer and other necessary person-  
nel to serve the judicial circuit;  
or \* \* \*"

The language of said section clearly indicates that  
said Juvenile Officer is to serve under the direction of  
the Juvenile Court, which by definition in Section 211.021(3),  
RSMo 1959, means the Circuit Court of each county (Fourth  
Class County).

Section 476.260, RSMo 1959, states:

"The court shall audit and adjust the  
accounts of the sheriff or other of-  
ficer attending it, and certify the  
same for payment."

In view of this section, the accounts of the Juvenile  
officer should be submitted to the Circuit Court, who shall  
audit, adjust, if necessary, and certify the same for payment.

In addition, Section 476.270, RSMo 1959, provides that  
the expenditures of the Circuit Court, except salaries pay-  
able by the state, are to be paid out of the county treasury  
in which the court is held. Said section states, in part:

"All expenditures accruing in the cir-  
cuit courts, - - -, except salaries  
and clerk hire which is payable by the  
state, shall be paid out of the treasury  
of the county in which the court is held  
in the same manner as other demands."

Ordinarily, therefore, the county treasurer of any  
county in the circuit in which the Circuit Court is held  
would be obligated to pay the county's prorata share of  
the office expense of the Juvenile officer if audited and  
certified for payment to the county by the court.

Subsection 1 of Section 211.341, RSMo 1959, provides,  
in part, as follows:

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"Counties of the third and fourth classes within one judicial circuit, shall, upon the written recommendation of the circuit judge of that judicial circuit, establish a place of juvenile detention to serve all of the counties within that judicial circuit, and in like manner, the counties shall supply offices for the juvenile officers of that circuit . . ."  
(Underlining supplied)

In addition, said subsection further provides:

". . . except that the total cost of establishment and operation of the places of detention shall be prorated among the several counties within that judicial circuit upon a ratio to be determined by a comparison of the respective populations of the counties. The point of location of the place of juvenile detention shall be determined by the circuit judge of the judicial circuit."

The language of subsection 1 of Section 211.341, RSMo 1959, not only directs that third and fourth class counties supply offices for the juvenile officers of the circuit, but also provides that this shall be done "in like manner" as the establishment of places of detention in these counties.

Because of this language and the fact that the subsection provides that the total financial costs of said places of detention must be prorated among the counties within the judicial circuit according to their population, and that the circuit judge of the judicial circuit shall determine the location of the place of juvenile detention, the same provisos would be applicable to the expenses, costs, and location of the juvenile offices within the circuit.

It is contended, however, that Subsection 2 of Section 211.391 precludes these counties from liability for

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office expenses of the Juvenile officer or other juvenile court employees. Said subsection 2 states:

"2. Actual expenses, including a mileage allowance not to exceed that amount allowed state officers for each mile traveled on official business but exclusive of office expense, incurred by the juvenile officer and deputy juvenile officers while in the performance of their official duties shall be reimbursed to them out of the funds of the county or counties."

The language of said section merely states that the Juvenile officer or Deputy Juvenile officers are to be reimbursed for their "out of pocket" expenses, including mileage, actually incurred by them in the performance of their official duties by the third or fourth class counties served. However, office expenses shall not be "reimbursed" to them.

In other words, "office expenses" under this section are not considered actual expenses for the purpose of personally repaying them to the Juvenile officer or Deputy Juvenile officers.

Said section does not state, however, that the counties are not liable for office expenses.

A further look at Section 211.391, RSMo 1959, indicates that this section deals primarily with (payments) to juvenile court personnel. In this regard, the legislature saw fit to personally reimburse juvenile officers for the expenses enumerated in this section and incurred by these individuals in the performance of their official duties. However, in specifically excluding office expenses, the legislature was mindful of Section 211.341, RSMo 1959, which characterized said expenses as those payable by the counties, not as a personal item (payable) to the juvenile officers, but as a budgetary item connected with the proper function of the circuit court, and subject to the approval of said court.

Thus, Section 211.391, RSMo 1959, cannot be used as an authority for relieving third and fourth class counties

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from their obligation to pay the office expenses of juvenile officials (which are approved by the circuit court) and imposed by Section 211.341, RSMo 1959.

CONCLUSION

It is the opinion of this office:

(1) That pursuant to Subsection 1 of Section 211.341, RSMo 1959, third and fourth class counties, which comprise one or more judicial circuits and are served by juvenile officials appointed by the Circuit Court, must pay the office expenses of the juvenile officials which are approved by the Circuit Court by prorating said expenses among the counties served upon a ratio determined by the populations of the counties;

(2) That Subsection 2 of Section 211.391, RSMo 1959, only exempts second, third and fourth class counties from personally reimbursing the Juvenile Officer and Deputy Juvenile Officers for incurred office expenses, but does not exempt said counties from generally being liable for their office expenses incurred and approved by the Circuit Court.

The foregoing opinion, which I hereby approve, was prepared by my assistant George W. Draper, II.

Very truly yours,

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THOMAS F. EAGLETON  
Attorney General

GWD lc

Copy sent to Honorable Jack P. Pritchard  
Judge, 28th Judicial Circuit  
Nevada, Missouri