



**OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN**

**GERALD C. MANN
ATTORNEY GENERAL**

Honorable T. A. Wilkinson
County Auditor
Hill County
Hillsboro, Texas

Dear Sir:

Opinion No. O-3976
Re: Compensation for mileage
necessarily traveled by Sheriff
and Constables of Hill County
in misdemeanor and felony cases.

Your letter of September 5, 1941, requesting an opinion of this Department, reads as follows:

"The Sheriff of Hill County is compensated on a salary basis and the Constables of Hill County are compensated on fee basis.

"What mileage fees are the Constables of Hill County entitled to in a felony case?

"What mileage fees are the Constables of Hill County entitled to in a misdemeanor?

"Is the Sheriff of Hill County entitled to any mileage fees?"

Hill County has a population of 38,365 inhabitants, according to the 1940 Federal Census, and as stated in your letter, the Sheriff of said County is compensated on a salary basis, and the Constables are compensated on a fee basis.

As shown above, Hill County has a population of less than 40,000 inhabitants. Article 1030, Code of Criminal Procedure, is applicable to said county, relative to the fees and mileage which the Sheriff and Constables are entitled to in felony cases. The constables of Hill County, being on a fee basis, are entitled to such mileage, in felony cases, as is provided in Articles 1020 and 1030 of the Code of Criminal Procedure.

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The above mentioned constables are entitled to such mileage in misdemeanor cases as is provided by Article 1065, Code of Criminal Procedure, to be taxes against defendants on conviction, and Article 1055, C. C. P., as provided therein.

The Sheriff of Hill County, being compensated on a salary basis, is not personally entitled to any mileage under the above mentioned statutes in view of Sections 3, 4 and 5 of Article 3912e, Vernon's Annotated Civil Statutes, but the Sheriff is required to collect all fees and mileage authorized by law and deposit the same in the officers' salary fund. However, under Article 5899, Vernon's Annotated Civil Statutes, a sheriff who is compensated on an annual salary basis for his services should be paid the sum of four cents for each mile actually and necessarily traveled by automobile in the discharge of his official duties, where the automobile is owned by the sheriff.

Trusting that the foregoing fully answers your inquiry, we are

Yours very truly

APPROVED SEP 20, 1941

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FIRST ASSISTANT
ATTORNEY GENERAL

ATTORNEY GENERAL OF TEXAS

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By Ardell Williams
Assistant

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