

September 20, 1966



Honorable James L. Paul
Prosecuting Attorney
McDonald County Courthouse
Pineville, Missouri 64856

Dear Mr. Paul:

This is in answer to your recent correspondence regarding whether or not the county court is liable for the examination in a state mental hospital of an indigent accused, charged with first degree murder, made pursuant to the provisions of Chapter 552.

This question has been covered rather extensively in the enclosed opinions which are, respectively, to Don E. Burrell, dated January 29, 1965 (Opinion No. 13), Dr. George A. Ulett, January 27, 1966 (Opinion No. 15), and Claude E. Curtis, January 27, 1966 (Opinion No. 56).

You did not state whether or not the accused was examined under Section 552.020, RSMo Supp. 1965, or under Section 552.030, RSMo Supp. 1965, or whether there was a final determination of the case. For the purposes of your question, however, these particulars are not determinative.

Obviously, since the accused in this instance is charged with murder in the first degree and is indigent, the State of Missouri will ultimately bear the liability, if such costs are taxed upon application as provided under Section 552.080, RSMo Supp. 1965. The State's liability would be based upon the provisions of Section 550.020 RSMo, pertaining to convicted indigents, or under Section 550.040 RSMo, pertaining to acquittal in capital and cases in which imprisonment in the penitentiary is the sole punishment. The county's liability for costs upon acquittal in other trials is also contained in Section 550.040, and for the

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conviction of indigent persons, in Section 550.030.

As we noted, Section 552.080 provides for the taxation of such costs by the trial court.

Your letter indicates that the statement of expenses for the period of observation was sent to the county court and this would be improper inasmuch as the county would have no legal responsibility for this type of expense under these circumstances.

Yours very truly,

NORMAN H. ANDERSON
Attorney General

JCK:df

Enclosures:

Opinion No. 13, Burrell, 1/29/65;
Opinion No. 15, Ulett, 1/27/66; and
Opinion No. 56, Curtis, 1/27/66.