

May 26, 2005
OPINION NO. 05-0035

Honorable Harry Brown
Chief of Police
Port Allen Police Department
750 North Jefferson Ave.
P.O. Box 468
Port Allen, LA 70767

46-A Fees and costs
LSA-R.S. 15:255 E. (1), (2), and (5)

We conclude that off-duty law enforcement officers who appear in as witnesses in city court, shall be paid fees by the governing authority, not by their employer, from a special fund which contains collected court costs, unless the governing authority enters into an agreement with the employer of the law enforcement officers that transfers the payment of fees to the employer, as per direct language of LSA-R.S. 15:255 E. (1), (2), and (5).

Dear Mr. Brown,

Our office has received receipt of your opinion request in which you asked who bears the responsibility of paying the fees of law enforcement officers who serve as witnesses in city court.

It is the opinion of this office that the fees in question *shall* be paid by the governing authority, not the officers' employer, from a special fund which contains collected court costs, unless the governing authority enters into an agreement with the employer of the law enforcement officers that transfers the payment of fees to the employer, as per direct language of LSA-R.S.15:255 as amended in 2004.

The direct language of the above mentioned statute answers your inquiry. It states:

Each law enforcement officer who, because of his official connections with any criminal case being tried in the city court, as the arresting officer or in some other official capacity, is required to be present as a witness in the case during any time when he is otherwise not required to report to work or perform duties of his office shall be paid the sum of fifty dollars for each day per case...LSA-R.S. 15:255 E (1). (Emphasis added)

Witness fees provided by this Subsection shall be paid from costs of court which shall be assessed and collected in individual cases in which there is a plea of guilty or a conviction, in accordance with a schedule of costs adopted by the judge or judges of the city court. The costs so collected shall be placed in a special fund maintained

and administered by the governing authority and from which the governing authority shall pay the witness fees provided herein. LSA-R.S. 15:255 E (2). (Emphasis added)

Nothing in this Section shall prohibit the governing authority of any municipality from entering into a cooperative endeavor agreement with the employer of any law enforcement officer to provide that the fees under this Section shall be transmitted to the law enforcement officer's employer....LSA-R.S. 15:255 E (5). (Emphasis added)

Therefore, according to the direct language of the statute, when law enforcement officers are required to serve as witnesses in city court as a witness in a case during any time when he or she is otherwise not required to report to work or perform duties of his/her office, they shall be paid their fees by the governing authority subject to the fee structure therein, out of a special fund of collected court costs, not the officers' employer, unless the governing authority and the officers' employer agree otherwise.

Very Truly Yours,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

By: _____
DON WINGERTER
ASSISTANT ATTORNEY GENERAL

DW/js/jy

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Chief of Police Port Allen Police Department
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Date Received: February 3, 2005

Date Released: May 26, 2005

DON WINGERTER
ASSISTANT ATTORNEY GENERAL