

Sheriffs - Fees & Mileage - Sec 11789
Summary Standing Jury.

Dec 11789 97 R S Mo 1929

Apr 7/11

February 7, 1933

FILED
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Hon. John A. Eversole,
Prosecuting Attorney,
Washington County,
Potosi, Missouri.

Dear Sir:

Your request directed to the Legal Department under date of February 2nd, 1933, for an opinion has been handed to the undersigned for attention. You ask an opinion of this department upon the following subject:

"Section 11792, R. S. Mo. 1929 declares that a sheriff is allowed ten cents per mile for serving all writs, summonses, order of court or any venire in a criminal case when served more than five miles from the place where court is held, etc.

Section 11789 R. S. Mo. 1929, declares that a sheriff shall receive \$8.40 for summoning a standing jury. The question is this--is the sheriff allowed mileage in addition to the \$8.40 allowed by section 11789."

Section 11789 relating to the fees which shall be allowed a sheriff for his services, provides, among other things, that for the summoning of a standing jury he shall receive \$8.40. Section 8755, R. S. 1929, provides the manner in which the petit jury shall be drawn and the number of jurors and alternate jurors to be chosen for service at the next term of the circuit court of said county. This section in the later portion thereof refers to the petit jury as the "standing" jury. Section 11789 supra in addition to providing for the fees for summoning a standing jury, also contains among other provisions, the following :

"For each mile actually traveled in serving any venire summons, writ, subpoena or other order of court when served more than five miles from the place where the court is held, provided that such mileage shall not be charged for more than one witness subpoenaed or venire summons or other writ served in the same cause on the same trip, 10¢".

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Under the provisions of this section as we construe it, the Legislative intent was to allow the sheriff \$8.40 for summoning the petit jury and their alternates, and in addition to that allowance, when required to travel in excess of five miles from the place where court is held, he should be paid mileage as provided in said section.

The mileage of sheriffs, county marshalls and other officers in certain cases as provided for in section 11792 does not refer to, and has no connection with the standing jury provided for in section 11789, but refers to special juries which may be called in criminal cases, proceedings for contempt or attachment.

Very truly yours,

Carl C. Abington,
Assistant Attorney-General

CCA/N

Approved:

Roy McKittrick,
Attorney-General