

INQUESTS AND CORONERS: Cost incurred in inquest to be paid  
CRIMINAL COSTS: by county.

October 14, 1937

Honorable J.R. Oliver  
Clerk of the County Court  
Dunklin County  
Kennett, Missouri



Dear Sir:

This department is in receipt of your letter of September 13, 1937, in which you request an opinion as follows:

"In this county there was recently held an inquest over a person's body who met her death by murder. The criminal has received a sentence to the State Penitentiary.

There is a question as to who is liable for the inquest costs in this case, as some of the officers believe it to be a case for which the State is liable.

Will you kindly advise me whether or not the county is liable in this case?"

Section 11630, Revised Statutes 1929, is as follows:

"If an inquest be held over the body of a minor, the parent, guardian or master of the same shall be liable for the costs and expenses, if there be any such person able to pay the same. If the person over whose body an inquest shall be held shall have any estate, the cost and expenses of inquest and

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burial shall be paid out of his estate; but where there is no person liable and able to pay such expenses, they shall be allowed by the county court out of the county treasury."

Section 11632, Revised Statutes 1929, is as follows:

"The coroner or other officer holding an inquest, as provided for by this chapter, shall present to the county court a certified statement of all the costs and expenses of said inquest, including his own fees, the fees of jurors, witnesses, constables and others entitled to fees for which the county is liable; and the county court shall audit and allow the same, and shall make a certified copy of the same, without delay, and deliver such copy to the county treasurer, which copy shall be deemed a sufficient warrant or order on the treasurer for the payment of the fees therein specified to each person entitled to such fees. The county treasurer shall pay to each person on demand, or to his legal representatives, the fees to which he is thus entitled, and shall take the proper receipt therefor, and produce the same in his settlements with the county court as vouchers for the money so paid out by him."

Section 11802, is, in part, as follows:

"Coroners shall be allowed fees for their services as follows:  
Provided, that when persons come

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to their death at the same time or by the same casualty, fees shall only be paid as for one examination:

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"The above fees, together with the fees allowed jurors, constables, and witnesses, in all inquests, shall be paid out of the county treasury as other demands. For performing the duties of sheriff, the coroners shall be entitled to the same fees as are for the time being allowed to sheriffs for the same services."

Section 3855, Revised Statutes 1929, is, in part, as follows:

"All fees accruing in any inquest case where the verdict of the jury is that the deceased came to his death by other than unavoidable accident or natural causes, shall be deemed criminal costs, and shall be paid in like manner and shall be subject to all the offsets herein provided for."

In Houts vs. McCluney, 102 Mo. 13, the court, in determining whether the county or the estate of deceased should pay the fees incurred at a coroner's inquest, said, at l.c. 16:

"Sections 5156 and 5613 (R.S. 1879, now Sections 11632 and 11802, R.S. 1929) are clear and unambiguous. They make the county liable for the fees allowed the coroner, jurors, witnesses and the constable in all inquests where the coroner has reasonable cause to believe that the person, over whose

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body the inquest is held, came to his death by violence or casualty."

It will be noticed that in Section 11630, Revised Statutes 1929, it is provided that in the case of an inquest of a minor, where there is no person able to pay "such expenses, they shall be allowed by the county court out of the county treasury." In Section 11632, Revised Statutes 1929, it is provided that the coroner shall present to the county court a certified copy of all the expenses and fees of an inquest "and the county court shall audit and allow the same." Again, in Section 11802, Revised Statutes 1929, it is provided that the fees of the coroner "together with the fees allowed jurors, constables and witnesses, in all inquests, shall be paid out of the county treasury as other demands." In Section 3855, Revised Statutes 1929, it is provided that in the event a certain verdict is returned, the inquest cost "shall be deemed criminal costs".

Section 3826, Revised Statutes 1929, provides in what cases the state will be liable to pay criminal costs and this section in no way mentions inquest costs.

#### CONCLUSION

Therefore, it is the opinion of this department that the cost of an inquest is properly chargeable to the county and is to be paid out of the county treasury and that the state is not liable for any part of said cost.

Respectfully submitted,

AUBREY R. HAMMETT, JR.  
Assistant Attorney General

APPROVED:

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J.E. TAYLOR  
(Acting) Attorney General

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