



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
BOISE 83720

JIM JONES
ATTORNEY GENERAL

TELEPHONE
(208) 334-2400

December 13, 1988

Clifford V. Long
Bonneville County Board of Commissioners
605 North Capital Avenue
Idaho Falls, Idaho 83402

THIS CORRESPONDENCE IS A LEGAL GUIDELINE OF THE
ATTORNEY GENERAL SUBMITTED FOR YOUR GUIDANCE

Re: City and County Responsibilities for Cost of Detention

Dear Mr. Long:

I apologize for the delay in replying to your request for legal guidance.

Your questions deal with the incarceration of both juvenile and adult offenders. Specifically, you have asked for legal guidance on the following issues:

1. When is an offender (minor or adult) to be incarcerated by the city and when by the county?
2. May the county seek reimbursement for the cost of holding city prisoners?
3. In the case of a juvenile who is a city prisoner, can the city be charged for costs of incarceration if the minor is placed outside the county?

Celebrate
IDAHO
1890 • CENTENNIAL • 1990™

Clifford V. Long
Bonneville County Board of Commissioners
December 13, 1988
age 2

The policy of the state, as expressed in sections 31-2202, 31-2227 and 31-2604, Idaho Code, is that the primary duty to enforce the penal provisions of any and all state statutes is vested in the sheriff and prosecuting attorney of each county. While both the sheriff and prosecutor have discretion as to how the criminal laws are to be enforced in their jurisdiction, they have no choice but to enforce the law or be removed from office.

Cities have the authority to appoint police officers who, by statute, have the power to enforce state law within their jurisdictions. However, cities have no affirmative duty to appoint such officers. The decision to appoint city police officers is discretionary, not mandatory. State v. Whelan, 103 Idaho 651, 653, 561 P.2d 916 (1982).

It is the sheriff, however, who has the duty "to take charge of and keep the county jail and the prisoners therein." Section 31-2202, Idaho Code. Because the sheriff operates on behalf of the county in carrying out this duty, the county must bear "the expenses necessarily incurred in the support of persons charged with or convicted of crime and committed therefor to the county jail." Section 31-3302(3), Idaho Code.

Section 20-612, Idaho Code, requires the sheriff to accept all prisoners. "The sheriff must receive all persons committed to jail by competent authority." More specifically, statutes require that room be made in county jails for prisoners charged by other law enforcement agencies, federal prisoners (section 20-615, Idaho Code), prisoners arrested by Idaho State Police (section 19-4809, Idaho Code), and city prisoners (sections 50-302A and 20-605, Idaho Code).

The question of which governmental entity must bear the costs of housing city prisoners was addressed by the Idaho Supreme Court in County of Bannock v. City of Pocatello, 110 Idaho 292, 715 P.2d 962 (1986). The court held that despite their apparent directive to the contrary, the statutes require the city to reimburse the county only when the county arranges to house the city prisoners in other counties (i.e., those situations where a prisoner is held in a facility other than one in the county where the ordering court is located). Bannock, 110 Idaho at 295.

In summary, with regard to adult prisoners, the general rules are that cities have a responsibility to reimburse the county for city prisoners who violate city ordinances and for those city prisoners held out-of-county. Cities do not have financial responsibility for other city prisoners held in county facilities. In particular, the county, not the city, must pay

Clifford V. Long
Bonnevill County Board of Commissioners
December 13, 1988
page 3

the cost of incarcerating prisoners who are arrested for state motor vehicle law violations. Bannock, 110 Idaho at 295.

Your final question, which pertains to juvenile offenders, requires a slightly different analysis. To begin with, counties are responsible for all costs of detention of juveniles who are under the purview of the Youth Rehabilitation Act. Section 16-1812, Idaho Code; Merritt v. State, 108 Idaho 20, 696 P.2d 87 (1985). If the juvenile under the purview of the Youth Rehabilitation Act is detained within the county, the county is liable for costs. Likewise, if the juvenile under the purview of the Youth Rehabilitation Act is detained in a facility outside the county, in a private facility or home, or in a facility operated by another governmental entity, the financial responsibility remains with the county of the ordering court. Sections 16-1812(1) and (3), Idaho Code.

The Youth Rehabilitation Act does not apply to juveniles who violate traffic, wine, alcohol, tobacco, or watercraft laws, nor does it apply to fish and game violations or to violent juvenile offenders. Section 16-1803, Idaho Code. Incarceration of juveniles who come within these exceptions to the Youth Rehabilitation Act is controlled by the general rules dealing with adult offenders.

This is an informal and unofficial expression of the views of this office based upon the research of the author. It is supplied to you for your guidance.

Very truly yours,



JOHN J. McMAHON
Chief Deputy Attorney General

JJM/scw

cc: Seth E. Beal
Butte County

J. Albert Laird
Clark County

Ivan I. Taylor
Custer County

James Siddoway
Fremont County

Paul D. Walker
Jefferson County

Louie Demick
Lemhi County

Doyle W. Walker
Madison County

Gordon Harker
Teton County