

**OPINION**  
**46-75**

November 6, 1946            (OPINION)

COUNTY

RE: Not Required to Furnish Living Quarters for Sheriff

This is in reply to your letter of November 4 addressed to the Attorney General.

You inquire whether or not it is the duty of the county to furnish living quarters for the sheriff.

There is no law requiring the counties to furnish living quarters for the sheriff or for the other county officers, but it is the duty of the county to furnish offices for the several county officers.

With reference to jails, section 12-4401 of the North Dakota Revised Code of 1943 provides, "There shall be established and kept in every county, by authority of the board of county commissioners and at the expense of the county a jail for the safekeeping of prisoners lawfully committed."

Section 12-4412 provides that "The sheriff shall have charge of the county jail of his county and of all persons by law confined therein, and shall conform in all respects to rules and directions which may be made by the judge of the district court from time to time and communicated to the sheriff by the board of county commissioners."

Under section 12-4420, the sheriff is required to act as keeper of the jail unless he should designate one of his deputies as such jailer. Section 12-4421 specifies the duties of the jailer. Section 12-4410 provides that the county commissioners shall cause the necessary repairs to be made in accordance with recommendations and complaints of the grand jury.

With reference to your question as to liability of the sheriff or keeper in case of mishap, such as suicide or fire in his absence, the sheriff would be held liable only in cases where he was negligent in the performance of his duty. If in the discharge of his duties as sheriff and jailer, he takes the necessary precaution and complies with the statutes and regulations made by the district judge in the matter of taking care of prisoners who are in his custody, he would not be liable unless it can be shown that he was careless and negligent in the discharge of his duties.

NELS G. JOHNSON

Attorney General