

September 14, 2000

The Honorable David McEachran  
Whatcom County Prosecuting Attorney  
311 Grand Avenue, Suite 201  
Bellingham, WA 98225-4079

Dear Mr. McEachran:

By letter previously acknowledged, you have requested our opinion on the following paraphrased questions:

- 1. May a county obtain reimbursement from a city for medical expenses incurred for an inmate in the county jail who was arrested and booked into the jail by city police officers, when felony charges have been filed by the county prosecutor but the criminal charges are pending?**
- 2. May a county obtain such reimbursement if the medical expenses are incurred when a jury has found the defendant guilty but sentence has not yet been imposed?**
- 3. May a county obtain such reimbursement if the medical expenses are incurred when the defendant is serving time in the county jail after having been found guilty and sentenced on a felony charge?**

#### **BRIEF ANSWER**

I answer your first and second questions in the affirmative, and your third question in the negative. The county, as the governmental unit operating the jail, may receive reimbursement from the city for certain medical expenses incurred on behalf of defendants who are in jail pending disposition of criminal charges that were initiated by city police. This obligation applies only to expenses incurred prior to the time the court disposes of the charges. When the defendant is convicted of the offense, the charges are disposed of by sentencing and not merely by the return of a guilty verdict. Accordingly, when the expenses are incurred prior to trial, or following trial but before sentencing, then the city must reimburse the county for those expenses.

On the other hand, if the expenses are incurred after sentencing, while the defendant is in jail serving that sentence, then the city has no obligation to reimburse the county.

### **BACKGROUND**

You pose your questions in the context of a hypothetical set of facts that you provided in your letter. Those hypothetical facts are very helpful for placing your legal questions into context, and therefore I will use the same hypothetical in this response. Your hypothetical facts, paraphrased slightly, are as follows:

Bellingham police officers arrested John Doe for residential burglary within the City of Bellingham and booked him into the Whatcom County Jail. The Whatcom County Prosecutor charged Mr. Doe with residential burglary, a felony, and at arraignment the defendant pled "not guilty". After entering his plea, the defendant complained of chest pains and was taken to a local hospital, where he was examined and admitted for the day. He incurred \$5,000 in medical expenses before being returned to the county jail, where he remained until trial. Following a trial, the jury found the defendant guilty of residential burglary, and he again returned to the jail to await sentencing. During that time, he again complained of chest pains, and deputies again transported him to the hospital. This time he was treated and admitted for two days, incurring an additional \$10,000 in medical expenses before being returned to the jail. The superior court later sentenced him to six months in the county jail on the burglary charge. After sentencing, he complained of chest pains, and deputies transported him to the hospital for a third time. On that occasion he was again admitted for two days, incurring an additional \$8,000 in medical expenses before returning to the jail.

Mr. Doe is found to be unable to pay his own medical expenses, although he is not eligible for medical care under RCW 74.09 or for coverage from private sources. There are no interlocal agreements between the city and the county for medical costs of individuals arrested by city police officers.

### **ANALYSIS**

State law requires that inmates held in custody in county jails receive necessary medical care, including emergency services. RCW 70.48.130. The statute also provides for the apportionment of the costs. The portions of the statute relevant to your questions read:

To the extent that a confined person is unable to be financially responsible for medical care and is ineligible for the department's medical care programs under chapter 74.09 RCW, or for coverage from private sources, and in the absence of an interlocal agreement or other contracts to the contrary, the

governing unit may obtain reimbursement for the cost of such medical services from the unit of government whose law enforcement officers initiated the charges on which the person is being held in the jail: PROVIDED, That reimbursement for the cost of such services shall be by the state for state prisoners being held in a jail who are accused of either escaping from a state facility or of committing an offense in a state facility.

There shall be no right of reimbursement to the governing unit from units of government whose law enforcement officers initiated the charges for which a person is being held in the jail for care provided after the charges are disposed of by sentencing or otherwise, unless by intergovernmental agreement pursuant to chapter 39.34 RCW.

RCW 70.48.130.

The Legislature defined the term “governing unit” to mean “the city and/or county or any combinations of cities and/or counties responsible for the operation, supervision, and maintenance of a jail”. RCW 70.48.020(7). In the context of your questions, this means that Whatcom County is the governing unit. Under the hypothetical facts you propose, the “unit of government whose law enforcement officers initiated the charges” is the City of Bellingham.

The statute therefore provides that the city is obligated to reimburse the county for necessary medical expenses incurred by a defendant when: (1) the defendant is in custody in the county jail; (2) the charges were initiated by city police; (3) the defendant is unable to pay his or her own expenses, either directly or through other private sources; (4) the defendant is ineligible to have the expenses paid under RCW 74.09; and (5) as of the date the expenses were incurred, the charges were not yet “disposed of by sentencing or otherwise”. RCW 70.48.130. Alternatively, if the city and county had an agreement in place on the subject, then that agreement, rather than the statute, would control. Id.

This means that we can quickly dispose of your first question. In that question, the defendant was charged but was in jail awaiting trial at the time the expenses were incurred. City police initiated the charges, and other payment possibilities are unavailable. Since the defendant had just pled “not guilty” at arraignment, the court clearly had not yet disposed of the charges. Under those circumstances, the statute clearly requires the city to reimburse the county for the charges. Id.

Similarly, the statute readily resolves your third question. In that situation, the defendant was tried, convicted, and sentenced before the expenses were incurred. He was serving his sentence in the county jail at the time. By that point in the process, the charges had been “disposed of by sentencing”, and therefore no right to reimbursement by the city arises. Id.

This leaves us with your second question. In that question, the medical expenses were incurred after the jury returned a verdict of guilty but before the court imposed sentence. Under

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those facts, it is necessary to determine whether the charges have been “disposed of by sentencing or otherwise”. Id. If they have been, then the city is not obligated to reimburse the county, but if the charges have not yet been disposed of, then reimbursement is required. Id.

The statute does not explicitly describe the circumstances under which charges are “disposed of”.<sup>1</sup> It specifies one method by which they can be disposed of, namely by “sentencing”. Therefore, if the court has imposed sentence, then the charges are “disposed of”, and reimbursement is no longer required. Id. Sentencing, obviously, takes place after either a return of a guilty verdict or a guilty plea.<sup>2</sup> Therefore, if we were to conclude that the return of a verdict of guilty disposes of the charges, then the charges would never be disposed of by sentencing, because they would always be disposed of prior to the case reaching that stage.<sup>3</sup> That construction would therefore make the words “by sentencing” irrelevant. Whatcom County v. City of Bellingham, 128 Wn.2d 537, 546, 909 P.2d 1303 (1996). Since the statute informs us that the charges are disposed of by sentencing, it therefore seems logical to conclude that the return of a verdict of guilty by the jury does not dispose of them. Id. Accordingly, when the defendant incurs medical expenses after the verdict of guilty, but before sentencing, the county is entitled to reimbursement from the city. RCW 70.48.130.

I trust that this analysis will be of assistance. I should also note that we have treated this as an informal, rather than a formal, opinion. This means that, while this letter states the considered views of the undersigned assistant attorney general, it cannot be regarded as a formal opinion of the Attorney General.

Very truly yours,

CHRISTINE O. GREGOIRE  
Attorney General

JEFFREY T. EVEN  
Assistant Attorney General

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<sup>1</sup> The Legislature initially enacted RCW 70.48.130 in 1977. Laws of 1977, 1st Ex. Sess., ch. 316, § 13. I have examined the legislative committee file and Governor Ray’s personal file on the bill, both of which are currently housed in the State Archives. Neither file includes any indication as to the meaning of the term “disposed of by sentencing or otherwise”.

<sup>2</sup> Obviously, charges can also be disposed of without the defendant being convicted, such as if the court dismisses the charges or the jury returns a verdict of “not guilty”. Your questions do not implicate these possibilities.

<sup>3</sup> The other way in which the defendant can be convicted, of course, is by guilty plea. There is no apparent reason to distinguish a guilty plea from a jury verdict in this context. It therefore does not seem reasonable to consider the possibility that a guilty verdict might dispose of charges, but that in the case of a guilty plea, the charges would not be disposed of until sentencing.