

OPINION NO. 78-019

Syllabus:

1. A county sheriff does not have a duty to transport municipal court jurors.
2. A county sheriff does not have a duty to accompany municipal court prisoners to court during trials and hearings prior to conviction.
3. A municipal court is not responsible for the costs of housing prisoners sentenced by the court to the county jail.

To: Arthur M. Elk, Ashland County Pros. Atty., Ashland, Ohio
By: William J. Brown, Attorney General, April 14, 1978

I have before me your request for my opinion which may be summarized as follows:

1. Does a sheriff have a duty to provide transportation to members of a municipal court jury when a jury view has been ordered by the court?

2. Must a sheriff accompany municipal court prisoners to court during hearings and trials prior to conviction?
3. Is the municipal court required to make payments on a regular basis for the housing of their prisoners sentenced to the county jail?

With respect to your first two questions, it is necessary to consider the statutory duty of a sheriff to provide service to the judicial branch of government. R.C. 311.07, which sets forth the general duties of the sheriff, imparts upon a sheriff the duty to "attend upon the court of common pleas and the court of appeals during their sessions, and when so required, shall attend upon the probate court."

R.C. 311.07 does not impose upon the sheriff a general duty to attend upon the municipal court. To the contrary, the general duty to attend upon the municipal court rests, pursuant to R.C. 1901.32, with municipal and township police officers. R.C. 1901.32(D), which provides for municipal court bailiffs, states as follows:

Every police officer of any municipal corporation or police constable of a township within the territory is ex officio a deputy bailiff of the court in and for the municipal corporation or township within which he is commissioned as such police officer or police constable and shall perform such duties in respect to cases within his jurisdiction as are required of him by a judge of said court or by the clerk or bailiff or deputy bailiffs thereof, without additional compensation.

R.C. 1901.32(E) provides, moreover, that "[t]he bailiff and deputy bailiffs shall perform for the [municipal] court services similar to those performed by the sheriff for the court of common pleas, and shall perform such other duties as are required by rule of court."

While there are exceptions to these general statutes that do require a sheriff to perform specific duties for a municipal court, such as the provision in R.C. 2949.08 which requires a sheriff to transport a sentenced misdemeanant to jail, there is no statutory exception applicable to your specific questions. Accordingly, it must be concluded that the duty to transport municipal court jurors does not fall upon the sheriff, but rather upon the bailiff of such a court. Similarly, a sheriff would not have a duty to accompany municipal court prisoners to court during trials and hearings prior to conviction.

With respect to your final question, I am unable to find any express statutory duty requiring a municipal court to make payments to the county jail to cover the costs of prisoners sentenced to that facility by the municipal court. Rather, costs are to be paid by the political subdivision on whose behalf the charges were brought. Thus, in state misdemeanor cases the county must pay the costs, and in ordinance cases the municipality must make the payments to the county jail. See, 1976 Op. Att'y Gen. No. 76-012; 1956 Op. Att'y Gen. No. 6768; 1955 Op. Att'y Gen. No. 1133; Cf. University Hospitals of Cleveland v. Cleveland, 28 Ohio Misc. 134 (C.P. Cuyahoga Co., 1971) (where a municipal prisoner is housed in the county jail, the municipal corporation is liable to the county for reimbursement of expenses.) Accordingly, it is not the responsibility of the municipal court to pay the county jail for the costs of housing prisoners sent to that facility by that court.

It is, therefore, my opinion and you are so advised that:

1. A county sheriff does not have a duty to transport municipal court jurors.

2. A county sheriff does not have a duty to accompany municipal court prisoners to court during trials and hearings prior to conviction.
3. A municipal court is not responsible for the costs of housing prisoners sentenced by the court to the county jail.