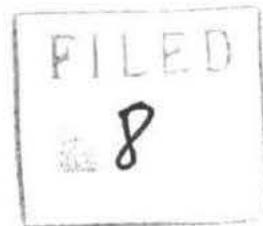


Answer by letter-Wieler

January 13, 1970

OPINION LETTER NO. 8

Honorable R. M. Becker
Prosecuting Attorney
Texas County Court House
Houston, Missouri 65483



Dear Mr. Becker:

This is in response to your request for an opinion from this office concerning the question whether the city or the county is liable for the medical care of a city prisoner who becomes ill or is injured while being held in the county jail.

A city prisoner may be held in the county jail under the provisions of Section 98.010, RSMo 1959. This section also provides:

". . .Such city shall pay the board of such prisoner at the same rate as may now or hereafter be allowed by law to such sheriff for the keeping of other prisoners in his custody."
(Emphasis added)

Section 221.120, RSMo 1959, provides:

"In case any prisoner confined in the jail be sick, and, in the judgment of the jailer, needs a physician or medicine, said jailer shall procure the necessary medicine or medical attention, the costs of which shall be taxed and paid as other costs in criminal cases; or the county court may, in their discretion, employ a physician by the year, to attend said prisoners, and make such reasonable charge for his service and medicine, when required, to be taxed and collected as aforesaid."

Honorable R. M. Becker

There are no statutory provisions for the payment of medical expenses of one incarcerated in county jail. Generally if convicted the prisoner himself is responsible for the cost of his imprisonment. Section 221.070, RSMo 1959. These expenses are not costs of prosecution and therefore cannot be taxed against either the state or the county as costs. See Attorney General Opinion No. 39, issued to Mr. Lehen, March 14, 1967; Attorney General Opinion No. 31, issued to Mr. Hess, January 26, 1965 (copies attached).

However, the county court has the authority to provide for the payment of medical expenses incurred by indigent county jail prisoners. See Attorney General Opinion No. 133, issued to Richard J. Blanck, May 2, 1968 (copy attached).

In addition, the city can assume responsibility for the medical expenses of the indigent prisoner under authority of the statutes empowering it to provide for health and welfare. "As a municipal purpose, poor relief is recognized by our Legislature in the creation of social welfare boards and in express grants of authority to all of our cities to care for the poor. . . ." Jennings v. City of St. Louis, 58 S.W.2d 979, 982 (Mo. en banc 1933).

Therefore, it is our opinion that neither the city nor the county can be held responsible for medical expenses incurred by a city prisoner in a county jail, although both the city and the county can assume responsibility under existing health and welfare programs.

Yours very truly,

JOHN C. DANFORTH
Attorney General

Enclosures: Op. No. 39
3-14-67, Lehen

Op. No. 31
1-26-65, Hess

Op. No. 133
5-2-68, Blanck