

SHERIFF: In counties the size of Cole the sheriff is entitled to
FEE: three dollars (\$3.00) per day while actually in attendance
on the court. He may appoint, not to exceed three deputies
for such. Deputies are entitled to three dollars (\$3.00)
per day.

May 28, 1943



Mr. H. B. Mackey
Sheriff of Cole County
Jefferson City, Missouri

Dear Mr. Mackey:

This will acknowledge receipt of your request for
an opinion under date of May 26, 1943, which reads:

"I would like to have an opinion in
regard to Sheriff's fees for attend-
ing and waiting on the Circuit Court
of Cole County.

"I have been in the habit of charging
three dollars for opening the Court
and three dollars for the services of
the Regular Deputy attending the Court
and also three dollars for a Special
Baliff whom I very frequently have to
employ.

"The Honorable County Court of Cole
County has questioned my charge of
nine dollars per day; what I would
like to know is whether I am permit-
ted to charge for opening and attend-
ing Court; when I am allowed to use a
Deputy in addition to opening Court
and how many Deputies I am allowed to
use for it is impossible for me to wait
on the Court and take care of the duties
of the Sheriff's Office at the same time.
When Circuit Court is in session it is
necessary that I have a Baliff in the
Court room at all times; in this connec-
tion I would like to know who has the
authority to request the presence of the

Baliff. I have always paid the Baliff three dollars per day, by check and at the end of the regular term of Court have billed the County Court for the entire amount of charges for myself, the Baliff and one or two Deputies as the case may be.

"I would appreciate it very much if you will render, in writing, both the County Court of Cole County and myself your opinion as to when and how I am to proceed in the above - it will be a great help to all concerned in arriving at a definite understanding as to the legal and lawful authority."

Section 13411, R. S. Missouri 1939, allows the sheriff, in a county the size of Cole County, a fee of three dollars (\$3.00) per day for actual attendance on the court. This means you are allowed three dollars (\$3.00) every day you are in actual attendance upon the court. However, there is no fee for merely opening court. Furthermore, it is mandatory upon the sheriff to attend court except for illness or pressure of other official business. (See State v. Yager, 250 Mo., 1. c. 403) Section 13411, R. S. Missouri 1939, reads in part:

"Fees of sheriffs shall be allowed for their services as follows:

"For attending each court of record or criminal court and for each deputy actually employed in attendance upon such court the number of such deputies not to exceed three per day.....\$3.00"

Section 13133, R. S. Missouri 1939, authorizes the sheriff to appoint deputies with the approbation of the circuit court, which we construe to mean that whenever the necessity requires it the sheriff may select additional deputies. Although the judge of the court cannot select his own bailiff the selection of the sheriff must be approved by the circuit court. However, Section 13411, supra, limits the compensation for deputies to three dollars (\$3.00) per day each, not to exceed three deputies. Section 13133, supra, reads:

"Any sheriff may appoint one or more deputies, with the approbation of the judge of the circuit court; and every such appointment, with the oath of office indorsed thereon, shall be filed in the office of the clerk of the circuit court of the county."

Therefore, it is the opinion of this Department that as sheriff of Cole County it is mandatory that you be in attendance on the circuit court except for illness or pressure of other official business and that you are entitled to three dollars (\$3.00) per day for every day that you are in actual attendance on the court; that you, as sheriff of Cole County, when it is necessary, may appoint not to exceed three deputies actually employed in any one day in attendance upon the circuit court. Such appointments must be approved by the circuit court. For such deputies you, as sheriff, are entitled to a fee of three dollars (\$3.00) per day for each deputy, this being in addition to your own fee of three dollars (\$3.00) per day for actual attendance on the court.

Respectfully submitted

AUBREY R. HAMMETT, JR.
Assistant Attorney General

APPROVED:

ROY MCKITTRICK
Attorney General of Missouri

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