“2.008 County Attorney”

Hon. John Fleming, Nacogdoches County Attorney
The office of
County Attorney

Phase II: 2.008

Represents the State

Primary Duty of the County Attorney: Enforce Criminal Statutes and Seek Justice

- Consider a DWI Case
- Consider Jury Selection
Primary Duty of the County Attorney: Enforce Criminal Statutes and Seek Justice

• Consider a DWI Case
  • Illustrate Concepts
  • The Bouncing Red Ball and Intoxication

• Consider Jury Selection
Overview of Discussion

- Constitutional Authority
- Assuming Office
- Staffing
- Funding
- Basic Responsibilities
- Conflicts
- Record-keeping Issues

Do we have to keep our County Attorney?

- Constitutional Authority
  - Tex. Const. art. V, §21
- Qualifications
  - Must be licensed
  - Must reside in the county

How long do we have to keep our County Attorney?

- Term of Office
- Bond
- Oath of Office & Anti-Bribery Statement
  - Tex. Const. art. XVI, §1
  - Consider AG appointment if needed
- Address notification
Anti-Bribery Statement

The Statement

Don’t Accept a Bribe

What kind of employees work in a County Attorney’s office?

• Assistant County Attorneys
  ▪ Oaths and Licensed
• Other Staff
  ▪ Investigators
  ▪ Victim Assistance Coordinator
  ▪ Paralegal
  ▪ Hot Check Collection Clerks

Do we have to pay the County Attorney?

• County Attorney
  ▪ Professional Prosecutor’s Act (State Supplement)
  ▪ Private Practice and Referral Fees
• CA Sets Salaries of Her Staff*
• Funding Sources for Office Expenses
  ▪ Budget (Commissioners Court)
  ▪ Hot check fund
  ▪ Pretrial Diversion Funds (Limited)
  ▪ Grants
What is the primary duty of the County Attorney?

- To seek Justice – Not Convictions
  - Enforce criminal statutes
  - Represents the State in misdemeanor criminal cases
  - Works with law enforcement
  - Reviews complaints and files informations
    *consider funding for training and education
    *think Brady training

What are the responsibilities of the County Attorney?

- Prosecute Misdemeanor Criminal Cases
  - Misdemeanors – DWI, CM, CT, EA, RA
  - Family violence
    - Emergency Protective Orders
    - Protective Orders
  - Juvenile – In some counties
  - Representing the State in Civil Matters
    - Child Protective Services
      - Bond Forfeiture Proceedings (Funding Source)
      - Open Record Requests (Public Information Act)
      - Adult Protective Services
      - Mental Health Code Hearings (Commitments)
      - Removal of Elected Officials

Responsibilities continued

- Money Collections
  - Taxes and other money owed to the county
- Commissions
  - May retain a commission
What kind of conflicts can prohibit the County Attorney from serving as County Attorney?

- Attorney Pro Tem/Special Prosecutors
  - Conflicts of interest
    - When the prosecutor cannot prosecute a case, for instance, because of a conflict of interest
    - Consider this in budget preparation
  - Dual office holding
    - Qualification and acceptance of the second office, operates as an automatic resignation of the first office

Is the County Attorney required to maintain any records?

- Record-keeping
  - Record retention: See www.tsl.state.tx.us/slrm/recordspubs/ps.html
  - Open Records

Vacancy of Office

Overview and Summary of Discussion

- Constitutional Authority
- Qualifications
- Basic Responsibilities
- Staffing
- Salaries/Funding
- Conflicts
- Record-keeping
Resources

• Code of Criminal Procedure
• Texas Constitution
• Government Code
• Penal Code
• Tax Code