

1974 WL 28044 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 10, 1974

\*1 Mr. H. O. Carter  
County Manager of Edgefield County  
P. O. Box 146  
Edgefield, S. C. 29824

Dear Mr. Carter:

It appears that you are correct that Edgefield County should not pay witness fees to law enforcement officers who are required to appear in General Sessions Court. Section 27-612, Code of Laws of South Carolina (1962) provides for the payment of a fee to material witnesses. A recent amendment to the Code provides that in Edgefield County the witness fee for material witnesses shall be a per diem of five dollars (\$5.00). See Section 27-612.1 which may be found as Section 2 of Act No. 1453 of 1972.

You state that the County has been paying witness fees in General Sessions Court to all County and municipal police officers and state highway patrolmen (apparently certified as material witnesses) regardless of whether the officers were on or off duty. Such action appears to be prohibited by Section 27-613 which provides:

No per diem shall be paid to any such witness who is in receipt of a salary or per diem compensation from the State or any county, town or city thereof . . .

Various exceptions to the provisions of Section 27-613 may be found in the Code, including, in certain counties, that per diem payments may be made to off duty law enforcement officers required to appear in court as witnesses. Edgefield County, however, is not excepted from the provisions of Section 27-613.

Accordingly, it is the opinion of this office that Edgefield County may not pay a per diem to witnesses in General Sessions Court, whether material or not, who receive a salary or per diem compensation from the State or any county, town or city of the State.

Very truly yours,

H. Brent Fortson  
Staff Attorney

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