

**County Attorneys, Duty of. Stenographer, Expense of,
What Is. Investigations, Expense of.**

The expenses necessarily incurred by the county attorney in the investigation of crime is a proper charge against the county.

December 20th, 1913.

Mr. E. H. Schumacher, Clerk,
Bozeman, Montana.

Dear Sir:

I am in receipt of yours of the 16th instant, in which you state that the chairman of the board of county commissioners of your county has asked you to submit for my consideration the following question:

"Has the county attorney a right to take with him the court stenographer when he goes to outlying points making investigations, and have the expenses of the stenographer charged to the county (expenses for traveling and taking notes)?"

The question of what are proper expenses to be allowed the county attorney has been before this office on several occasions, and passed upon in opinions found in the published opinions of the attorney general as follows:

Vol. 1, Opinions of Attorney General, p. 16.

Vol. 2, Opinions of Attorney General, p. 5-11.

Vol. 3, Opinions of Attorney General, p. 65.

In all of these opinions it has been held that all charges necessarily incurred in the investigation of criminal matters within a county are a proper charge against the county, under Subdiv. 2 of Sec. 3199, Revised Codes. The statement of facts admitted by you is rather meager in as much as it does not state whether the work done by the court stenographer, in accompanying the county attorney, was in the nature of taking testimony at preliminary hearings, or whether it was some other sort of work. The expense for traveling and for taking notes at a preliminary hearing in outlying districts would certainly be a proper charge against the county. However, if it was merely in the nature of interviewing witnesses or such manner of work, I could not give an answer without knowing more specifically what the work consisted in.

The subject is fairly well covered in the opinions above mentioned, and I respectfully refer you thereto.

You are advised that the general rule is that all expense necessarily incurred in the investigation of crime by the county attorney is a proper charge against the county, and that each case must largely be decided upon its own merits, since it is so much a question of fact as to whether the expense was necessary or not.

Yours very truly,

D. M. KELLY,

Attorney General.