



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

November 18, 1976

ATTORNEY GENERAL OPINION NO. 76-349

Mr. Edgar W. White
Morton County Attorney
Drawer O
Elkhart, Kansas 67950

RE: Liability of county for costs of medical treatment
furnished prisoners under confinement of sheriff.

SYNOPSIS: The cost of medical treatment provided a prisoner
after he is placed under confinement by a sheriff
shall be borne by the county when the prisoner is
indigent and unable to pay the cost thereof.

* * *

Dear Mr. White:

You inquire concerning the liability of the county for medical care rendered one Orville L. Ford as a result of an escape of Mr. Ford from the Chief of Police of Elkhart when Ford ran from his custody. You further state that Mr. Ford was shot almost immediately by the Chief who was in hot pursuit of him. You informed me by telephone that Mr. Ford was taken by the police to the Morton County Hospital and then placed under guard by the Sheriff of Morton County the same day of the shooting and after several days of care was released from the hospital and placed in the county jail and formal proceedings were held against Mr. Ford.

A prisoner whether confined in the county jail or a state institution has a right to medical care [Edwards v. Duncan, 355 F.2d 993 (1966)], and a denial of such case may constitute a denial of rights guaranteed by the Fourteenth Amendment. The case of Pfannenstiel v. Doerfler, 152 Kan. 479 (1940), announced the rule that failure or refusal of a sheriff or other officer having custody of a prisoner to provide or make effort to provide medical attention

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which is plainly and urgently needed constitutes failure to discharge faithfully and "with humanity the duties imposed upon him."

In City of Tulsa v. Sisler, 285 P.2d 422, 423 (1955), the Court held:

"So long as they were under arrest and held as city prisoners, it was the responsibility of the police to keep them safely and this included the duty to furnish them necessary medical care."
[Emphasis supplied.]

In the factual circumstances presented to us, we are of the opinion that the county must bear the expense of necessary medical services provided the prisoner if he is indigent and unable to pay the cost thereof, due to the fact that while these services were rendered by Morton County Hospital, the prisoner was under confinement by the sheriff.

Very truly yours,



CURT T. SCHNEIDER
Attorney General

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