

**OPINION NO. 69-163****Syllabus:**

1. A board of county commissioners is required, to the extent that funds are available, by Section 325.07, Revised Code, to make a monthly allowance to the sheriff for all expenses of maintaining transportation facilities necessary to the proper conduct of his official duties. (Syllabus No. 1 of Opinion No. 3039, Opinions of the Attorney General for 1958, approved and followed)

2. The board of county commissioners cannot allow less than fifty cents per meal where during the year next preceding the daily average of persons confined or prisoners did not exceed twenty in number.

3. The allowance for prisoners' meals does not include the salary of a cook appointed pursuant to Section 341.20, Revised Code.

4. There is no provision for the board of county commissioners on its own initiative to contract out to a private party the duty of feeding the prisoners in the county jail.

5. Food purchases made by the sheriff are subject to the approval of the board of county commissioners but only after the monthly account statement has been submitted to them.

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**To: William D. Kennedy, Lawrence County Pros. Atty., Ironton, Ohio**  
**By: Paul W. Brown, Attorney General, December 23, 1969**

I have before me your request for my opinion on the following series of questions:

"No.1: Is the Board of County Commissioners required to make allowances or pay all bills for necessary expenses incurred or expended by the Sheriff of the County, in the operation of the cruisers of the Sheriff's Department patrolling the county in the administration of the duties of

his office; said expenses being for gas, oil, tires and repairs when the Sheriff has already exhausted the allowances made in the budget for that office; said budget being prepared before the present Sheriff's term in office began?

"No.2: May the Board of County Commissioners limit the allowances or actual costs reimbursed to less than 50¢ per meal, made to the Sheriff of the County, for feeding the prisoners held in the county jail, when the average number of prisoners per day for the preceding year was sixteen (16) and the average number of prisoners per day so far this year is eighteen (18) and the Sheriff has exhausted the money allowed for this purpose in the budget prepared before the present Sheriff took office?

"No.3: In 311.20 O.R.C., does the allowance for prisoners' meals include the salary of the cook hired by the Sheriff to feed the said prisoners under § 341.20 O.R.C.?

"No.4: May the Board of County Commissioners on their own initiative, contract out to a private party the duty of feeding the prisoners in the county jail, in lieu of making any allowances to the Sheriff of the county for feeding said prisoners, without the consent of the Sheriff?

"No.5: May the Board of County Commissioners restrict the purchase of food by the Sheriff, for the purpose of feeding the prisoners held in county jail to such purchases as those met with the express approval of the commissioners; said approval to be made on each purchase?"

The answer to your first question is found in Syllabus No. 1 of Opinion No. 3039, Opinions of the Attorney General for 1958, page 676:

"1. A board of county commissioners is required, to the extent that funds are available, by Section 325.07, Revised Code, to make a monthly allowance to the sheriff for all expenses of maintaining transportation facilities necessary to the proper conduct of his official duties."

Your second question is answered by Section 311.20, Revised Code, which states in pertinent part:

"\* \* \* In counties where the daily average number of prisoners or other persons confined in the county jail during the year next preceding, as shown by the statistics compiled by the sheriff under sections 341.02 and 341.03 of the Revised Code, did not exceed twenty in number, the board shall allow the sheriff not less than fifty cents per meal. \* \* \*" (Emphasis added)

Based upon the preceding statutory authority, the answer to your second question is in the negative. The board cannot allow less than fifty cents per meal where during the year next pre-

ceding the daily average of persons confined or prisoners did not exceed twenty in number.

Question No. 3 requires an interpretation of the two sections cited in your question. Section 341.20, Revised Code, states in pertinent part:

"\* \* \* \* \*"

"The sheriff shall appoint a cook who shall have charge over the preparation of food for the feeding of prisoners and other persons placed in the sheriff's charge. \* \* \* The compensation of the cook shall be payable semi-monthly from the general fund of such county, upon the warrant of the county auditor."

The pertinent part of Section 311.20, Revised Code, reads as follows:

"\* \* \* \* \*"

"On the fifth day of each month the sheriff shall render to the board an itemized and accurate account, with all bills attached, showing the actual cost of keeping and feeding prisoners and other persons placed in his charge \* \* \*. Such bills, when approved by the board, shall be paid out of the county treasury on the warrant of the county auditor. \* \* \*"

To be shown in the accounting, required by Section 311.20, supra, there would have to be submitted a bill for the cook's salary. However, Section 341.20, supra, states that the compensation of the cook shall be payable from the general fund upon warrant of the county auditor. The cook's salary need not be approved each month by the board. Therefore, it is my opinion and you are so advised that the allowance for prisoners' meals does not include the salary of a cook appointed pursuant to Section 341.20, supra.

Your fourth question involves Section 341.06, Revised Code, which states in pertinent part:

"The court of common pleas shall prescribe rules for the regulation and government of the county jail upon the following subjects:

"\* \* \* \* \*"

"(C) Food and its preparation;

"\* \* \* \* \*"

Section 341.19, Revised Code, states in part:

"The board of county commissioners, at the expense of the county, shall provide:

"\* \* \* \* \*"

"(D) Suitable means for the preparation or purchase of food and the serving thereof;

"(E) Food for the prisoners and other persons placed in the sheriff's charge;

"\* \* \* \* \*"

However, Section 341.20, Revised Code, states in part:

"\* \* \* \* \*"

"The sheriff shall appoint a cook who shall have charge over the preparation of food \* \* \*."

Only the Common Pleas Court has the power to prescribe rules for the regulation of food and its preparation. It is the sheriff who appoints a cook who shall have charge over the preparation of food and the county commissioners provide suitable means for preparation or purchase of food and the serving thereof. Thus, it is my opinion and you are so advised that there is no provision for the board of county commissioners on its own initiative to contract out to a private party the duty of feeding the prisoners in the county jail.

Your fifth and last question is answered by Section 311.20, Revised Code, which plainly states in reference to the cost of feeding prisoners:

"\* \* \* Such bills, when approved by the board, shall be paid out of the county treasury \* \* \*."

There is no provision that expenses of the sheriff must be approved prior to the purchase. It is therefore my opinion and you are so advised:

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5. Food purchases made by the sheriff are subject to the approval of the board of county commissioners but only after the monthly account statement has been submitted to them.