



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-119969

December 6, 1972

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Mr. Eugene P. Kopp
Assistant Director (Administration)
United States Information Agency

Dear Mr. Kopp:

We refer to your letter dated September 26, 1972, requesting our decision regarding the treatment to be accorded those payments received by employees of the United States Information Agency (USIA) for jury service in the courts of Calvert, Charles, Prince George's and St. Mary's counties, in the State of Maryland, in view of certain recent amendments to the Maryland Code.

You state that effective July 1, 1972, article 51, section 19(f), of the Maryland Code was amended to read as follows:

"19(f) In Calvert, Charles, Prince George's and St. Mary's counties, jurors shall in lieu of a jurors (sic) salary receive \$10.00 as expense money for each day in attendance at a court as jurors, covering service up to the hour of six o'clock p.m. on any day. An additional sum of five dollars shall be paid as expense money if the service on any day extends beyond six o'clock p.m., and up to nine o'clock p.m. A second additional sum of five dollars as expenses shall be paid if the service on any day extends beyond nine o'clock p.m."

Prior to the July 1, 1972, amendment, article 51, section 19(f) of the Maryland Code stated that—

"(f) In Calvert, Charles, Prince George's and St. Mary's counties, jurors shall receive ten dollars for each day in attendance at a court as jurors, covering service up to the hour of six o'clock p.m. on any day. An additional sum of five dollars shall be paid if the service on any day extends beyond six o'clock p.m. and up to nine o'clock p.m. A second additional sum of five dollars shall be paid if the service on any day extends beyond nine o'clock p.m."

PUBLISHED DECISION
52 Comp. Gen. _____

The primary question presented is whether payments made under the authority of section 19(f), as amended, to USIA employees serving as jurors on court leave granted pursuant to 5 U.S.C. 6322(a) may now actually be considered as being for expenses rather than for services rendered so as to not require such amounts to be turned into the agency as credits against salary payments for the periods of court leave.

5 U.S.C. 5515 concerning crediting amounts received by Federal employees for jury service in State courts provides as follows:

"An amount received by an employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia for jury service in a State court for a period during which the employee or individual is entitled to leave under section 6322 of this title shall be credited against pay payable by the United States or the District of Columbia to the employee or individual."

Under the above-quoted section it is mandatory that the amounts received from a State for jurors' fees be credited against the amount of compensation payable by the United States for such period of absence.

Under our decisions we do not require a Federal employee who has served as a juror in a State court to remit to the Federal Government that part of the compensation he receives from the State to cover traveling expenses where it is clear that a specific amount is received for such purpose. We have also allowed payment of jury fees to Federal employees serving as jurors in a State court on nonworkdays, including holidays. See 27 Comp. Gen. 293 (1947); 37 id. 695 (1958) and 45 id. 251 (1965). Also, jury fees may be retained by the Federal employee when the jury service occurs during a period when the employee is in a nonpay status. 24 Comp. Gen. 450 (1944).

Section 12, the general provision covering compensation of jurors, of article 51 of the Maryland Code, provides in pertinent part as follows:

"§ 12. Compensation of jurors.

"A juror shall receive such compensation and/or reimbursement for expenses of travel incident to jury service as may be now or hereafter provided by law * * *" (Emphasis added.)

We have been informally advised that the proposal to amend section 19(f) was initially introduced by the Prince George's county delegation. The original text of such amendment, which was reported out of the House Ways and Means Committee, read as follows:

"In Calvert, Prince George's, and St. Mary's counties, jurors shall receive \$10.00 for expenses for each day in attendance at a court as jurors covering service up to the hour of six o'clock p.m. on any day. An additional sum of \$5.00 shall be paid as expenses if the service on any day extends beyond six o'clock p.m. and up to nine o'clock p.m. A second additional sum of \$5.00 shall be paid if the service on any day extends beyond nine o'clock p.m."

When considered by the House, that body chose to modify the reported amendment so as to read as is now contained in the new section 19(f), quoted above.

We have further been informally advised that the purpose for seeking the subject amendment was to alleviate those problems encountered by residents of such county who are Federal employees. The difficulties referred to were those accruing out of the application of 5 U.S.C. 5515, discussed above.

In such light an amendment was sought to the cognizant section of the Maryland Code (section 19(f)) in such a way that any monies received by residents of Prince George's county for jury service in a local court would be considered as being for travel expenses. In the cases of those individuals serving as jurors who are Federal employees, the net effect would be to exempt the monies received for such services from the purview of 5 U.S.C. 5515.

Our analysis of the legislative history of section 19(f), as amended, is to the effect that it was the clear intent of the Maryland General Assembly that any monies received by residents of the subject counties for juror service in a local court be regarded as being for travel expenses rather than for juror fees. Both the original and final versions of the amendment to section 19(f) support this viewpoint.

Moreover, we feel that payment on a flat fee basis for travel expenses as is provided by section 19(f) would be within the intent of section 12, supra. It follows that any monies received under the authority of article 51, section 19(f) of the Maryland Code may now be retained by employees on the basis that such amounts are for traveling expenses rather than jury fees.

Sincerely yours,

R.F.KELLER

Deputy Comptroller General
of the United States