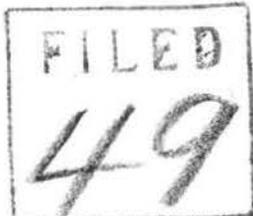


JACKSON COUNTY Highway Patrol: County Court of Jackson County, Missouri, may purchase and furnish uniforms to members of the Jackson County Highway Patrol so long as the ownership of such uniforms remains in the county.

UNIFORMS:

---



February 28, 1957

Honorable J. Marcus Kirtley  
County Counselor  
Suite 202 Court House  
Kansas City, Missouri

Dear Sir:

Your recent request for an official opinion reads:

"My attention has been directed to an opinion of your office under date of January 9, 1957, holding that the purchase of uniforms for the Sheriff and his deputies is not a proper expenditure of the County.

"I would appreciate an opinion as to the expenditure of such funds for such purpose in Jackson County, where the Sheriff's Patrol operates under authority of House Bill #542 enacted in 1955, calling your attention particularly to the language of Section 4 thereof, now Section 57.600."

We note that you refer to our opinion of January 9, 1957, holding that the purchase of uniforms for the sheriff and his deputies is not a proper expenditure of the county. Since we do not feel that your question is directed to this matter we do not feel it necessary to discuss the validity of this opinion.

Your question, on the contrary, is directed at the maintenance of the highway patrol of Jackson County, which patrol was created and authorized by House Bill No. 542 which was enacted by the General Assembly in 1955. We feel that the county highway patrol of Jackson County is a body separate and distinct from any other existing in Jackson County. We note that it shall consist of "a

Honorable J. Marcus Kirtley

superintendent and other officers, sergeants, patrolmen and radio personnel to be known as the county highway patrol."

The sheriff shall provide rules for instruction and discipline and be at the head of this force, which shall be under his exclusive direction.

Your specific question is directed at what is now Section 57.600, RSMo 1949, Cumulative Supplement 1955, which reads as follows:

"All salaries and expenses of members of the patrol and all expenditures for vehicles, equipment, arms, ammunition, supplies and salaries of subordinates and clerical force and all other expenditures for the operation and maintenance of the patrol in the protection of roads and bridges maintained and constructed from the county road and bridge funds, in the regulation of traffic on highways maintained and constructed by the county shall be paid monthly by the county treasurer out of county road and bridge funds at the end of each month by warrant drawn by the county court upon the county treasury."

We note in this section that the county court is authorized to order warrants to be paid by the county treasurer out of county road and bridge funds, at the end of each month, for various items of expenditure of the county highway patrol of Jackson County, among which items is "equipment."

The question now is whether the word "equipment" includes uniforms. As used in this section we believe that it does.

In the case of *Steinfeld v. Jefferson County Fiscal*

Honorable J. Marcus Kirtley

Court, 229 S.W. 2d 319, the Court of Appeals of Kentucky, at l.c. 321 et seq., held:

"It is manifest that the County Court did not abuse its discretion in adopting the regulation of October 26, 1949 and the Fiscal Court had the right to appropriate money for the purchase of the uniforms in question, unless prohibited by KRS 70.560, supra, which question we now will examine.

"KRS 70.560 mandatorily provides that the Fiscal Court shall fix the salaries of the members of the police force, which right and power likewise is preserved in KRS 70.550. Had the Legislature, in enacting KRS 70.560, stopped at this point, we still would have no difficulty in determining that the Fiscal Court inferentially would be required to appropriate such sums as would be necessary to purchase reasonable equipment, including uniforms, for the department. But the Legislature apparently anticipated that some equipment which otherwise could be requisitioned might involve the expenditure of such large sums of money as to embarrass the general fund of the county, if made without regard to other fiscal requirements. It therefore extended the purview of KRS 70.560 and curtailed the otherwise unlimited authority of the County Court under the provisions of KRS 70.550 by leaving the purchase of certain designated types and items of equipment entirely within the discretion of the Fiscal Court. The enumeration of such equipment was not a designation of that referred to in the preceding section

Honorable J. Marcus Kirtley

of the statute. It was a mere lifting of the enumerated types and items of equipment from the sole authority of the County Court and granting to the Fiscal Court the right to refuse to purchase such items even though requested by the County Court. We do not perceive that the granting of discretionary powers to the Fiscal Court in respect to the purchase of the items enumerated in KRS 70.560 infringes on the right of the County Court to requisition these or other items of equipment which it deems necessary for the proper functioning of the police department. The Fiscal Court has the absolute right to reject requisitions for the enumerated items but has no arbitrary discretion in respect to items not enumerated. Since the intention of the Legislature is so clear, we find no place for the application of either the rule or the maxim invoked by appellants.

"Neither are we impressed with the argument that by paying for the uniforms the Fiscal Court has increased the compensation of the police officers. The wearers of the uniforms obtain no property right in them, and use them only as they might use other equipment, furnished for the use of the Department and the benefit of the community which they are employed to serve. A different view might be taken if the officer were presented with the uniform for use or disposition while not engaged in the service of the Department."

In the case of *Edkins v. Board of Education of City of New York*, 287 N. Y. 505, 41 N.E. 2d 75, it was held that under a statute imposing the duty on the board of education to purchase such "equipment" as might be neces-

Honorable J. Marcus Kirtley

sary for the proper and efficient manner of educational activity, the quoted word included protective clothing for child students similar to that furnished by employers to men performing the same machine shop operations in industry.

In the case of Palmer v. Great Northern Railway Company (Mont.), 170 Pac. 2d 768, the court held that safety shoes used by a laborer in railroad shops were "equipment" within the state railroad employers' liability act.

We believe, therefore, that uniforms may be furnished to the Jackson County Highway Patrol so long as the ownership of such uniforms remains in the county of Jackson.

#### CONCLUSION

It is the opinion of this department that the County Court of Jackson County, Missouri, may purchase and furnish uniforms to members of the Jackson County Highway Patrol so long as the ownership of such uniforms remains in the county.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Hugh P. Williamson.

Very truly yours,

John M. Dalton  
Attorney General

HPW:lc