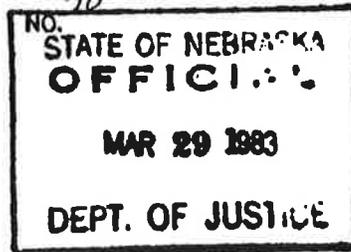


DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509

March 28, 1983



PAUL L. DOUGLAS  
Attorney General  
GERALD S. VITAMVAS  
Deputy Attorney General  
JOHN R. THOMPSON  
Deputy Attorney General

SUBJECT: Neb.Rev.Stat. §47-120 (1982 Cum.Supp.).

REQUESTED BY: Steven J. Mercure, Johnson County Attorney.

OPINION BY: Paul L. Douglas, Attorney General,  
J. Kirk Brown, Assistant Attorney General

QUESTION: 1. Under §47-120, is the county board or  
county sheriff responsible for obtaining  
adequate services and supplies to furnish  
county prisoners with meals, washing, fuel,  
lights and clothing?

CONCLUSION: 1. County Sheriff.

QUESTION: 2. Should the cost of §47-120 services and  
supplies be obtained within the annual budget  
of the county board or county sheriff?

CONCLUSION: 2. County Board.

You have inquired concerning the division of responsibilities between county board and county sheriff for maintenance of county jail facilities and county prisoners under Neb.Rev.Stat. §47-120 (1982 Cum.Supp), operative January 1, 1983. Specifically, you have asked (1) upon whom does the responsibility fall to obtain or contract for §47-120 services and supplies, and (2) within whose budget are those expenses to be placed.

With reference to the responsibilities of the county board, §47-120 states:

[T]he county board . . . shall provide proper quarters and adequate equipment for the preparation and serving of all meals furnished

Assistants

Bernard L. Packett  
Mel Kammerlohr  
Harold I. Mosher  
Ralph H. Gilian  
Terry R. Schaeff

Marilyn B. Hutchinson  
Patrick T. O'Brien  
J. Kirk Brown  
Royce N. Harper  
Sharon M. Lindgren

Ruth Anne E. Galter  
G. Roderic Anderson  
Dale A. Comer  
Shanley D. Cronk  
Martel J. Bundy

Mark D. Starr  
Dale D. Brodkey  
Frank J. Hutfless  
Linda L. Willard  
Robert M. Soshnik

to all prisoners confined in the county jail.  
. . . [T]he county board shall provide for all  
washing, fuel, lights, and clothing for prisoners  
. . . . Payment for all purchases shall only be  
made by the county board on the original invoices  
submitted by the sheriff.

The responsibilities of the county sheriff under §47-120 are described as follows:

The county sheriff shall have full charge and control of such services. . . . Supplies of every nature entering into the furnishing of meals, washing, fuel, lights, and clothing to the prisoners confined in the county jail shall be purchased and provided, under the direction of the county sheriff. (Emphasis added.)

The county sheriff is also required to present original invoices for payment to the county board for county jail goods, supplies, and services certifying the accuracy of the invoices, that items invoiced have been received, that the items will be devoted exclusively to §47-120 purposes, and that the price charged is reasonable and just.

1. In answer to your first inquiry, it is our opinion that §47-120 anticipates that the county sheriff, and not the county board, has the responsibility to seek out, contract for and obtain §47-120 services. As we view it, the only direct responsibility of the county board under §47-120 relates to providing "proper quarters" and adequate equipment for the preparation and serving of all meals to county prisoners. All other §47-120 services and supplies are to be "purchased and provided" under the direction of the sheriff.

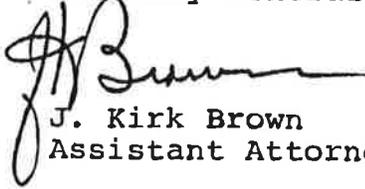
2. You next inquire whether §47-120 services and supplies should be contained within the annual budget submitted by the sheriff to the county board or whether the county board should separately budget for this expense. Section 47-120 does not provide guidance on this question nor have we found assistance elsewhere in the statutes.

We understand, however, that present county budget forms employed by the State Auditor's Office provide that county jail expenses such as those anticipated by §47-120 are a budget item under the county's general fund expenditures and not under the sheriff's office budget. In the absence of any factors which compel a different conclusion and believing that uniformity of practice may be the highest goal to be achieved here, we recommend that §47-120 expenses be treated

as a county budget item. We reach this conclusion recognizing that cooperation between the county board and county sheriff on this budget item will be essential to an accurate budgeting process.

Yours truly,

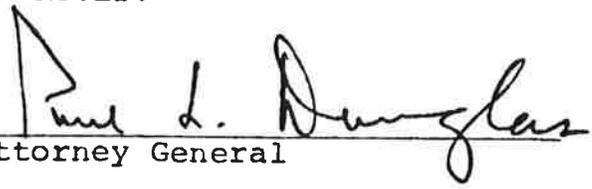
PAUL L. DOUGLAS  
Attorney General



J. Kirk Brown  
Assistant Attorney General

JKB:jmh

APPROVED:

  
Paul L. Douglas  
Attorney General