



January 24, 1963

Honorable Don E. Burrell
Prosecuting Attorney
Greene County
Springfield, Missouri

Dear Mr. Burrell:

This will acknowledge your letter of January 21, 1963, requesting copy of opinion No. 396-62, to Hon. Charles D. Trigg, relating to criminal costs and suspended sentence, and in which you also request the opinion of this office concerning the taxation of jury costs in civil cases.

In answer to your first request, we enclose copy of the opinion requested. We also enclose copy of opinion of this office dated January 4, 1963, to Hon. Norman H. Anderson, which we believe will answer your second request. Although that opinion is primarily directed to the question of the liability of the State for jury fees in criminal cases, the conclusions there reached are applicable generally. At the extent here relevant, we quote from the conclusions in that opinion, as follows:

"2) Members of the regular panel of jurors receive six dollars per day for each day of service, and mileage, payable out of the county treasury. No part of such compensation may be taxed as part of the costs.

"3) Jurors not on the regular panel who serve in a particular case receive six dollars per day for each day of service

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as jurors, and mileage, also payable out of the county treasury. No part of such compensation may be taxed as part of the costs.

* * * * *

"5) Jurors, not members of the regular panel, who are summoned in all cases other than those described in Section 494.120 but do not serve in the trial of the cases, receive fees in the sum of three dollars per day for each day of attendance. The fees allowed to such jurors are to be taxed as part of the costs in the cases in which such jurors were summoned."

We believe the reference to Section 494.170 in your letter was inadvertent, inasmuch as that section makes no provision for the payment of six dollars a day to jurors. No doubt the section to which you have reference is Section 494.100, which is discussed in the Anderson opinion. However, as our opinion points out, the only provisions of our statute presently in force relating to taxation of individual jury fees is Section 494.170, which governs fees of jurors not members of the regular panel who are summoned but do not serve in the trial of a particular case. Such jurors receive three dollars per day for each day of attendance. They are not entitled to mileage because mileage is authorized under that section only for jurors who serve in the trial.

You will note that there is no authority to tax as costs any jury fees at the rate of six dollars per day, plus mileage, for each of the 18 jurors attending on the panel, in addition to the statutory twelve dollar jury fee authorized by Section 494.160.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

JN:sr
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