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JOHN W. FAINTER, JR.
SECRETARY OF STATE

August 1, 1983

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Mr. R. E. Lopez, Chairman
Jim Wells County Democratic
Executive Committee
P. O. Box 501
Alice, Texas 78333

Election Law Opinion JWF-16
Re: Payments to precinct
chairmen for attending
meetings of the county
executive committee

Dear Mr. Lopez:

This is in response to your letter of May 27, 1983 inquiring as to the permissibility of making payments to precinct chairmen for attending or traveling to statutorily required meetings of the county executive committee.

This official election law opinion is rendered by me as chief election officer of the state in accordance with Tex. Elec. Code Ann., art. 1.03, subd. 1 (Vernon Supp. 1982-1983).

Each county executive committee is required by the Election Code to meet at its county seat on the third Monday in March preceding each general primary and on the Tuesday following a primary election. Tex. Elec. Code Ann., arts. 13.17(a) and 13.24 (Vernon Supp. 1982-1983). Each committee must also convene to consider and investigate errors in the election returns upon the sworn statement of any candidate alleging errors as provided in art. 13.25 of the Election Code.

Art. 13.08a(a) of the Election Code states in part:

Any other provisions of this code notwithstanding, the secretary of state shall pay for expenditures which, in his discretion, are reasonably necessary for the proper conduct and supervision of the primary elections under the provisions of this code. The secretary of state is authorized to set forth guidelines to determine the necessity of expenditures in conducting primary elections.

Primary election costs are the costs which must be incurred to conduct the first primary and runoff elections. Secretary of State, 1 Tex. Admin. Code, § 81.125 (Shepard's May 1, 1982) (Definition of Primary Election Costs).

Only the costs reasonably incurred by the county executive committee in the actual conduct of the primary elections are chargeable to the state. It is the position of this office that the expenses of individual party officers incurred in the discharge of their duties are not expenses of the county executive committee chargeable to the state.

The Election Code expressly provides for the payment of compensation to the chairman and secretary of a county executive committee for their services, the combined amount of which may not exceed five percent of the amount actually spent for the necessary expenses of the primary election. Tex. Elec. Code Ann., art. 13.18, subd. 4 (Vernon Supp. 1982-1983). Such authorized expenses of the county executive committee are chargeable to the state. However, no such authorization is made for payments to precinct chairmen.

Whether political parties wish to compensate their precinct chairmen for expenses incurred in the performance of their duties is a matter for the proper party authorities to decide. Such payments, however, must be made from party funds. No such payments are authorized to be made from the primary fund defined in art. 13.18, subd. 5 of the Election Code.

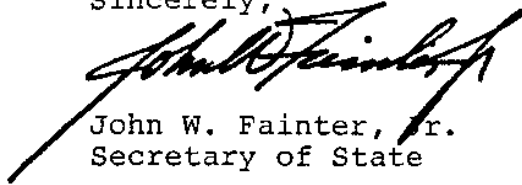
SUMMARY

Expenses incurred by precinct chairmen in attending or traveling to statutorily required meetings of the county executive committee are individual expenses of the precinct chairmen and not expenses necessarily incurred by the county

Mr. R. E. Lopez
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executive committee in the conduct of the primary election.
Payments to precinct chairmen may not be made from the
primary fund.

Sincerely,



John W. Fainter, Jr.
Secretary of State

Ward Allen White III
Counsel to the Secretary of State

Prepared by John Steiner
Assistant General Counsel
Elections Division

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