

in a newspaper or general circulation in the area where the armory is located, describing the facilities to be rented and the time and place for taking the bids therefor.

FRANK J. KELLEY,
Attorney General.

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CITIES AND VILLAGES: Confinement of prisoners.

A city or village must meet the expense of confining persons in county jails charged with or convicted of violations of city or village ordinances.

No. 4509

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Mr. William F. Delhey
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You have asked whether a city or village is liable to the county for the expense of confining in the county jail persons charged with or convicted of violating city or village ordinances.

As you pointed out it is clear that as to village ordinance violations the expenses involved for lodging prisoners in the county jail are to be paid by the village. The specific authority is found in Section 8, Chapter VI, Act 3, PA 1895, known as the general villages act:

"Every village shall be allowed the use of the jail of the county in which it is located; for the confinement of all persons liable to imprisonment under the ordinances thereof, or under any of the provisions of this act; and the sheriff, or other keeper of such jail, or other place of confinement or imprisonment, shall receive and safely keep any person committed thereto as aforesaid, until lawfully discharged. In all cases of imprisonment for breaches of the penal laws of this state, such receiving and keeping in such jail shall be at the expense of the county in which the village is located; in all other cases it shall be at the expense of the village."¹

However, as you also pointed out, as to fourth class cities the statute pertinent to the use of the county jail by such cities contains no provision with respect to payment. That statute, Section 8, Chapter X, Act 215, PA 1895,² provides as follows:

"Every city shall be allowed the use of the jail of the county in which it is located, for the confinement of all persons liable to imprisonment under the ordinances thereof, or under any of the provisions of this act; and any person so liable to imprisonment may be sentenced to, and committed to imprisonment, in such county jail or in the city prison, or other place of confinement provided by the city, or authorized by law, and the sheriff or other keeper of such jail, or

¹ CL 1948 § 66.8; MSA 1961 Rev Vol § 5.1278.

² CL 1948 § 90.8; MSA 1949 Rev Vol § 5.1729.

other place of confinement or imprisonment, shall receive and safely keep any person committed thereto as aforesaid, until lawfully discharged."

The statutes governing home rule cities contain no controlling provisions.

A similar question was presented in the case of *The People on the relation of Phineas Mixer v. The Board of Supervisors of Manistee County*³ in which the Michigan Supreme Court stated:

"The first class of charges, for services under the city ordinances, we think cannot be reckoned as county charges. They are in no sense services rendered to the county, and there is no statute which requires the county to pay for them. City by-laws and ordinances are entirely of local application, and are intended for local benefit. They are passed by a body independent of the county, and in whose action the county has no voice. The suppression of crime and disorder is made chargeable on the county in many cases, not so much because the county, as such, is concerned, as because the county is the division of country set apart for all ordinary jurisdiction in criminal matters, and the expenses have been usually apportioned over the region in which such courts and their juries act. But the municipal expenses of city police matters have been quite as uniformly made chargeable to the city itself, and in the absence of any statute to the contrary, such must be the rule of law."

Mixer has not been overruled. Thus, in the absence of a statute to the contrary, the expense about which you inquire must be charged to the city or village. The rule of the *Mixer* case as to a fourth class city would be equally applicable to a home rule city. The rule would also apply to villages incorporated under the home rule act for villages.⁴

It is my opinion, therefore, that the expense of confining prisoners in the county jail charged with or convicted of violating city or village ordinances must be met by the city or village.

FRANK J. KELLEY,
Attorney General.

³ 26 Mich. 422, 424 (1873).

⁴ See *Gildersleeve v. Lamont*, 331 Mich. 8 (1951) for the discussion of the incorporation of villages under the home rule for villages act and the effect of the provisions of the general villages act thereon.