



THE ATTORNEY GENERAL
OF TEXAS

Grover Sellers

~~FORGOTTEN~~
ATTORNEY GENERAL

AUSTIN 11, TEXAS

Mr. C. G. Mendenhall
County Auditor
Chambers County
Anahuac, Texas

Opinion No. 0-5898
Re: Whether the Commissioners Court
of Chambers County has the legal au-
thority to expend county funds to
construct a short wave radio station
for the use of the Sheriff and to em-
ploy operators for such station.

Dear Sir:

Your letter of June 14, 1944, requesting the opinion
of this department regarding the above stated matters is as
follows:

"Would you kindly advise us if in your opinion
this county has authority to construct a short wave
radio (Police) station for the use of the Sheriff,
and also have we the authority to employ operators
for such a station, expending county funds therefor."

Chambers County has a population of 7,511 inhabitants
according to the 1940 Federal Census. We are informed by the
Comptroller's Office that the county officials of said county
are compensated on a fee basis. Paragraph (a) of Article 3899,
Vernon's Annotated Civil Statutes, is applicable to counties
where the county officials are compensated on a fee basis. This
statute provides, in part, as follows:

*** 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. If such expenses be in-
curred in connection with any particular case, such
statement shall name such case. Such expense account
shall be subject to the audit of the county auditor,
if any, otherwise by the Commissioners' Court; and if
it appears that any item of such expense was not in-
curred by such officer or such item was not a necessary

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expense of office, such item shall be by such auditor or court rejected, in which case the collections of such item may be adjudicated in any court of competent jurisdiction. The amount of salaries paid to assistants and deputies shall also be clearly shown by such officer, giving the name, position, and amount paid each; and in no event shall any officer show any greater amount than actually paid any assistant or deputy. The amount of such expenses, together with the amount of salaries paid to assistants, deputies, and clerks, shall be paid out of the fees earned by such officer. ***"

Referring to the above mentioned provision of Article 3899, this department held in Opinion No. O-1906 that the commissioners' court is authorized to purchase and expend county funds for a radio for the sheriff's office under the above article.

Specifically answering your question, you are respectfully advised that it is the opinion of this department that the Commissioners' Court of Chambers County is legally authorized to purchase and expend county funds for a short wave radio station for the Sheriff's Office, if the Commissioners' Court determines that a necessity exists therefor, and provided, of course, such expenditure is provided for in the county budget. It is our further opinion that the Commissioners' Court does not have authority to employ operators for such short wave radio station. In the event the Sheriff has an assistant or a deputy to operate such station, the employment of such assistant or deputy would have to be authorized by the Commissioners' Court as provided by Article 3902, Vernon's Annotated Civil Statutes, and such assistant or employee would have to be compensated as authorized by Article 3899, supra; that is, such expense would have to be paid out of the fees earned by the Sheriff.

APPROVED JUN 23, 1944
/s/ Geo. C. Blackburn
(Acting) ATTORNEY GENERAL
OF TEXAS
APPROVED: OPINION COMMITTEE
BY: BWB, CHAIRMAN

Yours very truly
ATTORNEY GENERAL OF TEXAS
By /s/ Ardell Williams
Ardell Williams, Assistant

AW:EP:wb