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Criminal District Attorney

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OPINION COMMITTEE

February 8, 2007

ACTION ~~by Nancy Faller~~
COPY TO Ellen Witt

Office of the Attorney General
PO Box 12548
Austin, TX 78711-2548

RQ-0569-GA FILE # ML-45124-07
ID # 45124

Re: Can Justice Court Technology Funds (CCP, Art. 102.0173) be used for technological enhancements for Constables?

Dear Sirs:

Pursuant to Sec. 402.043 of the Texas Government Code, I'm requesting an opinion from you regarding the referenced matter. Specifically, a Justice of the Peace has requested a desktop computer system for his office and also for the Constable that he shares and office and works in conjunction with.

A true and correct copy of Article 102.0173 of the Code of Criminal Procedure, titled "Court Costs; Justice Court Technology Fund", is attached as Exhibit A. Basically, this article provides that defendants convicted in justice court shall pay a \$4 justice court technology fund fee as a cost of court to be deposited in the fund, which is deposited with the county treasurer and administered by the commissioners court.

The uses to which this fund may be put are listed in subsection (d) of the article – the cost of continuing education and training for justice court judges and clerks regarding technological enhancements for justice courts; and the purchase and maintenance of technological enhancements for a justice court, including: computer systems, etc.

Although this article only speaks of training and equipment for justice court judges and clerks, constables, although a separate office, have traditionally been treated as an extension of justice courts. As an example of this, I'm attaching a letter from Mark W. Allen, Jasper County Judge, regarding the situation we have here.

While we're on the subject, can these funds be used for education and training of Constables? This issue is likely to follow.

Respectfully,

Steven M. Hollis



**Mark W. Allen
County Judge
Jasper County, Texas**

Date: February 7, 2007

To: Steven M. Hollis – Jasper County Criminal Attorney

Re: Attorney General of Texas Opinion on the Justice of the Peace Technology Fund

During the January 10th, 2007, Commissioner's Court meeting an agenda item was brought up in reference to a request made by Steve Conner, Justice of the Peace, Precinct #6. This request pertained to the purchase of a desktop computer system for his office and for the office of the Constable, Precinct #6, Tommy Robinson.

Conner further requested that the funds for these purchases be taken from the existing Justice of the Peace Technology Fund.

The purchase of a computer system for Justice of the Peace Conner's use was approved. However, a question was raised as to the legality of utilizing JP Technology Funds for the purchase of equipment not directly utilized by the Justice of the Peace or his clerk.

The Constable's Office in Precinct #6 is housed in the same building with the Justice of the Peace, and the Constable is required to serve process from the Court, along with papers received from outside agencies for citizens within his jurisdiction.

The Commissioner's Court has approved the purchase of the Constable's computer system. However, the source of funding is currently pending a final decision.

Therefore, I am requesting on behalf of the Commissioner's Court that an opinion be obtained from the Attorney General of Texas to clarify this issue now and for future reference.

If you have any questions, or require additional information, please feel free to contact me. Thank you for your assistance.

A handwritten signature in black ink, appearing to read "Mark W. Allen".

Mark W. Allen, County Judge
Jasper County, Texas

CODE OF CRIMINAL PROCEDURE
CHAPTER 102. COSTS PAID BY DEFENDANTS
ARTS. 102.0172 - 102.0173



CCP ART. 102.0173

other official who discharges the duties commonly delegated to the municipal treasurer, for deposit in a fund to be known as the municipal court technology fund.

(d) A fund designated by this article may be used only to finance the purchase of or to maintain technological enhancements for a municipal court or municipal court of record, including:

- (1) computer systems;
- (2) computer networks;
- (3) computer hardware;
- (4) computer software;
- (5) imaging systems;
- (6) electronic kiosks;
- (7) electronic ticket writers; and
- (8) docket management systems.

(e) The municipal court technology fund shall be administered by or under the direction of the governing body of the municipality.

(f) Repealed by Acts 2003, 78th Leg., ch. 502, §2, eff. Sept. 1, 2003.

History of art. 102.0172: Acts 1999, 76th Leg., ch. 285, §1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 502, §§1, 2, eff. Sept. 1, 2003.

**ART. 102.0173. COURT COSTS;
JUSTICE COURT TECHNOLOGY FUND**

A *Subsection (a) below is effective for offenses committed on or after Sept. 1, 2005.*

(a) The commissioners court of a county by order shall create a justice court technology fund. A defendant convicted of a misdemeanor offense in justice court shall pay a \$4 justice court technology fee as a cost of court for deposit in the fund.

Subsection (a) below is effective for offenses in which any element of the offense was committed before Sept. 1, 2005.

(a) The commissioners court of a county by order may create a justice court technology fund and may require a defendant convicted of a misdemeanor offense in justice court to pay a technology fee not to exceed \$4 as a cost of court.

(b) In this article, a person is considered convicted if:

- (1) a sentence is imposed on the person; or
- (2) the court defers final disposition of the person's case.

(c) The justice court clerk shall collect the costs and pay the funds to the county treasurer, or to any

other official who discharges the duties commonly delegated to the county treasurer, for deposit in a fund to be known as the justice court technology fund.

A *Subsection (d) below is effective for offenses committed on or after Sept. 1, 2005.*

(d) A fund designated by this article may be used only to finance:

B (1) the cost of continuing education and training for justice court judges and clerks regarding technological enhancements for justice courts; and

(2) the purchase and maintenance of technological enhancements for a justice court, including:

- (A) computer systems;
- (B) computer networks;
- (C) computer hardware;
- (D) computer software;
- (E) imaging systems;
- (F) electronic kiosks;
- (G) electronic ticket writers; and
- (H) docket management systems.

Subsection (d) below is effective for offenses in which any element of the offense was committed before Sept. 1, 2005.

(d) A fund designated by this article may be used only to finance the purchase of technological enhancements for a justice court, including:

- (1) computer systems;
- (2) computer networks;
- (3) computer hardware;
- (4) computer software;
- (5) imaging systems;
- (6) electronic kiosks;
- (7) electronic ticket writers; and
- (8) docket management systems.

(e) The justice court technology fund shall be administered by or under the direction of the commissioners court of the county.

(f) Repealed by Acts 2005, 79th Leg., ch. 240, §3, eff. Sept. 1, 2005.

Subsection (f) below is effective for offenses in which any element of the offense was committed before Sept. 1, 2005.

F *This article expires September 1, 2005.*

History of art. 102.0173: Acts 2001, 77th Leg., ch. 977, §1, eff. Sept. 1, 2001. Amended by Acts 2005, 79th Leg., ch. 240, §§1, 3, eff. Sept. 1, 2005.