

OPINION
48-195

February 7, 1948 (OPINION)

PEACE OFFICERS

RE: Highway Patrol - Witness Fees

Your letter of February 5, 1948, re above, has been received and turned over to me for attention.

We agree fully with your opinion as expressed in your letter. We will for clarification quote your questions and then follow each question with our answer.

1. Has a highway patrolman any right to fees for "attendance in court", incident to (a) his signing a complaint, or (b) his being present in Justice Court when a defendant charged with traffic violation or other misdemeanor enters plea of guilty?

Our answer is "No".

2. Has he any right to "witness fees" for such acts, or for his presence in Justice Court, on either of the aforementioned occasions?

Our answer is "No".

3. Has he any right to witness fees in any such case, when the defendant pleads "not guilty", and the patrolman actually testifies for the state in a contested trial relative to violation of law as to "operation of vehicles or the use of the highways"?

Our answer is "No".

The patrolman in performing the duties indicated is simply performing the duties of his office and for which he is paid a salary. No officer is entitled to a fee for performing official duties unless the statute specifically provides for the payment of the fee to him. We know of no such provision, and it is evident from your letter that you have made a search and have failed to find any such provision. The highway patrolmen are peace officers. It is their duty when they see a highway regulation violated to make an arrest and take the person arrested before the nearest justice and make a complaint. They certainly are not entitled to witness fees nor any other fees for this performance of their duty.

NELS G. JOHNSON

Attorney General