



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable Cleveland Davis
County Attorney, Brazoria County
Angleton, Texas

Dear Sir:

Opinion No. 0-5814
Re: Whether the Sheriff of
Brazoria County can
legally pay his first
assistant \$2,000 per
annum and his first
deputy a salary of
\$2,000 per annum under
Section 2 of Article
3902, Vernon's Annotated
Civil Statutes.

Attention:
Mr. E. B. Stone, Jr.
Assistant County Attorney

Your letter of January 17, 1944, requesting the
opinion of this department on the questions stated therein
reads as follows:

"According to the last Federal Census
Brazoria County had a population of 27,069.

"The Sheriff of Brazoria has one deputy
who performs the duties of first assistant
in the office and attends to the civil
business. The Sheriff also has a deputy whom
he considers his first deputy in charge of
criminal matters.

"Article 3902, Sec. 2 which applies to
Brazoria County is as follows:

"In counties having a population of
25,001 and not more than 37,500 inhabitants,
first assistant or chief deputy not to exceed
\$2000.00 per annum; other assistants, deputies,
or clerks not to exceed \$1700.00 per annum each."

"I have been requested to advise under the provisions of this article if the Sheriff of Brazoria County is entitled to pay his first assistant in charge of civil matters the sum of \$2000.00 per annum and his chief deputy in charge of criminal matters the sum of \$2000.00 per annum under this section 2 of Article 3902.

"It would appear from reading Section 2 of Article 3902 that the Sheriff is confined to one first assistant or first deputy to whom he can pay a salary not to exceed \$2000.00 per annum. On the other hand, such a construction might be placed on this section that would entitle the Sheriff to a first assistant in charge of civil matters at \$2000.00 per annum and a chief deputy in charge of criminal matters who can receive not to exceed \$2000.00 per annum. I shall thank you to advise which of these conclusions of law is correct."

After carefully considering Article 3902, Vernon's Annotated Civil Statutes, it is apparent that it was contemplated by the Legislature that any district, county or precinct officer requiring the services of deputies, assistants or clerks in the performance of his duties, such officer is confined to one first assistant or first deputy to whom he can legally pay the maximum salary authorized by the provisions of said statute applicable to his county. Section 2 of Article 3902 is applicable to Brazoria County and the maximum salary authorized by said provision that can legally be paid the first assistant or chief deputy is \$2,000 per annum, other assistants, deputies or clerks cannot be paid an annual salary exceeding \$1700 per annum each. Therefore, it is our opinion that the Sheriff of Brazoria cannot legally pay the maximum salary of \$2000 per annum to his chief deputy and also pay \$2000 per annum to a person designated as his first assistant.

Stated another way, the Sheriff is confined to one first assistant or first deputy to whom he can legally pay a salary not exceeding \$2000 per annum.

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Supporting the foregoing statement, we direct your attention to our Opinion No. 0-91 passing upon a question similar to the one presented in your inquiry. We enclose a copy of said opinion for your convenience.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By /s/ Ardell Williams
Assistant

AW:ep:bb

APPROVED JAN. 25, 1944
/s/ Grover Sellers
ATTORNEY GENERAL OF TEXAS

APPROVED OPINION
COMMITTEE
By D. M., Chairman