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ATTORNEY GENERAL  
STATE OF ILLINOIS  
SPRINGFIELD

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FILE NO. S-1138

**COUNTIES:**

Authority to Charge  
Other Law Enforcement  
Agencies for Incar-  
ceration of Prisoners  
in County Jail

Honorable John G. Satter, Jr.  
State's Attorney  
Livingston County  
Pontiac, Illinois

Dear Mr. Satter:

This responds to your letter requesting my opinion as to whether the sheriff of Livingston County may charge a fee of other law enforcement agencies in the county for housing their prisoners in the county jail. In my opinion, the sheriff is not authorized to charge such a fee. However, I am of the opinion that Livingston County may contract with

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the committing authorities to provide for the payment of the costs involved.

A sheriff in Illinois is entitled to charge and receive only such fees as are provided for by law. (Bryner v. Bd. of Supervisors, 24 Ill. 195; 1940 Ill. Att'y. Gen. Op. 51.) The statute setting forth those fees which the sheriff is authorized to impose is section 19 of "AN ACT concerning fees and salaries etc." (Ill. Rev. Stat. 1975, ch. 53, par. 37), which provides in pertinent part that:

"§ 19. The fees of sheriffs in counties of the first and second class shall be as follows:

\* \* \*

For committing each prisoner to jail, in each county, \$2 payable out of county treasury, unless paid by the defendant.

For discharging each prisoner from jail, in each county, \$2 payable out of the county treasury, unless paid by the defendant.

For dieting each prisoner, such compensation to cover the actual cost as may be fixed by the county board, but such compensation shall not be considered a part of the fees of the office.

\* \* \*

Nowhere in the statute is there language that could be construed as authorizing a sheriff to charge a fee of other law enforcement agencies for housing their prisoners.

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It is therefore my opinion that the sheriff may not impose such charges himself. Charges for the housing of prisoners of other law enforcement agencies may be provided for, however, as part of a contract between Livingston County and the other governmental units involved.

Section 11-3-2 of the Illinois Municipal Code (Ill. Rev. Stat. 1975, ch. 24, par. 11-3-2) provides that:

"The corporate authorities of each municipality may use the county jail, with the consent of the county board, for the confinement or punishment of offenders, subject to whatever conditions are imposed by law."

In applying this provision to a situation similar to that which you describe, my predecessor, in his Opinion No. F-1890 (1968 Ill. Att'y. Gen. Op. 14) concluded that:

" \* \* \* [M]unicipalities are authorized under Section 11-3-2 to enter into contracts with the county for the use of the county jail for the confinement of persons for violation of municipal ordinances. The county, of course, has the power to make contracts. (Ill. Rev. Stats. 1965, chap. 34, par. 303). Thus, a county may agree with municipalities to keep confined in the county jail prisoners who have violated municipal ordinances and the municipalities may agree to pay the necessary expenses of such confinement."

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I am in complete agreement with the conclusion reached by my predecessor and I therefore advise that pursuant to section 11-3-2 of the Illinois Municipal Code, the Livingston County Board may contract to accept municipal prisoners in the county jail provided that the municipalities involved agree to pay the expenses of such confinement. Constitutional and statutory provisions relating to intergovernmental cooperation would also authorize such contracts. See section 10 of Article VII of the Constitution and the Intergovernmental Cooperation Act (Ill. Rev. Stat. 1975, ch. 127, par. 741 et seq.).

Very truly yours,

A T T O R N E Y   G E N E R A L