

Opinion No. 59-56

June 3, 1959

BY: FRANK B. ZINN, Attorney General

TO: Mr. Dan Sosa, Jr. District Attorney Third Judicial District County Court House Las Cruces, New Mexico

County Commissioners can enter into a legal contract with the City of Las Cruces providing for reimbursement for the actual cost of feeding city prisoners, but not in excess of \$ 1.00 per day per prisoner.

OPINION

{*85} This is in reply to your request for an opinion on the following question:

Can the County Commissioners, by contract with the City of Las Cruces, receive the actual cost of feeding city prisoners, taking into consideration that Section 15-43-14 N.M.S.A. 1953 Compilation may be interpreted as being a restriction of county prisoners and may have no applicability to feeding prisoners for another governmental agency?

It is my opinion that the County Commissioners can enter into a legal contract with the City of Las Cruces, providing for the feeding of prisoners, and be reimbursed the actual cost of feeding city prisoners, but such reimbursement may not exceed the sum of \$ 1.00 per prisoner.

Authority for housing of city prisoners is found in the last paragraph of Section 14-21-25 N.M.S.A. 1953 Compilation and which reads as follows:

"To use the county jail for the confinement or punishment of offenders, **subject to such conditions as are imposed by law**, and with the consent of the board of county commissioners." (Emphasis ours)

{*86} Section 15-43-14 N.M.S.A. 1953 Compilation reads as follows:

"The actual cost of feeding jail prisoners and guards shall be paid quarterly out of the general county fund of the several counties of the state, but in no event shall the amount paid exceed one dollar (\$ 1.00) per day for each prisoner and guard. Provided, no accounts for the feeding of prisoners and guards shall be paid unless the same are fully itemized and verified by the sheriff, and approved by the board of county commissioners; Provided further, that the sheriff shall keep a docket showing the exact time of confinement and release of each prisoner, and that the allowance for feeding of prisoners shall be based on actual meals served."

It is clear from the language of the above quoted statute that the actual cost for feeding of prisoners shall be paid, but such payment shall not exceed the daily sum of \$ 1.00 per prisoner.

In your letter, you state that the actual cost of feeding the city prisoners would be from \$ 1.25 to \$ 1.35 per day for each prisoner. However, in view of the above statutes, and particularly because of the underscored portion of the first mentioned statute, I am of the opinion that the contract between the county and the city may not provide for reimbursement for food costs in excess of the statutory amount of \$ 1.00 per day per prisoner.

By: HILTON A. DICKSON, JR.,

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