



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**WAGGONER CARR  
ATTORNEY GENERAL**

May 13, 1966

Honorable Jack Young  
District Attorney  
154th Judicial District  
Muleshoe, Texas

Opinion No. C-683

Re: Under Vernon's Code of Criminal Procedure, at what rate should the county pay the court reporter for preparing statement of facts and transcripts in in cases involving paupers and those unable to pay or give security for costs, and related questions.

Dear Mr. Young:

In a recent opinion request you point out that the new Code of Criminal Procedure has left in question the rate that a county should pay court reporters for preparing statement of facts and transcripts in cases involving paupers and those unable to pay or give security for the same. Your request for our opinion asks three questions:

"1. Article 40.09, Paragraph 5, Texas Code of Criminal Procedure states in part as follows, to-wit: '. . . Upon certificate of the court that this service has been rendered, payment therefor shall be made from the General Funds by the county in which the offense is alleged to have been committed. . . .' At what rate shall the county pay the Court Reporter for such transcription?

"2. Is it proper expenditure of County funds '. . . by the County in which the offense is alleged to have been committed . . . .' to pay for an additional copy, or copies of such transcription of the Reporter's notes for the District or County Attorney where such copy or copies are to be used in briefing a case on appeal, on future trials of companion cases growing out of the same transaction, for impeachment or other purposes? If such expenditure is authorized at what rate is the county

authorized to reimburse the Court Reporter for such copy or copies?

"3. Where counties are authorized to pay at a rate per hundred words for transcription of the Court Reporter's notes, is it necessary to count each individual word or is a reasonable estimation acceptable? Assuming a twenty five line page of transcription containing question and answer testimony, argument of counsel, pre-trial motions, and/or arguments of counsel in a 230-240 word per page estimate a fair estimate?"

In answer to your first and third questions, Article 40.09, paragraph 5 of Vernon's Code of Criminal Procedure, does not outline what the court reporters shall be paid or what is a reasonable amount for preparing the statement of facts and transcripts. In the absence of a statutory provision setting forth the amount to be paid, it is a logical conclusion that a reasonable amount should be paid.

Article 40.09, paragraph 5, states that the court shall certify that this service has been rendered. When the court so certifies, it can state in its order a reasonable amount to be paid the court reporter.

You have pointed out that although there is no statutory authority for the amount to be paid court reporters; Article 2324, Vernon's Civil Statutes, may be used as a guide line, and particularly paragraph 3 thereof, which provides that the reporter shall receive as compensation therefor the sum of not more than thirty cents (30¢) per one hundred (100) words for the original thereof. As to the amount to be paid a court reporter for the preparation of a duplicate copy of a statement of facts, it is also a matter within the discretion of the court.

In answer to your second question, this office ruled in Attorney General's Opinion No. V-976 (1949) that the commissioners court was authorized to pay for transcripts of the evidence at an examining trial, ordered by the District Attorney, on proper certification from him of the necessity for the transcript as a reasonable expense necessary in the proper and legal conduct of his office. We therefore answer your second question in the affirmative.

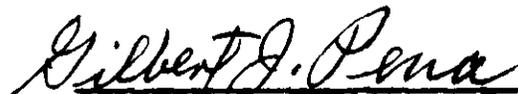
S U M M A R Y

In the absence of a statutory provision setting forth the amount to be paid the court reporter for preparing a statement of facts and transcripts, in cases involving paupers, a reasonable amount should be paid. The trial judge can certify in its order what that reasonable amount should be.

It is a proper expenditure of county funds to pay for an additional copy of such statement of facts for the use of the District or County Attorney in those instances where a copy thereof is a reasonable expense necessary in the proper and legal conduct of their offices.

Yours very truly,

WAGGONER CARR  
Attorney General of Texas

  
GILBERT J. PENA  
Assistant Attorney General

GJP/dt

APPROVED

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