



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

LD C. MANN
ATTORNEY GENERAL

Honorable Lotus Haasiek
County Auditor
Hopkins County
Sulphur Springs, Texas

Dear Sir:

Opinion No. G-1048

Re: Does arresting officer have authority to give special privileges in the payment of misdemeanor fines after defendant has plead guilty or been convicted by trial. In case a partial payment is made on a misdemeanor fine and the balance is impossible to collect, how is the money collected to be divided among the officers where all officers except the constable and justice of the peace are on a salary basis?

We are in receipt of your opinion request bearing date of November 16, 1939, wherein you propound the above set out questions:

Article 787 of the Code of Criminal Procedure, Vernon's Annotated Code of Criminal Procedure, 1925, provides as follows:

"When a judgment has been rendered against a defendant for a pecuniary fine, if he is present, he shall be imprisoned in jail until discharged as provided by law. A certified copy of such judgment shall be sufficient to authorize such imprisonment."

Article 788 of Vernon's Annotated Code of Criminal Procedure provides as follows:

"When a pecuniary fine has been adjudged against a defendant not present, a capias shall forthwith be issued for his arrest. The sheriff shall execute the same by placing the defendant in jail."

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In a case where only a partial payment is made on a misdemeanor fine and the costs therein assessed and it is impossible to collect the balance of said fine and costs, and where all officers except the constable and justice of the peace are on a salary basis, then and in that event the money collected on the costs shall be divided among the officers in the following manner: The officers who are serving on a fee basis shall take their proportionate part of the fine collected, based on the percentage of the costs collected, and shall thereafter handle such money in the same manner as other fees collected in their official capacities. The portion of the costs collected which would be due to the officers who are on a salary basis shall be taken by such officers and placed in the officers' salary fund, in accordance with the statutes pertaining thereto. In all instances the "fine" goes to the county.

Trusting that the above will satisfactorily answer your questions, as propounded, we remain

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

Edgar Cale
Edgar Cale
Assistant

EC:AMM

APPROVED DEC 2, 1939

Gene G. Mann

ATTORNEY GENERAL OF TEXAS

