

**89TH ANNUAL WEST TEXAS
COUNTY JUDGES AND
COMMISSIONERS ASSOCIATION
CONFERENCE**

Thursday, April 26, 2018
1:30 – 2:20 *p.m.*

“2.011 Constable”

*Hon. Michael Truitt
Constable
Denton County*

Texas Constables

Presented By:
Constable Michael A. Truitt
Denton County Pct. 2



Michael A. Truitt



- Bachelors Degree in Politics and Government / University of Texas at Dallas
- Master of Science Degree in Law Enforcement Leadership and Management / Sam Houston State University
- 30 years in Law Enforcement
- Master Peace Officer
- Leadership Command College Graduate / LEMIT
- Texas Constables Leadership College Graduate / LEMIT
- Instructor
 - ★ Law Enforcement Management Institute of Texas / Sam Houston State University
 - TXJC Texas Justice Court Training Center / Texas State University
- Justice of the Peace and Constables Association
 - Past President
 - JPCA Constable of the Year 2013



Constable

- Derives from the Latin *comes stabuli*
- Master of the horse, master of the stable, count of the stable

Before Independence
1820 - 1836

CONSTABLES IN TEXAS

Before Independence

- The Austin Colonies were subject to the laws and regulations of Mexico
 - The Governance of the colony was largely ignored by Mexico for several years



Before Independence

- First Constable in Colorado District (Stephen F. Austin's first Texas Colony)
 - John Tumlinson Sr., Alcaide (Justice of the Peace)
 - March 5, 1823 letter to Baron de Bastrop in San Antonio
 - He had "appointed but one officer who acts in the capacity of constable to summon witnesses and bring offenders to justice."
 - Thomas V. Alley, Constable



Before Independence

- Two Constables in Texas
 - December 1822 - Governor divides Colorado District into two districts
 - 1823 – Newly adopted civil code requires Constables to be bonded
 - January 1824 – Thomas V. Alley reappointed as Constable of Colorado District and John Austin is appointed as the Constable of the newly formed San Felipe de Austin District
- Between 1823 – 1828 Austin’s Colony divided into seven districts
 - Each district had an alcalde and a constable

Republic of Texas
1836 - 1845

CONSTABLES IN TEXAS

The Republic of Texas

- **Constitution of the Republic of Texas, March 17, 1836**

“Sec. 12: There shall be appointed for each county, a convenient number of justices of the peace, one sheriff, one coroner, and a sufficient number of constables, who shall hold their offices for two years, to be elected by the qualified voters of the district or county, as congress may direct. Justices of the peace and sheriffs shall be commissioned by the president.”

The Republic of Texas

- Constitution ratified in late 1836
- Between 1837 and 1839 most counties only had some elected officials
- First Constables to be elected in new Republic were in Nacogdoches Co. on May 12, 1838
 - William Chissum, E. Fitzgerald, E. E. Hamilton, and A. Waters
- By 1840 most of the original 23 counties had elected a majority of the county officials



The Republic of Texas

- During the 10 years as a Republic
 - Thirty-Eight Constables elected in 12 of Texas Counties
 - Most elected in 1839 or later
 - Harrisburg County (Harris County) had 13 of the 38
 - Nacogdoches County had 9 of the 38
 - The remainder disbursed over 10 counties

Annexation, Reconstruction, and the Wild West
1846 - 1900

CONSTABLES IN TEXAS

Annexation, Reconstruction, and the Wild West

- County Government under the 1845 Constitution differed little from that of the Republic's Constitution.
- May 1846 – Texas Legislature passes 2 Acts
 - First Act defines “The Office and Duties of Constables”
 - Clearly outlined peace-keeping and law-enforcement duties
 - Second Act defines two duties
 - Sheriff has similar duties as constable with the additional duties of keeping the jail and guarding prisoners
 - Constables authority on the American Frontier confirmed

Annexation, Reconstruction, and the Wild West

The constable shall be the “conservator of the peace throughout the county, and it shall be his duty to suppress all riots, routs, affrays, fighting, and unlawful assemblies, and he shall keep the peace, and shall cause all offenders to be arrested, and taken before some justice of the peace.”

The 20th Century
1900 - 1970

CONSTABLES IN TEXAS

The 20th Century

- The mission of sheriffs, constables, and local police had changed by the 1900's
 - The Texas Rangers frontier battalion was reorganized after the state attorney ruled that they had no right to serve papers and make arrests
 - They were renamed the Texas State Rangers (1902 – 1934) and were considered the state police force, often competing with county and local law enforcement organizations

The 20th Century

- From 1910 to 1918 officers on Texas border were mainly occupied with the Mexican Revolution, smuggling, espionage and riots
 - Protecting the border was a combined effort of the Texas Rangers, Sheriffs, Constables, and the U.S. Army

The 20th Century

- From the end of WWI to the beginning of WWII law enforcement's role expanded
 - Prohibition (Volstead Act of 1919) from 1919 to 1933
 - Entrenched crime families all across the U.S.
 - The discovery of large amounts of crude oil in Texas in the 1920's and 1930's
 - Creation of boomtowns which became the centers of violence, crime, and corruption
 - Creation of abundant jobs for educated and uneducated men and women
 - The stock market crash of 1929 and the Great Depression of the 1930's
 - "Mad-dog" criminals – violent and transient
 - Robbery and murder

The 20th Century

- With the end of WWII, law enforcement returned to coping with everyday crime and violence
 - During the last half of the twentieth century, crime and law enforcement have changed just as dramatically as society and morals
 - Assaults and murders of law enforcement (and especially constables) had risen dramatically by the end of the 1970's
 - 33% of all officers killed in the line of duty in Texas in the 1970's were constables

**Since 1854
245 Constables have been killed
in the line of duty in Texas**

Modern Day Constables

CONSTABLES IN TEXAS

Modern Day Constables

- Prior to 1999
 - Constables in many smaller counties were paid \$1 a year
 - Constables didn't have to be licensed
 - No training requirements or qualifications
 - Were peace officers
 - Badge and gun
 - Many were unprofessional
- Could be a great liability to Counties

Modern Day Constables

- JPCA and TCOLE
 - Since 1980's work together to increase qualifications and education
 - 1999 changes in the law
 - Constitution – must be paid on salary basis
 - Occupation Code – qualification, education and licensing requirements for constables and deputies
 - Training standards higher than any other law enforcement

Modern Day Constables

- Creation of Civil Process Proficiency Certification
- Court Security Specialist Training
- Took a lead role in Courtroom Security requirement and developing training. (2016)
- All in an effort to reduce the liability to county

**CONSTITUTION AND
STATUTES**

Modern Day Constables

- Created by the Texas Constitution (Art 5, Sec 18)
 - JP and Constable Precincts
 - > 50,000 Population 4 – 8 Precincts
 - 18,000 – 50,000 2 – 8 Precincts
 - < 18,000 1 – 4 Precincts
 - Sheriff's and Constables are only Constitutionally mandated law enforcement in Texas
 - Texas Legislature determines qualifications of Constable

Modern Day Constables

- Commissioners Court determines the number of precincts
- Elected to a 4 year term
 - Commissioners Court to fill vacancies
- County Variances
 - Chamber County and Randall County
 - County divided into 2 – 6 Precincts (population not taken into consideration)
 - Mills County, Reagan County, and Roberts County
 - Office of Constable is Abolished

Modern Day Constables

- Commissioners declare office dormant
 - Vacant for 7 consecutive years from the end of the last term
- Reinstatement of office
 - Commissioners reinstate by vote of Court or by special election of the voters in the precinct
- Constable Compensation
 - All Constables and Deputy Constables will be compensated on a salary basis (Art 16, Sec. 61)

Modern Day Constables

- Requirements to be Constable (LGC Chapter 86.021)
 - A Person is Not eligible to serve as constable unless
 - Meets age requirement and has no disqualifying misdemeanor or felony convictions, and
 - Has at least an Associates Degree, or
 - Special agent for a federal law enforcement agency, or
 - A retired peace officer or federal agent,
 - Currently licensed Texas peace officer



Modern Day Constables

- If not currently licensed by TCOLE, they have 270 days to become licensed after taking office
 - Constable forfeits the office and is subject to removal if a license is not obtained within 270 days or maintained while in office



Modern Day Constables

- Mandated Training Requirements for Constables (TAC 218.3(g))
- (More training required than any other Peace Officer)
 - Newly Elected Constable
 - 40 Hour Course by 2nd anniversary of appointment at LEMIT
 - Continuing Education for Constables
 - 40 hour course every four year training cycle at LEMIT
 - Body Worn Camera Course (TOP 1701.656)
 - Court Security Officer Course (GC 158.002)



Modern Day Constables

- Mandated Training Requirements for Deputy Constables
 - Mandated Training for ALL Peace Officers (TAC 218.3 & TOC 1701)
 - 40 – Hours of training including Legislative Update every 2 years.
 - Body Worn Camera Course (TOP 1701.656)
 - Additional Mandated Training (TAC 213.8(h))
 - 20 hour civil law course every 4 year training cycle in addition to all other required training for peace officers
 - Court Security Officer Course (GC 158.002)



Modern Day Constables

- Duties and Powers of Constables
 - Code of Criminal Procedure
 - Art. 2.12 WHO ARE PEACE OFFICERS
 - (2) Constables, deputy constables, and those reserve deputy constables who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;
 - Art. 2.13. DUTIES AND POWERS.
 - (a) **It is the duty of every peace officer to preserve the peace within the officer's jurisdiction. To effect this purpose, the officer shall use all lawful means.**

Modern Day Constables

- (b) The officer shall:
 - (1) in every case authorized by the provisions of this Code, **interfere without warrant to prevent or suppress crime;**
 - (2) **execute all lawful process** issued to the officer by any magistrate or court;
 - (3) **give notice to some magistrate of all offenses committed within the officer's jurisdiction**, where the officer has good reason to believe there has been a violation of the penal law; and
 - (4) **arrest offenders without warrant in every case where the officer is authorized by law**, in order that they may be taken before the proper magistrate or court and be tried.



Modern Day Constables

- (c) It is the duty of every officer to take possession of a child under Article 63.009(g).
- (d) Subject to Subsection (e), in the course of investigating an alleged criminal offense, a peace officer may inquire as to the nationality or immigration status of a victim of or witness to the offense only if the officer determines that the inquiry is necessary to:
 - (1) investigate the offense; or
 - (2) provide the victim or witness with information about federal visas designed to protect individuals providing assistance to law enforcement.
- (d)[dup ltr] On a request made by that office, a peace officer shall execute an emergency detention order issued by the Texas Civil Commitment Office under Section 841.0837, Health and Safety Code.



Modern Day Constables

- (e) Subsection (d) does not prevent a peace officer from:
 - (1) conducting a separate investigation of any other alleged criminal offense; or
 - (2) inquiring as to the nationality or immigration status of a victim of or witness to a criminal offense if the officer has probable cause to believe that the victim or witness has engaged in specific conduct constituting a separate criminal offense.

Modern Day Constables

- Art. 8.08. SUPPRESSION AT ELECTION. **To suppress riots, unlawful assemblies and other disturbances at elections, any magistrate may appoint a sufficient number of special constables** . Such appointments shall be made to each special constable , shall be in writing, dated and signed by the magistrate, and shall recite the purposes for which such appointment is made, and the length of time it is to continue. Before the same is delivered to such special constable , he shall take an oath before the magistrate to suppress, by lawful means, all riots, unlawful assemblies and breaches of the peace of which he may receive information, and to act impartially between all parties and persons interested in the result of the election.
- Art. 8.09. POWER OF SPECIAL CONSTABLE . **Special constables so appointed shall, during the time for which they are appointed, exercise the powers and perform the duties properly belonging to peace officers.**

Modern Day Constables

– Local Government Code

- Sec. 86.021. GENERAL POWERS AND DUTIES.
 - (a) **A constable shall execute and return as provided by law each process, warrant, and precept that is directed to the constable and is delivered by a lawful officer.** Notices required by Section 24.005, Property Code, relating to eviction actions are process for purposes of this section that may be executed by a constable .



Modern Day Constables

- (b) **A constable may execute any civil or criminal process throughout the county in which the constable's precinct is located and in other locations as provided by the Code of Criminal Procedure or by any other law.**
- (c) A constable expressly authorized by statute to perform an act or service, including the service of civil or criminal process, citation, notice, warrant, subpoena, or writ, **may perform the act or service anywhere in the county in which the constable's precinct is located.**



CIVIL
PROCESS

Modern Day Constables

– (d) Regardless of the Texas Rules of Civil Procedure, **all civil process may be served by a constable in the constable's county or in a county contiguous to the constable's county**, except that a **constable who is a party to or interested in the outcome of a suit may not serve any process related to the suit**. All civil process served by a constable at any time or place is presumed to be served in the constable's official capacity if under the law the constable may serve that process in the constable's official capacity. A constable may not under any circumstances retain a fee paid for serving civil process in the constable's official capacity other than the constable's regular salary or compensation. Any fee paid to a constable for serving civil process in the constable's official capacity shall be deposited with the county treasurer of the constable's county.

Modern Day Constables

– (e) **The constable shall attend each justice court held in the precinct.**



CONSTABLES ROLE IN COUNTY LAW ENFORCEMENT

Texas Constables, A Frontier Heritage

"It is in the county precinct or local community where constables could and should make their greatest contributions today." A.G. Hatley

Modern Day Constables

- Diversity of Office
 - Hatley: "some constables just serve papers, some are involved in providing their constituents with a good measure of safety and protection and enforce the law"
 - Hickman: "constables are one of the most flexible, utilitarian types of positions"
 - Product of individuality

Modern Day Constables



- The Duties a Constable's office undertakes depends on:
 - The Constable's leadership and drive
 - The Constable's perception of community wants and needs

Drug interdiction
Traffic enforcement
High risk warrant service
Litter abatement
School resource and truancy enforcement
Clean air act enforcement

Cameron Co.
Park rangers to deputy constables
Harris Co. Pct. 4 – ALL types of law enforcement

Modern Day Constables

- Resource to other agencies
 - Knowledge of civil law
 - Lack of knowledge of civil law by most law enforcement officers
 - Mutual aid to local agencies / Manpower



Modern Day Constables

- Revenue Generation
 - Revenue from service of civil papers
 - Revenue from warrant service
 - Revenue from misdemeanor citations
 - Indirect revenue from court costs associated with arrests



The Texas Constable: A Vital Part of County Law Enforcement

"The constable office has the ability to be one of the most versatile law enforcement agencies within a county because of their ability to mold to the needs of the community. This makes them a great asset to the county law enforcement community when given the financial ability to do so by commissioner's courts. In fact, it is the Texas constable and his closeness to the community that many law enforcement experts say embodies the community policing model."

Questions?
