

which are not directly covered by an express statute as long as the travel was necessitated by activities within the scope of the official duties of the sheriff. Whether the travel was necessitated by activities within the scope of official duty, and what constitutes reasonable expenses, are matters to be determined by the sound discretion of the local board of county commissioners.

September 16, 1952.

Mr. Ernest E. Fenton  
County Attorney  
Treasure County  
Hysham, Montana

Dear Mr. Fenton:

You have submitted the following letter requesting my official opinion:

"The sheriff of this county has presented a claim against the county for mileage in attending an F. B. I. school at Billings. The claim shows six days attendance at the school, and the mileage for each day's attendance is \$14.40.

The board of county commissioners has directed me to ask your opinion as to whether or not they have any legal authority to pay this mileage."

Section 16-2723, Revised Codes of Montana, 1947, as amended by Section 1, Chapter 59, Session Laws of 1949, provides for the mileage and expenses of sheriffs in certain enumerated instances. Section 25-226, Revised Codes of Montana, 1947, as amended by Section 2, Chapter 59, Session Laws of 1949, also enumerates various charges which the sheriff may present to the county commissioners for approval. Neither of these sections directly authorize the county commissioners to approve of a claim such as the one in the instant case.

The question of whether or not the sheriff may be reimbursed for items of travel not covered by an express statute has been ruled upon in several opinions by my predecessors, (Opinion No. 210, Volume 15, Opinions of the Attorney General, p. 146; Opinion No. 67, Volume 17, Opinions of the Attorney General, p. 70). In Opinion No. 210, Volume 15, p. 146, it was held:

**Opinion No. 118**

**Mileage—Fees—Sheriff—County  
Commissioners**

**Held: A sheriff may recover reasonable expenses for items of travel**

"a sheriff can recover for his reasonable expenses when the items of travel are not covered by an express statute, and the power to determine what is reasonable is vested in the county commissioners and limited by the claim presented."

I concur in the above cited opinions.

It is, therefore, my opinion that the sheriff may recover reasonable expenses for items of travel which are not directly covered by an express statute as long as the travel was necessitated by activities within the scope of the official duties of the sheriff.

It is further my opinion that whether the travel was necessitated by activities within the scope of official duty and what constitutes reasonable expenses, are matters to be determined by the sound discretion of the local board of county commissioners.

Very truly yours,  
ARNOLD H. OLSEN  
Attorney General