

Mileage, Who Entitled to. Chief of Police, What Mileage Entitled to. Warrant of Arrest, Mileage Due for Service of.

A chief of police to whom a warrant of arrest is issued may, under the provisions of Section 9041, Revised Codes, serve the same in any part of the state, and should receive therefor the same mileage and compensation allowed sheriffs and constables under Section 3137, Revised Codes.

Helena, Montana, March 8, 1909.

Hon. O. M. Harvey, County Attorney, Livingston, Montana.

Dear Sir:

I am in receipt of your letter of March 3, 1909, in which you submit for opinion of this office the following question:

"Is a chief of police, who executes a warrant under the authority of Section 9041, Revised Codes, outside of the county in which the warrant originates or within the county but outside of the city of which he is an officer, entitled to mileage and for transportation of prisoner in the same manner and amount as the sheriff of the county would be under like circumstances?"

I advise you that, in my opinion, a chief of police is entitled to compensation equal to that provided by Section 3137, Revised Codes, for sheriffs and constables. Where, in the line of his official duty, an officer makes necessary expenditures for and on behalf of the county, he is, of course, entitled to reimbursement therefor. In ordinary cases where the manner and amount of such reimbursement is not provided by law, the officer is entitled to his actual, necessary expense incurred.

While the legislature has not, in the case cited by you, made provision for reimbursing the officer, still Section 9041, Revised Codes, confers upon policemen the same powers in the service of a warrant as are conferred upon sheriffs and constables, and the service of the chief of police being identical with that of the sheriff, I believe that the compensation

provided for in Section 3137, Revised Codes should be paid by the county to the chief of police.

Very truly yours,

ALBERT J. GALEN,

Attorney General.