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ATTORNEY GENERAL OF MISSOURI  
JEFFERSON CITY

June 7, 1971

OPINION LETTER NO. 169  
Answered by Klaffenbach



Honorable Jack E. Gant  
Senator, 16th District  
Room 430, Capitol Building  
Jefferson City, Missouri 65101

Dear Senator Gant:

This letter is in answer to your opinion request in which you pose the following questions:

"The Sheriff of Jackson County, Missouri, operates a County Highway Patrol under the provisions of Sections 57.570 through 57.600, inclusive, RSMo 1969. All expenses for the operation of the Patrol are paid out of the County Road and Bridge Fund.

"The Sheriff is having the following duties performed by the Jackson County Highway Patrol:

"a. Road patrol assists the police departments of incorporated cities in Jackson County with their calls and investigations.

"b. Patrols roads and streets in incorporated cities in Jackson County.

"c. Contracts with incorporated cities to perform patrol services on streets and roads within incorporated limits of the city and turns funds from said contracts to the Jackson County Treasurer for the General Fund, rather than Road and Bridge Account.

"d. Operate a narcotics squad in both the incorporated and unincorporated areas. (sic.)

"e. Provides a Junior Deputy Program for youth, which is serviced by Highway Patrolmen in both incorporated and unincorporated areas.

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"f. Serves criminal warrants and makes arrests in both incorporated and unincorporated areas.

"g. Assists the County Coroner in investigations, in both incorporated and unincorporated areas.

"h. Operates an arson squad, in both incorporated and unincorporated areas.

"i. Uses Highway Patrolmen and patrol vehicles to transport prisoners between the County Jail and various courts in Jackson County and also to the State penitentiary in Jefferson City, Missouri.

"j. Patrols roads in the unincorporated areas in Jackson County.

"In addition to the above, the Sheriff in 1970 transferred \$90,500.00 from Highway Patrol Accounts to a Capital Outlay Account and with these funds has constructed an addition to the Patrol Headquarters building to house the Arson and Narcotics Division of the Patrol.

"I hereby request an opinion from your office as to which of the above designated services and actions of the Sheriff in connection with the operation of the Highway Patrol of Jackson County are authorized and which are not authorized under the provisions of the applicable statutes of Missouri."

Sections 57.570, RSMo 1969 to 57.600, RSMo 1969, pertain to the Jackson County Highway Patrol.

Section 57.570 provides:

"The sheriff in all counties of class one now or hereafter having more than five hundred thousand inhabitants and not having a charter form of government, with the approval of the county court, may create a force consisting of a superintendent and other officers, sergeants, patrolmen and radio personnel to be known as the county highway patrol. The sheriff shall prescribe rules for instruction and discipline, make all administrative rules and regulations and fix the hours of duty for members of the patrol."

Section 57.580 provides:

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"The county highway patrol shall police the highways constructed and maintained by the county and enforce all laws designed to protect and safeguard such highways. The patrol shall protect employees of the county when engaged in maintenance and construction work and shall notify the county highway department of any dangerous condition existing on county highways."

Section 57.590 provides:

"The county court shall provide suitable offices for the sheriff to use for highway patrol purposes which shall be open at all times and be in charge of the sheriff. The sheriff, with the approval of the county court, shall employ the clerical force, radio operators, and other subordinates, and shall provide the office equipment, stationery, postage, supplies, telegraph and telephone facilities as he shall deem necessary. The county highway patrol radio network shall be under the control of and at the service of the sheriff for the regular and emergency bulletins and service the sheriff may require from time to time and shall cooperate with other law enforcement agencies."

Section 57.600 provides:

"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."

Further, Section 12 (a) of Article X of the Missouri Constitution provides:

"In addition to the rates authorized in section 11 for the county purposes, the county court in the several counties not under township organization, the township board of directors in the counties under township organization, and the

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proper administrative body in counties adopting an alternative form of government, may levy an additional tax, not exceeding thirty-five cents on each hundred dollars assessed valuation, all of such tax to be collected and turned in to the county treasury to be used for road and bridge purposes. In addition to the above levy for road and bridge purposes, it shall be the duty of the county court, when so authorized by a majority of the qualified electors of any road district, general or special, voting thereon at an election held for such purpose, to make an additional levy of not to exceed thirty-five cents on the hundred dollars assessed valuation on all taxable real and tangible personal property within such district, to be collected in the same manner as state and county taxes, and placed to the credit of the road district authorizing such levy, such election to be called and held in the manner provided by law." (Emphasis Added)

Section 137.555, RSMo 1969, which implements the provisions of Section 12 (a) of Article X of the Missouri Constitution, provides specifically that the special road and bridge fund can be used for road and bridge purposes and for no other purposes whatever.

As we have noted from the provisions relative to the Jackson County Highway Patrol the duties of such patrol under Section 57.580 are to "police the highways constructed and maintained by the county and enforce all laws designed to protect and safeguard such highways". The patrol is further authorized and required "to protect employees of the county when engaged in maintenance and construction work" and to "notify the county highway department of any dangerous condition existing on county highways".

Likewise, as we noted under Section 57.590 the sheriff with the approval of the county court, "shall employ the clerical force, radio operators, and other subordinates, and shall provide the office equipment, stationery, postage, supplies, telegraph and telephone facilities as he shall deem necessary". The county highway patrol radio network "is under the control of and at the service of the sheriff for the regular and emergency bulletins and service the sheriff may require from time to time and shall cooperate with other law enforcement agencies".

Notably Section 57.600 which we have quoted above and will not repeat here, provides that certain designated expenditures will be paid out of the county road and bridge funds.

It is our view, that under the constitutional provision which we have quoted, Section 12 (a) of Article X, and under Section

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57.580 the county highway patrol has power only to police the highways constructed and maintained by the county and to enforce all laws designed to protect and safeguard such highways and highway maintenance employees and we find no authority to use any road and bridge funds for general sheriff's police functions. Because of the limitations placed upon the use of such funds we believe that the operations of the county highway patrol financed by such funds are very limited.

Therefore, in answer to your questions "a" through "i" to the extent that such functions bear no relationship to policing such county roads, they are not proper subjects of expenditure of road and bridge funds.

We wish to point out that we have not been advised as to whether or not Jackson County has established a county urban road system under the provisions of Section 137.557, RSMo 1969. Under such a system the county court may designate any road within the county a part of the system without regard to city or road district boundaries and the county establishing such a system and any city within such a county may contract for the construction, reconstruction, repair and maintenance of the roads within the system, but all other service not specifically contracted for relating to such roads are to be performed by the city within which they are located. If such a county-urban road system has been adopted, then the county highway patrol, would have authority to patrol the roads within such a system constructed and maintained by the county.

We are also of the view, in answer to your question paragraph "j" that the patrol has express authority to patrol highways constructed and maintained by the county in unincorporated areas of the county but not roads which are not roads constructed and maintained by the county.

In answer to your final question with respect to the transfer of funds by the sheriff from the highway patrol accounts to a "Capital Outlay Account" for the construction of an addition to the Patrol Headquarters building to house an Arson and Narcotics Division, it is our view that road and bridge funds could not be used for such a purpose as there is no realistic relationship between the maintenance of the county highways and an Arson and Narcotics Division of the patrol.

Very truly yours,

JOHN C. DANFORTH  
Attorney General