



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable R. D. Oswalt
County Attorney
Wilbarger County
Vernon, Texas

0-5003

Dear Sir:

Opinion No. 0-5003
Re: Sheriff may leave county
without securing permis-
sion of commissioners' ~~court~~
court and related matters

Your request for opinion has been received and carefully considered by this department. We quote from your request as follows:

"I am unable to furnish a brief about the matter I am seeking information on, so the only thing I know to do is to state the circumstances and proposition, and hope that I get an opinion on the same.

"I am sure you are aware of the fact that the United States Government is sponsoring a school in Washington, D. C., in certain phases of law enforcement, and extending this privilege to certain peace officers of their own selection.

"In the event a sheriff of some county in Texas, was selected or extended the privilege to acquire this training, and such officer desires to acquire this training. This course of training would necessarily take approximately 30 days to complete.

"Question: Would it be necessary that the Commissioners Court grant him a leave of absence, that is the commissioners court of his county?

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Do said commissioners court have the authority to grant such leave? And if not, by what authority would he be entitled to take this leave upon?

"Would he be entitled to his regular salary during the time he was receiving such training?"

We quote from 11 Texas Jurisprudence, pages 563-4-5, as follows:

"Counties, being component parts of the state, have no power or duties except those which are clearly set forth and defined in the Constitution and statutes. The statutes have clearly defined the powers, prescribed the duties, and imposed the liabilities of the commissioners' courts, the medium through which the different counties act, and from these statutes must come all the authority vested in the counties. . . .

"Commissioners' courts are courts of limited jurisdiction, in that their authority extends only to matters pertaining to the general welfare of their respective counties and that said powers are only those expressly or impliedly conferred upon them by law, that is, by the Constitution and statutes of the state."

We have been unable to find any statute requiring the sheriff to get permission from the commissioners' court in order to go outside his county or outside of Texas.

In Opinion No. 0-2533 we held that the commissioners' court of Lamar County, Texas, had no authority to grant a leave of absence to the county attorney to enter the U.S. Army. This opinion also referred to opinion No. 0-3448 of this department which held that the commissioners' court could not declare a vacancy in the office of county attorney as the authority to declare a vacancy would be in the District Court, citing Hamilton v. King, 206 S. W. 953, and that the county attorney was entitled to his salary during the term of his office or until a vacancy was established. We enclose herewith a copy of Opinion No. 0-2533 for your information.

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It is our opinion that, under the facts stated, the commissioners' court has no authority to grant a leave of absence to the sheriff for the purposes stated or any other purposes. However, if the sheriff desires to go he may go on his own volition as he needs no permission from the commissioners' court. As long as he is sheriff he will be entitled to receive his salary. Of course, however, the commissioners' court would not be authorized to expend county funds for the payment of the sheriff's expenses in or going to and from the school in Washington, as same would not be on county business but purely on the sheriff's own private business.

Very truly yours

ATTORNEY GENERAL OF TEXAS

Wm. J. Fenning

By

Wm. J. Fenning
Assistant

WJF:db

Enclosure

APPROVED DEC 8, 1942

Gerald C. Mann

ATTORNEY GENERAL OF TEXAS

