



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Hon. L. L. Roberts  
County Auditor  
Hutchinson County  
Stinnett, Texas

Dear Sir:

Opinion No. O-1834

Re: Should the one-half costs  
to be paid the officers of  
the court under Article 1055,  
C. C. P., include commissions  
on fines?

Your request for an opinion of this department  
on the above stated question has been received.

Your letter reads as follows:

"You have rendered a number of opinions  
on Article 1055 C. C. P. but there is one  
point I believe you have not directly ruled  
on, as follows:

"Should the one-half costs to be paid  
the officers of the court include commissions  
on fines?

"Article 1055 before being amended ex-  
cluded commissions as part of the 'one-half  
costs to be paid the officers' by the county,  
but the article as amended provides 'for one-  
half of the fees of the officers of the court.'

"Will you please advise me if the officers'  
commissions on fines should be included as part  
of the one-half costs to be paid by the county?"

Article 1055, C. C. P. reads as follows:

"The county shall not be liable to the

officer and witness having costs in a misdemeanor case where defendant pays his fine and costs. The county shall be liable for one-half of the fees of the officers of the Court, when the defendant fails to pay his fine and lays his fine out in the county jail or discharges the same by means of working such fine out on the county roads or on any county project. And to pay such half of costs, the County Clerk shall issue his warrant on the County Treasurer in favor of such officer to be paid out of the Road and Bridge Fund or other funds not otherwise appropriated."

Chapter 3 of Title 12 of the Code of Criminal Procedure regarding the collection of money in the name or for the use of the State by officers charged by law with such collections provides:

"Art. 944. All officers charged by law with collecting money in the name or for the use of the State shall report in writing under oath to the respective district courts of their several counties, on the first day of each term, the amounts of money that have come to their hands since the last term of their respective courts aforesaid.

"Art. 945. Such report shall state:

1. The amount collected.
2. When and from whom collected.
3. By virtue of what process collected.
4. The disposition that has been made of the money.
5. If no money has been collected, the report shall so state.

"Art. 946. A report, such as is required by the two preceding articles, shall also be made of all moneys collected for the county, which report shall be made to each regular term of the commissioners court for each county.

"Art. 947. The officers charged by law with the collection of money, within the meaning of the three preceding articles, and who are required to make the reports therein mentioned,

are: District and county attorneys, clerks of the district and county courts, sheriffs, constables, and justices of the peace.

"Art. 948. The moneys required to be reported embrace all moneys collected for the State or county other than taxes.

"Art. 949. Money collected by an officer upon recognizances, bail bonds and other obligations recovered upon in the name of the State, under any provision of this Code, and all fines, forfeitures, judgments and jury fees, collected under any provision of this Code, shall forthwith be paid over by the officers collecting the same to the county treasurer of the proper county, after first deducting therefrom the legal fees and commissions for collecting the same.

"Art. 950. The district or county attorney shall be entitled to ten per cent of all fines, forfeitures or moneys collected for the State or county, upon judgments recovered by him; and the clerk of the court in which said judgments are rendered shall be entitled to five per cent of the amount of said judgments, to be paid out of the amount when collected.

"Art. 951. The sheriff or other officer, except a justice of the peace or his clerk, who collects money for the State or county, except jury fees, under any provision of this Code, shall be entitled to retain five per cent thereof when collected."

The above quoted statutes regarding the payment of commissions on money collected by the officers named therein under the provisions of these statutes applies only to money actually collected.

Under Article 1055, C. C. P., supra, the county shall be liable for one-half of the fees of the officers of the court, when the defendant fails to pay his fine and lays his fine out in the county jail or discharges the same

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by means of working such fine out on the county roads or on any county project. The county is not liable to the officer and witness having costs in a misdemeanor case where the defendant pays his fine and costs. Where the defendant lays his fine out in the county jail or discharges the same by means of working such fine out on the county road or on any county project, there is no money collected and no commission due the officers of the court because commissions are allowed only on money actually collected.

Therefore, you are respectfully advised that it is the opinion of this department that commissions on fines for officers cannot be included as part of the one-half costs that are paid by the county under Article 1055, C. C. P., supra.

Trusting that the foregoing fully answers your inquiry, we remain

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By (S) Ardell Williams

Ardell Williams  
Assistant

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APPROVED JAN 18, 1940

(s) Gerald Mann

ATTORNEY GENERAL OF TEXAS

APPROVED  
Opinion Committee  
By BWB  
Chairman