

July 6, 1953.

Mr. Jean A. Turnage
 County Attorney
 Lake County
 Polson, Montana

Dear Mr. Turnage:

You have asked my opinion on the following question:

“May the Board of County Commissioners under their general powers of management of county government require the sheriff of their county to submit itemized statements of the purchase of food and supplies for the board of prisoners imprisoned in the county jail?”

The Board of County Commissioners is given wide power over the management and disbursement of county funds by Section 16-1001, R. C. M., 1947:

“Powers of Supervision. The board of county commissioners has jurisdiction and power under such limitations and restrictions as are prescribed by law:

“To supervise the official conduct of all county officers, and officers of all districts and other sub-divisions of the county, charged with assessing, collecting, safe keeping, management or disbursement of the public revenues; see that they faithfully perform their duties, direct prosecutions for delinquencies, and when necessary require them to renew their official bonds; to make reports and to present their books and accounts for inspection.”

All charges against the county must be presented to the County Commissioners for auditing and allowance. Section 16-3801, R. C. M., 1947, provides:

“County Charges to Be Audited. Accounts for county charges of every description must be presented to the board of county commissioners to be audited as prescribed in section 16-1013 and 16-1014 and in Section 16-1802.”

Fees for the board of prisoners are charges within the meaning of Section 16-3801, supra. Section 16-3802 R. C. M., 1947, provides:

Opinion No. 37.

**Sheriffs, Fees of—Board of Prisoners—
 County Commissioners. Powers
 of — County Charges —
 County Funds, Man-
 agement of.**

HELD: A Board of County Commissioners must require the sheriff of its county to submit itemized statements showing the purchase of food and supplies for the board of prisoners imprisoned in the county jail as a condition precedent to the payment of the fees claimed under Section 25-227, R. C. M., 1947.

"Enumeration of County Charges.

The following are county charges:

* * * * *

"3. The salary and actual expenses for traveling when on official duty, and for the board of prisoners allowed by law to sheriffs . . ." (Emphasis supplied.)

Sections 16-1013 and 16-1014, R. C. M., 1947, provide for the manner of allowance of such charges as follows:

"16-1013. Examination and Allowance of Officers' Accounts. The board of county commissioners has jurisdiction and power under such limitations and restrictions as are prescribed by law: At the regular monthly meeting of the board, to examine and allow the accounts of all officers having the care, management, collection or disbursements of moneys belonging to the county, or appropriated by law or otherwise for its use and benefit."

"16-1014. Accounts To Be Examined, Settled and Allowed. The board of county commissioners has jurisdiction and power under such limitations and restrictions as are prescribed by law: At the regular meetings of the board to examine, settle and allow all accounts legally chargeable against the county except salaries of officers, and order warrants to be drawn on the county treasurer therefor, and provided for the issuing of the same."

Section 16-1802, R. C. M., 1947, specifically provides that all claims must be itemized and verified:

"Claims to Be Itemized and Verified—Time for Presenting. No account must be allowed by the board unless the same is made out in separate items, the nature of each item stated, and is verified by affidavit showing that the account is just and wholly unpaid; and if it is for official services for which no specified fees are fixed by law, the time actually and necessarily devoted to such service must be stated. Every claim against the county must be presented within a year after the last item accrued."

Sections 16-3801 and 16-3802, supra, specifically include sheriff's fees for board of prisoners among those county charges which must be itemized, verified and presented for allowance and payment in the manner provided by Sections 16-1013, 16-1014 and 16-1802, supra.

The fees for the board of prisoners are allowed under Section 25-227, R. C. M., 1947, as amended by Section 1, Chapter 131, Laws of 1951:

"Fees For Board of Prisoners. The fees allowed sheriffs of the several counties of the state for the board of prisoners confined in jail under their charge shall be at the rate of one dollar and seventy-five cents (\$1.75) per day for each of said prisoners, when the number of prisoners shall be twenty (20) or less each day. When the number of prisoners per day shall exceed twenty (20) and be less than thirty (30) then at the rate of one dollar and fifty cents (\$1.50) per day for each of said prisoners in excess of twenty (20) per day. When the number of prisoners per day shall exceed twenty-nine (29) and be less than forty (40), then at the rate of one dollar and twenty-five cents (\$1.25) per day for each and all of said prisoners in excess of twenty-nine (29); and when the number of prisoners per day shall exceed thirty-nine (39), then at the rate of one dollar (\$1.00) per day for each of said prisoners in excess of thirty-nine (39); provided the term 'per day' shall mean a twenty-four (24) hour period in which at least one substantial meal has been served to such prisoner."

The intention of that section in providing a specified amount for the board of each prisoner is that the amount of money so provided shall be used in its entirety for the board of the prisoners. In the case of *Scharrenbroich vs. Lewis and Clark County*, 33 Mont. 250, 83 Pac. 482, it was said:

"There never was any idea that holding public office was a private business. The purpose of the people is to make its officers whole, not to enrich them . . ."

"If the statute allows fifty cents per day for feeding a prisoner, there is no understanding that the sheriff may make any gain or profit for his private use out of this stipend. The direction of the legislature is to give that prisoner fifty cents' worth of food every day, and not to feed him perhaps on bread and water at an expense of five cents, thus making forty-five cents for the sheriff. The object of the law is to put food into the stomach of the prisoner, and not money into the pocket of the sheriff."

Section 25-229, R. C. M., 1947, provides that any false representation by the sheriff of his actual expenses of boarding prisoners is a felony and may be punished under Section 94-115, R. C. M., 1947, by imprisonment for a period of up to five years. The intent of the statutes is plain that the sheriff shall be held to very strict accountability for the disbursements of the funds paid to him for the feeding of prisoners. His claim for fees is clearly within the provision of Section 16-1802, supra, requiring that all claims should be itemized and the strict penalties provided by Sections 25-229, 94-1517 and 94-115 indicate the intent of the legislature to require strict accountability by the sheriff for the fees he receives for board of prisoners.

It is therefore my opinion that a Board of County Commissioners must require the sheriff of its county to submit itemized statements showing the purchase of food and supplies for the board of prisoners imprisoned in the county jail as a condition precedent to the payment of the fees claimed under Section 25-227, R. C. M., 1947.