

SHERIFFS:

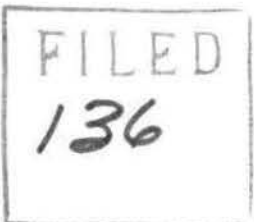
COMPENSATION AND FEES:

With respect to Paragraph 3 of Section 57.407 and Paragraph 3 of Section 57.409, V.A.M.S. (Senate Bill

No. 165, 75th General Assembly), which require that the sheriffs of third and fourth class counties pay fees collected by them in civil matters into the county treasury, except the charges for each mile travelled, that such sheriffs are not to collect charges for services where such charges are payable out of the county treasury.

OPINION NO. 136

February 3, 1970



Honorable Haskell Holman
State Auditor
Capitol Building
Jefferson City, Missouri 65101

Dear Mr. Holman:

This opinion is in response to your question concerning whether or not sheriffs of third and fourth class counties are presently entitled to charge and collect from such counties those fees in connection with civil matters which are payable by the counties and which, if collected, must be paid back to the county treasury.

You make specific reference to the provisions of Section 57.280, RSMo 1959, which provides that such sheriffs are allowed for their services:

"For summoning a standing jury. . . . \$8.40

"For attending each court of record or criminal court and for each deputy actually employed in attendance upon such court the number of such deputies not to exceed three per day 3.00

Your question is not limited to the items enumerated, and the question involved and decided here pertains to all such items payable out of the county treasury to the sheriff.

The recent provisions contained in Paragraph 3 of Section 57.407 and Paragraph 3 of Section 57.409, V.A.M.S. (Senate Bill No. 165) provide that in counties of the third and fourth classes

Honorable Haskell Holman

after October 13, 1969, "the sheriff shall pay all fees collected by him in civil matters and which were previously retainable by him into the county treasury, except charges for each mile travelled, allowable to him, which he may retain, in serving civil process".

Insofar as criminal fees are concerned, the legislature with respect to third and fourth class counties has specifically provided that the sheriff is not to collect such criminal fees as are chargeable to the county. Section 57.410, V.A.M.S.

The above fees, however, are civil and were provided as compensation for the sheriff out of the treasury of the county under Section 476.270, RSMo 1959. Although the fee for the attendance at court includes attendance at criminal courts, we have previously concluded that such fee was for services rendered by the sheriff, not in any criminal case but in the performance of the general duties of his office.

While it is difficult to define "standing jury", we have previously interpreted the words to mean a petit jury panel.

Since these charges have been payable out of the county treasury for general services rendered by the sheriff and are not included in a cost bill, it follows that if such charges are made by such sheriff then under the provisions of Section 57.407 and 57.409, V.A.M.S., the amounts so collected would have to be paid into the county treasury.

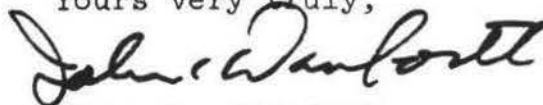
We are sure that the legislature did not intend to reach an absurd result. Since the collection of such fees serve no purpose, we are of the opinion that the legislature did not intend these sheriffs to collect such fees payable by the county. The sheriffs, of course, are still required to perform such duties.

CONCLUSION

It is the opinion of this office with respect to Paragraph 3 of Section 57.407 and Paragraph 3 of Section 57.409, V.A.M.S. (Senate Bill No. 165, 75th General Assembly), which require that the sheriffs of third and fourth class counties pay fees collected by them in civil matters into the county treasury, except the charges for each mile travelled, that such sheriffs are not to collect charges for services where such charges are payable out of the county treasury.

The foregoing opinion, which I hereby approve, was prepared by my assistant John C. Klaffenbach.

Yours very truly,



JOHN C. DANFORTH
Attorney General