



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**GERALD C. MANN
~~WILLIAMSON~~
ATTORNEY GENERAL**

Hon. Guy Turner
County Auditor
Denton County
Denton, Texas

Dear Sir:

Opinion No. 0-1102

Re: Can the county pay a sheriff on a salary basis for his meals when on official business either in or out of the county?

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

Your letter reads in part as follows:

"Our sheriff is paid on a salary basis and the county owns the cars.

"I would like an opinion as to whether or not the county can pay for his meals when on official business either in or out of the county."

Section (b) of Article 3899, R. C. S. reads as follows:

"(b) Each officer named in this Act, where he receives a salary as compensation for his services, shall be empowered and permitted to purchase and have charged to his county all reasonable expenses necessary in the proper and legal conduct of his office, premiums on officials' bonds, premium on fire, burglary, theft, robbery insurance protecting public funds and including the costs of surety bonds for his deputies, such expenses to be passed on, pre-determined and allowed in kind and amounts, as nearly as possible, by the commissioners' court once each month for the ensuing month, upon the application by each officer, stating the kind, probable amount of expenditure and the necessity for the expenses of his office for such ensuing month, which application shall, before presentation to said court, first be endorsed by the county auditor, if any,

otherwise the county treasurer, only as to whether funds are available for payment of such expenses. 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 purchase equipment for a bureau of criminal identification, such as cameras, finger print cards, inks, chemicals, microscopes, radio and laboratory equipment, filing cards, filing cabinets, tear gas and other equipment in keeping with the system in use by the Department of Public Safety of this State, or the United States Department of Justice and/or Bureau of Criminal Identification."

"Such purchases shall be made by each officer, when allowed, only by requisition in manner provided by the County Auditor, if any, otherwise by the Commissioners' court. Each officer shall, at the close of each month of his tenure of office, make an itemized and sworn report of all approved expenses incurred by him and charged to his county, accompanying such report with invoices covering such purchases and requisitions issued by him in support of such report. If such expenses be incurred in connection with any particular case, such report shall name such case. Such report, invoices and requisitions shall be subject to the audit of the county auditor, if any, otherwise by the commissioners' court, and if it appears that any item was not incurred by such officer, or that such item was not a necessary or legal expense of such office, or purchased upon proper requisition, such item shall be by said County Auditor or court rejected, in which case the payment of such item may be adjudicated in any court of competent jurisdiction. All such approved claims and accounts shall be paid from the Officers' Salary Fund unless otherwise provided herein.

"The commissioners' court of the county of the sheriff's residence may, upon the written and sworn application of such officer, stating the necessity therefor, allow one or more automobiles to be used by the sheriff in the discharge of official business, 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 reported and paid in the same manner as

herein provided for other expenses.

"Where the automobile or automobiles are owned by the sheriff or his deputies, they shall be allowed four (4¢) cents for each mile traveled in the discharge of official business, which sum shall cover all expenses of the maintenance, depreciation and operation of such automobile. Such mileage shall be reported and paid in the same manner prescribed for other allowable expenses under the provisions of this section. No automobile shall be allowed for any Deputy Sheriff except those regularly employed in outside work. It shall be the duty of the county auditor, if any, otherwise the commissioners' court, to check the speedometer reading of each of said automobiles, owned by the county once each month and to keep a public record thereof; no automobile owned by the county shall be used for any private purpose."

On January 29, 1936, this department held in an opinion written by Hon. Joe J. Alsup, Assistant Attorney General, addressed to Hon. W. B. Walker, County Attorney, Coleman County, Texas, that the provisions of Article 3899, R. C. S. are broad enough to include such expenses as hotel bills and meals for a sheriff or other county officers while away from the county seat on official business assuming that the same be necessary. For under the terms of Article 3899, all reasonable and necessary expenses are allowable and we feel that in some cases hotel bills and meals would be proper and necessary.

We quote from an opinion written by Hon. Joe J. Alsup, Assistant Attorney General, addressed to Mr. Orn Smith, sheriff of Johnson County, as follows:

"A sheriff is entitled to all reasonable expenses necessary in the proper and legal conduct of his office. If in the discharge of his official duties it becomes necessary for said sheriff to go without the confines of his county, clearly all expenses incurred when reasonable and necessary should be paid as expense of office. It would be manifestly unfair to require the sheriff to pay this amount out of his salary."

Under the terms of Article 3899, supra, all reasonable and necessary expenses are allowable and we believe that expenses for meals would be proper and necessary.

You are respectfully advised that it is the opinion

Hon. Guy Turner, page 4

0-1102

of this department that the county can pay for the meals of the sheriff when he is on official business away from the county seat, either in or out of the county.

Trusting that the foregoing answers your inquiry, we remain

Yours very truly

ATTORNEY GENERAL OF TEXAS

By s/Ardell Williams
Ardell Williams
Assistant

AW:AW:wc

APPROVED AUG 3, 1939
s/Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

Approved Opinion Committee By s/WRK Chairman