

The Office of Constable



Objectives

- Summarize History
- Describe Constitutional Authority
- Outline Current Legal Authority
- Explain Basic Responsibilities
- Define Key Terms



History

- Earliest mention in 1066- Norman Conquest of England-Norman the Conqueror appointed Constables to supervise communities



History

- First Constable Appointment in Texas was made by John Tumlinson “to summon witnesses and bring offenders to Justice”- Thomas V. Alley in 1823 (Colorado District-SFAustin Colony)
- In 1836 the Constitution of Congress of the Republic of Texas provided for the election in each county of a Sheriff and “a sufficient number of Constables”



History

- Texas Constitution of 1876 mandated that JP's and Constables be elected at the precinct level
- Today there are over 2,500 deputies and Constables of which approximately 700 are Constables in State of Texas registered with TCOLE



Constitutional Authority

- Texas Constitution Article 5, Section 18 (a)
Judicial Department
- Each Constable is elected in each justice precinct every four (4) years
- An amendment on January 1, 1984. The numbers of justice and constable precincts in each county is to be determined according to population figures from the most recent federal census.



Constitutional Authority

- Current Legal Authority
 - Local Government Code Section 86.021
 - Texas Code of Criminal Procedure (Article 2.12[2])



Constitutional Authority

- Local Government Code Section 86.021
 - Shall Execute and return process, warrant, precept
 - May execute civil or criminal process throughout the county
 - 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
 - Shall attend each justice court held in the precinct



Constitutional Authority

Current Legal Authority

- Texas Code of Criminal Procedure (Article 2.12[2]): WHO ARE PEACE OFFICERS.
The following 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;



Constitutional Authority

Current Legal Authority

- CCP, Art. 2.13. [37] [44] [45] 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.
- (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;



Constitutional Authority

Current Legal Authority

- CCP, Art. 2.13. [37] [44] [45] Duties and powers
- 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.
- (c) It is the duty of every officer to take possession of a child under Article 63.009(g).



Assuming Office

- Qualifications- Texas Local Govt Code 86.0021(a) person is eligible to be licensed if
 - 21 years of age and no felony convictions
 - Associates Degree or
 - Special investigator or honorably retired peace officer or federal criminal investigator or
 - Has an active or inactive licensed peace officer or



Assuming Office

- (b) on or before the 270th day after taking office, shall provide to the commissioners court of the county evidence that the constable has been issued a permanent peace officer under Ch. 1701 Occupations code.



Assuming Office

- A Constable who fails to provide evidence of licensure or fails to maintain a permanent license forfeits the office and is subject to removal in a quo warranto proceeding under Chapter 66, Civil Practice Remedies Code



Assuming Office

- T.C.O.L.E. The Texas Commission on Law Enforcement is the regulatory agency for all peace officers in Texas.



Assuming Office

- Official Oath
- Official Bond
- Liability
 - Improper levy or execution of process
 - Unlawful arrest
 - Assault and personal injury
 - Improper collection of fines, fees and monies



Assuming Office

- Bond with Sureties
- Payable to Governor
- Oath of office
- May immediately perform the duties



Assuming Office

- Office Vacancy
- Holdover Statute
- Subject to Removal
 - Texas Constitution Article 5, Section 24
 - Authority Representing State



Assuming Office

- Local Government Code, Section 87.017
- Local Government Code, Section 87.031
- Requirement for Jury Finding



Training Requirements

- For Constables:
 - Newly Elected Constable school 40 hrs.
 - Continuing Constable Education 40 hrs.
 - Civil Process Education 20 hrs.
 - Courtroom security (if applicable)



Training Requirements

- For Deputy Constable:
 - 40 hours within each 2 year unit which includes:
 - Civil Process Education 20 hrs.
 - Legislative Updates
 - Courtroom security (if applicable)



Basic Responsibilities

- Current Texas Constables have various duties and responsibilities depending on the needs of their prospective counties.
- Constables' primary duties are focused on providing support to their JP's.
- Constables are authorized to provide public safety depending on community needs and county resources.



Basic Responsibilities

- Jurisdiction
 - Precinct
 - County
 - Contiguous
- Justice Court
 - Civil Process
 - Warrants
 - Baliff



Basic Responsibilities

- Duties required of Constables
 - Shall execute & return each process, warrant, & precept directed to the constable TLGC
 - Shall attend each justice court in the precinct TGC
 - Shall notify citizens of jury service on a date designated by the judge TGC
 - May execute any civil or criminal process throughout the county where the precinct is located as provided by the CCP or any other law.



Duties Constables May Perform In Their County (and do so in various counties of this state)

- Mental Health Warrants
- Juvenile Warrants
- Illegal dumping
- Environmental Crimes
- Enforcement of Livestock Estray
- Animal Cruelty
- Courthouse and Courtroom Security
- Patrol of County Parks and Lakes
- Traffic control



Basic Responsibilities

- Financial Transactions
 - Money Collected
 - Accounts
- Seized Property
 - Care & Storage



Appointing Staff

- Appointing Deputies
- Powers of the Deputy
- Bonding the Deputy
- Liable for Wrongful Conduct



Liability Issues

- Due Diligence - expected from & exercised by a reasonable and prudent person under the particular circumstances. Black's Law
- Case law - establishes liability if due diligence is not performed on a duty imposed by law.
- Incompetence
- Official Misconduct



Liabilty Issues

- Failure or refusal to execute and return any process, warrant, or precept lawfully directed to any constable, Plaintiff may file a motion for contempt.

TLGC

- Duty to protect & secure all personal property levied upon. TCP&RC

- Improper writ endorsement, failure to levy, false return on a writ, the officer and sureties are for the full amount of the debt plus interest and costs.

TCP&RC



OFFICE DORMANT

Texas Constitution, Article XVI

- Commissioners court may declare the office of constable in a precinct dormant
- if at least seven consecutive years have passed since the end of the term of the person who was last elected or appointed to the office



OFFICE DORMANT

Texas Constitution, Article XVI

- The commissioners may reinstate the office by the vote of the commissioners court or by calling an election in the precinct to reinstate the office
- If the commissioners court receives a petition signed by at least 10 percent of qualified voters of the precinct



ATTORNEY GENERAL OPINIONS

- JC-0514 Whether a constable who fails to provide evidence of permanent peace officer licensure under section 86.00221 (b) Of the Local Government Code



More Opinions

- JC-0140 Whether commissioners court is required to fill a vacancy in the office of constable
- JC-0413 Duties of constable under section 86.021 of the Texas Local Government Code



More Opinions

- JM-770 Authority of a commissioners court to place restrictions upon payment of a constable's salary and office expenses



Summary

- History
- Responsibilities
- Contribution

