

January 16, 1939

Mr. W. A. Messer
County Attorney
Bell County
Belton, Texas

Dear Mr. Messer:

Opinion No. 0-107.
Re: Constable fees in con-
nection with highway
patrol arrests.

Your request for an opinion on the following question has been received by this office.

Where an arrest is made by the highway patrol and a plea of guilty is entered by the defendant, is the constable of that precinct entitled to collect the usual fee of \$4.50?

In reply to your question, you are respectfully advised that it is the opinion of this office that the constable is not entitled to a fee in such cases.

Article 1065, Code of Criminal Procedure, provides in part as follows:

"The following fees shall be allowed the sheriff, or other peace officer performing the same services in misdemeanor cases, to be taxed against the defendant on conviction:

1. For executing each warrant of arrest or capias, or making arrest without warrant, two dollars.
2. For summoning each witness, seventy-five cents.
3. For serving any writ not otherwise provided for, one dollar.

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4. For taking and approving each bond, and returning the same to the court house, when necessary, one dollar and fifty cents.

5. For each commitment or release, one dollar.

6. Jury fee, in each case where a jury is actually summoned, one dollar."

We see from this statute that each fee is allowed for a specific service performed. If the constable performs none of these services, he is not entitled to a fee in the case.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

Clara G. Gethman
Assistant

COB:CFS

APPROVED:

Gen. G. M. Messer
ATTORNEY GENERAL OF TEXAS

OK.
TRG.