

PRISONERS:  
SHERIFFS:  
CRIMINAL PROCEDURE:  
CONVICTS:

The sheriff of the county in which an untried indictment or information is pending against a prisoner has the duty to transport

the prisoner and is to be compensated pursuant to the provisions of Section 57.290, RSMo 1969. Because of the enactment of Section 222.120, RSMo 1969, Attorney General Opinion No. 15, issued to the Honorable James D. Carter, March 23, 1956, is hereby withdrawn.

OPINION NO. 79

September 30, 1970



Mr. Howard L. McFadden  
General Counsel  
Department of Corrections  
P. O. Box 267  
Jefferson City, Missouri 65101

Dear Mr. McFadden:

This letter is issued in response to your request for an opinion concerning ". . . the question of whose responsibility it is to transport inmates of the Missouri State Penitentiary to court for prosecution."

Your inquiry is specifically directed as to whether the result reached in Attorney General Opinion No. 15, issued to the Honorable James D. Carter, dated March 23, 1956, has been affected by the enactment of Section 222.120, RSMo 1969. Attorney General Opinion No. 15 held that counties are not liable for costs in habeas corpus ad prosequendum cases.

Section 222.120, RSMo 1969, which was enacted subsequent to the issuance of the cited opinion, provides:

"The expense of transporting any prisoner between the place of his confinement and the county wherein the untried indictment or information is pending shall be paid by the county. It shall be the duty of the sheriff to transport the prisoner and he shall be compensated for such service as provided by section 57.290, RSMo."

Mr. Howard L. McFadden

Although Section 222.120, RSMo 1969, was enacted as a part of the Uniform Mandatory Disposition of Detainers Law, we believe that the language of Section 222.120, RSMo 1969, when considered in conjunction with Section 57.290, RSMo 1969, is sufficiently broad so as to require the sheriff to transport the prisoner between the place of his confinement and the county wherein the untried indictment or information is pending, irrespective of whether such further proceedings are initiated as a result of a request made by the inmate pursuant to the Uniform Mandatory Disposition of Detainers Law or on the initiative of the prosecuting officials.

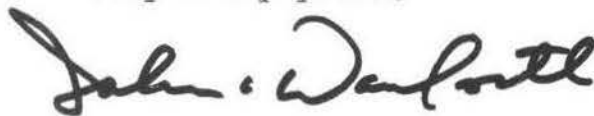
Our opinion in this regard applies only to writs issued in conjunction with further proceedings or trial with respect to untried indictments or informations and does not apply to post-conviction proceedings under Supreme Court Rule 27.26. See Attorney General Opinion No. 155, issued to the Honorable Haskell Holman, dated August 22, 1968, a copy of which is enclosed.

CONCLUSION

Therefore, it is the opinion of this office that the sheriff of the county in which an untried indictment or information is pending against a prisoner has the duty to transport the prisoner and is to be compensated pursuant to the provisions of Section 57.290, RSMo 1969. Because of the enactment of Section 222.120, RSMo 1969, Attorney General Opinion No. 15, issued to the Honorable James D. Carter, March 23, 1956, is hereby withdrawn.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Gene E. Voigts.

Very truly yours,



JOHN C. DANFORTH  
Attorney General

Enclosures:

Opinion No. 15, Carter, 3/23/56 - *Withdrawn*  
Opinion No. 155, Holman, 8/22/68