

Opinion No. 15-1582

July 14, 1915

BY: FRANK W. CLANCY, Attorney General

TO: Mr. John B. McManus, Superintendent of the Penitentiary, Santa Fe, New Mexico.

No law requiring Penitentiary to care for county prisoners, or fixing a charge for such care.

OPINION

{*156} I have before me letter from the County Clerk of Curry County enclosing you a warrant in payment of accounts for boarding a prisoner from that county at fifty cents per day, in which he says that the County Commissioners allowed the account for fifty cents per day only on the ground that it was the maximum amount allowed by law for boarding prisoners in the 1915 salary law. As to this you have asked my opinion as to whether that law has any relation to charges made by the Penitentiary for boarding county prisoners.

In my opinion that law has no relation whatever to the charges which may be made by the Penitentiary for caring for county prisoners. That act relates to nothing but county affairs, and so far {*157} as I am aware there is no statute whatever which requires the Penitentiary authorities to receive and care for county prisoners, nor any statute regulating the charges which the Penitentiary can make for such expenses. The section of the county salaries bill fixes the "cost of feeding jail prisoners" at not to exceed fifty cents per day, with a proviso that the accounts must be itemized and verified by the sheriff. It must be perfectly clear that this act has no relation to accounts which you may render to the counties for boarding their prisoners. It is a matter of accommodation and benefit to the counties that you receive and care for such prisoners, and if the county authorities see fit to ask you to take care of their prisoners I see no way for them to avoid paying such reasonable charges as the Penitentiary authorities may fix.