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MS

NANCY F. BRASWELL
AUDITOR

LINDA PARKS
ASSISTANT AUDITOR

October 7, 1991

RR-236

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Opinion Committee

Ms. Madeleine Johnson
Chair - Opinion Committee
Attorney General's Office
P.O. Box 12548
Austin, Texas 78711-2548

RE: Opinion Request of the Smith County Auditor
pursuant to 41.007 Texas Government Code

Dear Opinion Committee:

I recently requested an opinion from the Smith County District Attorney in accordance with the provisions of section 41.007 of the Texas Government Code. A copy of my request dated October 2, 1991, is attached hereto as Exhibit "A" and incorporated herein for all purposes. An assistant district attorney rendered an opinion, a copy of which is attached hereto as Exhibit "B" and incorporated herein for all purposes. I disagree with the assistant district attorney's opinion.

Please address the following:

1. Whether a judge can require a defendant to reimburse the county for compensation paid to interpreters relating to a criminal prosecution as costs of court?
2. Whether a judge can require a defendant to reimburse the county for compensation paid to interpreters relating to a criminal prosecution as a condition of probation pursuant to Article 42.12 of the Code of Criminal Procedure?
3. Whether it is unconstitutional to require a non-English speaking defendant to reimburse the county for compensation paid to interpreters relating to a criminal prosecution under the Equal Protection Clause of the U.S. Constitution?
4. If a judge lacks the authority to require a defendant to reimburse the county for compensation paid to interpreters relating to a criminal prosecution, then what does the auditor, do

ACCOMPANIED BY ENCLOSURES
FILED SEPARATELY

with the monies collected from such defendants pursuant to court orders imposing such fees as "costs?" This is not a hypothetical question. There have been several instances in which this has occurred.

5. If a judge lacks the authority to require a defendant to reimburse the county for compensation paid to interpreters relating to a criminal prosecution, then what do I, as auditor, do with the monies collected from such defendants pursuant to court orders imposing such fees as a condition of probation?" This is not a hypothetical question. There have been several instances in which this has occurred.

6. If it is legal for a court to impose interpreter fees on criminal defendants, then do they simply go into the county's general fund?

Any assistance which you can provide would be deeply appreciated.

Sincerely,


Ms. Nancy Braswell
Smith County Auditor