

STATE OF KANSAS

## Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

*Curt T. Schneider*  
Attorney General

September 1, 1977

ATTORNEY GENERAL OPINION NO. 77- 286

Mr. Joseph W. Zima, Legal Advisor  
Shawnee County Sheriff's Office  
200 East Seventh  
Topeka, Kansas 66603

Re: Counties--Sheriffs--Jails

Synopsis: K.S.A. 19-1930 requires municipalities to pay for housing in the county jail of only those persons arrested for violations of municipal ordinances. Those individuals arrested by local authorities for violation of state statutes are the responsibility of the county.

\* \* \*

Dear Mr. Zima:

In your letter of June 10, 1977, you inquire whether K.S.A. 19-1930 requires the City of Topeka to pay for housing of all persons arrested by its officers for any reason or does K.S.A. 19-1930 require the City to pay for housing of only those persons arrested for violation of municipal ordinances of Topeka.

K.S.A. 19-1930 states in pertinent part thus:

"The sheriff or the keeper of the jail in any county of the state shall be and is hereby authorized and required to receive all prisoners committed to his custody by the authority of the United States or by the authority of any city

Mr. Joseph W. Zima, Legal Advisor  
Page Two  
September 1, 1977

located in such county, and to keep them safely until discharged by the due course law in the same manner as prisoners of the county; and if any sheriff or jailer shall neglect or refuse to perform the services and duties required of him by the provisions of this act, he shall be liable to the like penalties, forfeitures and actions as if such prisoner or prisoners had been committed under the authority of this state. The county in the jail of which such prisoner shall be confined shall receive from the United States or such city compensation for the maintenance of such prisoners in an amount equal to that provided by the county for maintenance of county prisoners and provision shall be made for the maintenance of such prisoners in like manner as prisoners of the county. The governing body of any city committing prisoners to the county jail shall provide for the payment of such compensation upon receiving a statement from the sheriff or such county as to the amount due therefor from such city. The attorney of prisoners shall be permitted to visit them professionally at all reasonable hours."

While local city law enforcement officials by virtue of their office are vested by law with a duty to maintain public order and to make arrests for violations of the laws of the state of Kansas or ordinances of their respective municipalities, it is evident by the phraseology of K.S.A. 19-1930 that the Legislature intended to distinguish between federal, state(county), and city prisoners. A federal prisoner is one who is arrested for violation of federal statute. A state or county prisoner is one arrested for violation of a state statute, and a city prisoner encompasses those individuals arrested for violation of municipal ordinances.

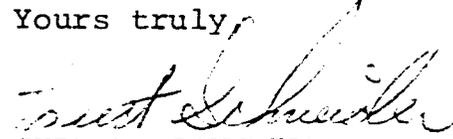
Thus, the provisions of K.S.A. 19-1930 are applicable in the situation where an individual is arrested for violation of a local ordinance. If the prisoner is housed in the county jail

Mr. Joseph W. Zima, Legal Advisor  
Page Three  
September 1, 1977

the city must pay compensation to the county. If that same local official pursuant to his statutory authority arrests an individual for violation of a state statute such prisoner is within the jurisdiction of the county (state) and not the municipality. The county in this situation is obligated to pay the expenses of housing said prisoner in the county jail.

Therefore, it is our opinion that K.S.A. 19-1930 requires the City of Topeka to pay for the housing of city prisoners in the county jail where those persons are arrested for violations of municipal ordinances of Topeka. Individuals arrested by local authorities for violation of state statutes are the responsibility of the county and not the city.

Yours truly,

  
CURT T. SCHNEIDER  
Attorney General

CTS:BEW:jj