

7147

DAMAGE DONE TO DETENTION ROOM IN CITY BUILDING
BY JUVENILE DELINQUENT—WARD OF COUNTY JUVENILE
COURT — DETAINED BY CITY POLICE DEPARTMENT —
COUNTY NOT RESPONSIBLE FOR SUCH DAMAGE.

SYLLABUS:

A county is not responsible for damage done to the detention room in the city building by a juvenile delinquent detained there by the police department of that city notwithstanding that such juvenile delinquent had theretofore been made a ward of the juvenile court of said county.

Columbus, Ohio, September 21, 1944

Hon. Frank W. Springer, Prosecuting Attorney
Lisbon, Ohio

Dear Sir:

This will acknowledge receipt of your letter of August 30, 1944, requesting my opinion, which letter reads in part as follows:

“Will you please give me the benefit of your opinion with regard to the following question:

‘Where a ward of the Juvenile Court of Columbiana County, Ohio, is placed in custody by the police officers of the City of Wellsville for a further offense and is temporarily confined in a detention room of the city building of said City of Wellsville, is the County legally responsible for the damage done by said juvenile to the detention room in the city building of such city?’

The facts briefly are these. One C. P., a juvenile, residing in the City of Wellsville was arrested two or three weeks ago and taken before the Juvenile Judge of Columbiana County on a charge of delinquency. He was released from custody after being made a ward of the Juvenile Court. On information received by the Wellsville police officers he was re-arrested August 23rd, 1944, for larceny. * * * While being held there, he inflicted damage on the walls, furnishings, toilet facilities and other accommodations of the detention room to the extent of approximately \$200.00. The City of Wellsville has filed a claim with Columbiana County for the payment of this damage. It is the contention of the city officials that the juvenile was arrested for the convenience of the Juvenile Court and for that reason is a county charge and that the county should be held responsible for the damage caused by the juvenile. Since the detention room in the City of Wellsville is not a county owned or rented room but is established and maintained by the City of Wellsville, * * *.”

It is apparent from your letter that the subject, at the time of his confinement in the detention room in the city building in Wellsville, Ohio, was there as a result of a violation of the laws of Ohio, to wit, larceny, which charge was separate and distinct from his offenses formerly adjudicated by the Juvenile Court of Columbiana County. This child was in custody of the police department of Wellsville under and by virtue of the authority of police officers as set forth in Section 13432-1 of the General Code of Ohio, which reads in part as follows:

“A sheriff, deputy sheriff, marshal, deputy marshal, watchman or police officer, herein designated as ‘police officers’ shall arrest and detain a person found violating a law of this state, or an ordinance of a city or village, until a warrant can be obtained. * * *”

This is an unusual question and no cases in point in Ohio or elsewhere are available. However, in the case of Fry v. Albermarle County, 86 Va. 195, which case involved the liability of the county for alleged negligence of a county prisoner on a road repair operation, the court said:

“No suit can be maintained against the county of Albermarle upon the principles of ‘Respondent superior’, because the relation of master and servant did not exist.”

The fact that this youth was a ward of the Juvenile Court at the time he damaged the detention room in the city building at Wellsville, Ohio, does not have any peculiar significance since he was at that time a lawful prisoner of the police department of that city.

The law of Ohio is very definite on this proposition that the county being a part of the state was not at common law responsible for torts nor is it now responsible unless made so by special statute.

It is therefore my opinion that Columbiana County is not responsible for damage done to the detention room in the city building of Wellsville, Ohio, by a juvenile delinquent detained there by the police department of that city and notwithstanding that such juvenile delinquent had theretofore been made a ward of the juvenile court of Columbiana County, Ohio.

Respectfully,

THOMAS J. HERBERT

Attorney General