



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 87-125

Col. Donald L. Pickert
Superintendent,
Kansas Highway Patrol
122 W. 7th
Topeka, KS 66603

Re: Counties and County Officers -- Jails -- Liability
of Governmental entity for Medical Costs of
Indigent Offender

Synopsis: Medical costs incurred by an indigent offender
before or at the time of arrest are to be borne by
the county if the offender is subsequently charged
with a violation of state law.

* * *

Dear Col. Pickert:

You have asked our opinion as to who is liable for the medical expenses of an indigent person placed under arrest in the following situation. You state that a man failed to pay for gasoline at the Topeka service area on the Kansas Turnpike. Having been notified of this, a Highway Patrol trooper ran an NCIC check on the license tag of the vehicle the man was driving. The trooper was advised that the vehicle was stolen from Tempe, Arizona.

A high speed chase ensued and the suspect crashed the vehicle as he attempted to exit the Turnpike. The trooper placed the suspect under arrest before transporting him by ambulance to the hospital. After receiving treatment for facial lacerations, the suspect was transported to the Shawnee County Jail where he was incarcerated on several state

charges, including auto theft based on the NCIC report. He pled guilty to four counts with two other counts being dismissed because he waived extradition to Arizona.

You ask who is responsible for the medical bills, i.e., Shawnee County, Highway Patrol, Turnpike Authority or Maricopa County, Arizona.

We are of the opinion that Wesley Medical Center v. City of Wichita, 237 Kan. 807 (1985) controls this situation. In that case, the Kansas Supreme Court stated thus:

"We hold that so long as an offender is arrested for violation of a state law and in due course is charged with a state crime and delivered to the county jail for confinement, the medical and other incidental expenses incurred as a consequence of and following his arrest, and until his transfer to such facility, are chargeable to the county. We further hold that a county's liability for charges and expenses for safekeeping and maintenance of the prisoner, including medical expenses, does not depend on which police agency happens to be called to the scene of the alleged crime or whether such expenses were incurred before or after he is placed in a county jail. The controlling factor is that the prisoner was arrested and subsequently charged with violation of a state law."
237 Kan. at 815 (emphasis added).

Although the above case dealt with a dispute between a city and two counties, instead of a state agency and two counties, the same principles apply to the instant question. The offender was initially pursued because of an alleged violation of Kansas law, i.e., theft of services under \$150.00, for leaving the service area without paying for gasoline. He was subsequently arrested on five violations of Kansas law and convicted on four of these charges.

We are of the opinion that it is irrelevant to the issue of liability for medical bills which law enforcement officer took the offender into custody or that the offender was ultimately returned to Arizona to face additional charges. Thus, Shawnee County would be liable for the medical costs.

In conclusion, medical costs incurred by an indigent offender before or at the time of arrest are to be borne by the county if the offender is subsequently charged with a violation of state law.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Brenda L. Braden
Deputy Attorney General

RTS: BLB: cy