



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

October 13, 1976

ATTORNEY GENERAL OPINION NO. 76- 325

Thomas W. Rhoden, CKA
Trego County Clerk
Trego County Courthouse
WaKeeney, Kansas 67672

RE: Counties - Prisoners - Costs
K.S.A. 1975 Supp. 28-820

Synopsis: Where County Commissioners contract for the board and lodging of prisoners by another neighboring county at an agreed rate per day, because of a ruling that local jail facilities are inadequate, the Sheriff of the sending county shall not get statutory fees for feeding and attending such prisoners. This would amount to a double expense to the county if it were paid.

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Dear Mr. Rhoden:

You advise that the Trego County Commissioners are compelled to transport prisoners to an adjoining county, because the district court judge has declared that the Trego County Jail facilities are inadequate, and such commissioners have entered into an agreement with such adjoining county for the board and lodging of such prisoners. You ask if the Trego County Sheriff shall be entitled to the statutory allowances for jail keep for such prisoners, notwithstanding, that they are not being held in Trego County.

K.S.A. 1975 Supp. 28820 grants broad power to feed prisoners: "The board of county commissioners shall provide for the feeding of prisoners by contract or otherwise with any person it may decide upon provided, the minimum expense per prisoner shall be one dollar and fifty cents (\$1.50)." (Emphasis supplied).

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Thus, the County Commissioners of Trego County may agree with an adjoining county for the board and keep of prisoners. There is nothing compulsory in this statute that the local sheriff shall be paid as well.

As to jail keep, this statute further provides: "In addition to the compensation hereinbefore provided, the sheriff shall receive for attending jail when occupied by prisoner or prisoners the sum of one dollar (\$1.00) per day." This clearly means: no prisoners, no pay. It would be double expense to pay another county for keeping a prisoner, and at the same time pay a local sheriff "jail keep" fees when no prisoner is in fact being kept.

Very truly yours,



CURT T. SCHNEIDER
Attorney General

CTS:CJM:gw