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OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

RALD C. MANN
ATTORNEY GENERAL

March 27, 1939

Mr. Fred Morris
County Auditor
Livingston, Texas

Pelk Co

Dear Sir:

Opinion No. O-533

Re: Article 3899 does not set a maximum amount that can be claimed by a sheriff for expense of maintenance, depreciation and operation of automobiles.

This will acknowledge receipt of your letter of March 22, 1939, in which you submit for an opinion of this Department the following question:

"Our sheriff, claims an expense of office, as follows, gas, oil, garage repairs & depreciation on two cars in his department, a total of \$2,092.32, if I understand Art. 3899, the maximum that can be claimed is \$1,200.00 for two cars, (owned by sheriff) in one year"

You do not state whether the sheriff of your county is on the fee or salary system but we have determined that since the population of Pelk County, as reflected by the last Federal Census, is 17,555 he is most likely on a fee basis. Assuming this to be true, his expenses of office are regulated by Section (a) Article 3899, Revised Civil Statutes of Texas, 1925. We specifically call your attention to that portion of Section (a) Article 3899, reading as follows:

"The Commissioners' Court of the county of the sheriff's residence may, upon the written and sworn application of the sheriff stating

the necessity therefor, allow one or more automobiles to be used by the sheriff in the discharge of his official duties, which, if purchased by the county, shall be bought in the manner prescribed by law for the purchase of supplies and paid for out of the General Fund of the county and they shall be and remain the property of the county. The expense of maintenance, depreciation and operation of such automobiles as may be allowed, whether purchased by the county or owned by the sheriff or his deputies personally, shall be paid for by the sheriff and the amount thereof shall be reported by the sheriff on the report above mentioned, in the same manner as herein provided for other expenses."

As will be noted from the above quoted language, the expense of maintenance, depreciation and operation of such automobiles allowed the sheriff whether owned by him personally, his deputies personally or the county shall be paid for by the sheriff and reported by the sheriff on the report required by Article 3899.

We fail to find any limitation in Article 3899 or elsewhere in the statutes as to the amount that can be claimed by the sheriff for maintenance, depreciation and operation of automobiles. Such Article merely requires that:

"....such expense account shall be subject to the audit of county auditor, if any, otherwise by the Commissioners' Court; and if it appears that any item of such expense was not incurred by such officer or such item was not a necessary expense of office, such item shall be by such auditor or court rejected, in which case the collections of such item may be adjudicated in any court of competent jurisdiction."

It is, therefore, the opinion of this Department and you are so advised that there is no limitation upon the amount that a sheriff can claim as expense of

~~CONFIDENTIAL~~

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office for maintenance, depreciation and operation of automobiles used in the execution of the duties of his office except that they be ".....a necessary expense of office."

Very truly yours

ATTORNEY GENERAL OF TEXAS

By *Lloyd Armstrong*

Lloyd Armstrong
Assistant

LA:AW

APPROVED:

J. F. Moore

FIRST ASSISTANT ATTORNEY GENERAL