

\*1 Office of the Attorney General  
State of Washington

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COUNTIES--CITIES AND TOWNS--JAILS--PRISONERS--COSTS OF HOUSING PRISONERS IN COUNTY  
JAILS

If a city or town police officer arrests a person for committing a felony within the corporate limits of the city or town and turns such person over to the custody of the county sheriff because the arrest was for a violation of a state law and not a city or town ordinance, it is the county, and not the city, which is then responsible for paying the care, housing and board of such prisoner while he is in the county jail--both before and after arraignment.

Municipal Research Council  
4719 Brooklyn Avenue N.E.  
Seattle, Washington 98105

Gentlemen:

By recent letter you requested our opinion on the following questions:

"(1) If any city or town police officer arrests a person for committing a felony within the corporate limits of a city or town and turns such a person over to the custody of the sheriff of the county in which such city or town is situated for prosecution for a violation of a state law (not of a city or town ordinance) by the county prosecuting attorney, who is responsible (i.e. the city or county) for paying for the care, housing, and board of such a person while he is in a county jail, in the absence of any contract therefor between the city and the county?

"(2) Is any distinction made as to the time before and after arraignment of such a person in regard to the responsibility of the city or town and the county respectively to pay for prisoner care, housing, and board while in the county jail?"

In our opinion it is the county, and not the city, which is responsible for the costs involved--both before and after arraignment.

ANALYSIS

At the outset let us make note of two stipulations, both indicated by your phrasing of the questions, upon which our response is predicated. First, in the factual situation with which you are concerned there is no interlocal contract between the county and city or cities involved such as is authorized by the provisions of [RCW 70.48.090](#). And second, your opinion request relates to the general, overall costs ". . . for the care, housing, and board of such person while he is in a county jail, . . ." and not, instead, the limited question of emergency medical care under so much of [RCW 70.48.130](#) as provides that:

". . . To the extent that a confined person is unable to be financially responsible for medical care and is ineligible for financial assistance from the department [of Social and Health Services] or from a private source, the governing unit [having custody] may obtain reimbursement for the cost of such services from the unit of government whose law enforcement officers initiated the charges on which the person is being held in the jail: . . ."

With that understanding regarding the scope of your questions we turn, then, to so much of [RCW 36.01.060](#) (cited in your letter) as provides that:

\*2 "Each county shall be liable to pay . . . the fees of the sheriff for maintaining prisoners charged with crimes, and his costs in conveying them to and from the court, as well as their board while there . . ."

We believe that this statute is determinative of both segments of your inquiry. The prisoners in question are in the custody of the county sheriff, housed in the

county jail and charged with state offenses for which they are to be prosecuted by the county prosecuting attorney. [\[FN1\]](#) The mere fact that those prisoners are there because they were arrested by a city police officer gives rise to no legal basis, in our judgment, for passing all of the resulting costs of confinement on to the city.

What if, instead, the arrests were made by the Washington State Patrol? [\[FN2\]](#) Would that mean that the state would then be liable for the costs of confinement pending trial? Clearly not, as evidenced by letters such as one dated July 7, 1977, copy enclosed, from the chief of the State Patrol to the Stevens County sheriff rejecting just such a billing. That letter, notably, was written on the basis of advice given by this office. Or, by the same token, what if (as is also possible) the actual arrest was made by a private citizen who was a first-hand witness to the commission of the crime? Would the county then be able to bill that private citizen for the resulting costs of confinement? Obviously not.

Finally, there being nothing in any of the applicable statutes to the contrary, it is our opinion (in response to your second question) that there is no basis for distinguishing between ". . . the time before and after arraignment of such a person . . ." [RCW 36.01.060](#), supra, covers all prisoners charged with crimes who are in the custody of the county sheriff regardless of whether formal arraignment [\[FN3\]](#) has yet occurred.

We trust that the foregoing will be of assistance to you.

Very truly yours,

Slade Gorton

Attorney General

Philip H. Austin

Deputy Attorney General

[\[FN1\]](#) Accord, [RCW 36.27.020 \(4\)](#).

[\[FN2\]](#) See, [RCW 43.43.030](#) which provides that:

"The chief and other officers of the Washington state patrol shall have and exercise, throughout the state, such police powers and duties as are vested in sheriffs and peace officers generally, and such other powers and duties as are prescribed by law."

[\[FN3\]](#) See, CrR 4.1, et seq.

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