

SHERIFFS IN THIRD CLASS COUNTIES: Sheriff may not retain an arrest fee or mileage for apprehending a person in Missouri who is charged with a felony in another state.

*copy to Mr. Smith*

May 27, 1947

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Mr. David E. Impey  
Prosecuting Attorney  
Texas County  
Houston, Missouri

Dear Sir:

This department is in receipt of your request for an opinion, based upon the following facts:

"I should like your opinion as to whether a Missouri Sheriff who is paid an arrest fee and mileage for apprehending a defendant on a felony charge in another state and turning him over to the foreign officer is entitled to retain such fee and mileage or is required to account for it as other criminal costs."

Your attention is called to House Bill No. 899, Section 3, Laws of Missouri 1945, page 1562, applying to sheriffs in third class counties. Said Section 3 is as follows:

"It shall be the duty of the sheriff in counties of the third class to charge and collect in all instances every fee, both civil and criminal, including mileage, accruing to his office by law, except such criminal fees as are chargeable to the county, and such sheriff shall, at the end of each month, file with the county court a report of all fees charged and collected during said month, stating for what act said fees were charged and collected, together with the names of the persons paying or who are liable for same, which report shall be verified by the oath or affirmation of such sheriff. It

shall be the duty of such sheriff upon the filing of said report to forthwith pay over to the county treasurer all fees arising in connection with the investigation, arrest, prosecution, custody, care, commitment and transportation of persons accused of or convicted of a criminal offense during the month and required to be shown in said monthly report, taking a duplicate receipt therefor, one of which shall be filed in his office and one in the office of the clerk of the county court and every such sheriff shall be liable on his official bond for all such criminal fees collected and not accounted for by him and paid into the county treasury; provided that he shall retain all fees collected by him in civil matters."

The provisions of this section require that all fees accruing to the sheriff's office in connection with his criminal duties shall be accounted for and turned in to the county treasurer. It makes no distinction between cases arising in Missouri and those outside of this state.

Conclusion.

It is, therefore, the opinion of this department that a sheriff in counties of the third class may not retain arrest fees or mileage for apprehending a defendant in his county on a felony charge for another state, but that he must account for this fee and remit same to the county treasurer in his monthly report.

Respectfully submitted,

APPROVED:

W. BRADY DUNCAN  
Assistant Attorney General

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J. E. TAYLOR  
Attorney General

WBD:ml