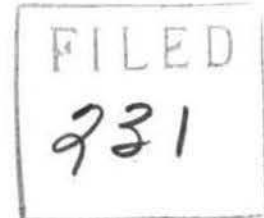


March 17, 1970

OPINION LETTER NO. 231

Honorable William J. Esely  
Prosecuting Attorney  
P.O. Box 410  
Bethany, Missouri 64424



Dear Mr. Esely:

This letter is in response to your opinion request concerning the following question:

"I have a question concerning the uniform allowance now provided for sheriffs and their deputies.

"Your office recently ruled that if the County Court allows this for one deputy or for the Sheriff, it cannot disallow it for other deputies.

"My question is, if the County Court is willing to allow only one monthly allowance and there is a sheriff and one deputy in the county, can the sheriff execute a written waiver of his allowance? Our sheriff is willing to buy his own uniforms and waive his allowance.

"Will you please advise whether this written waiver by the sheriff would be consistent with the law."

Section 57.295, V.A.M.S., which was contained in House Bill No. 264 of the 75th General Assembly provides:

"In each county of this state the sheriff and each full-time deputy sheriff shall receive twenty-five dollars per month, as a uniform allowance, to be paid to him monthly out of the county treasury at the discretion

Honorable William J. Esely

of the county court. This allowance shall apply only to sheriffs and deputy sheriffs who wear an official uniform in performance of their duty."

In our Opinion No. 432, dated October 10, 1969, to Holman, we held that this allowance was a reimbursement allowance. In Opinion No. 109, dated January 9, 1970, to Pruneau, we held that the county court has the discretion to determine whether or not such allowances shall be made, but does not have the authority to vary the amount of the monthly allowance from that fixed by the act or to provide the allowance for one such officer to the exclusion of the other such officers. We are enclosing copies of both opinions.

Under the circumstances that you present, we see no problem in the sheriff waiving such a reimbursement allowance; and in our view, his written waiver would not be inconsistent with the provisions of the law or the legislative intent.

Very truly yours,

JOHN C. DANFORTH  
Attorney General

Encs: Opinion No. 432, Holman, 10/10/69  
Opinion No. 109, Pruneau, 1/9/70