



THE ATTORNEY GENERAL
OF TEXAS

AUSTIN, TEXAS 78711

WALBORN GARR
ATTORNEY GENERAL

April 11, 1966

Honorable James A. Evans
County Attorney
Lavaca County
Hallettsville, Texas

Opinion No. C-651

Re: Whether a constable who
refuses to physically
appear at the scene of
traffic accidents is
neglecting a duty of
his office.

Dear Mr. Evans:

In your opinion request you state that there is a constable who has given public notice that he will no longer work any traffic accidents in his jurisdiction. Your question: Is the constable neglecting a duty of his office? The answer to this question is no. The publication of such a notice is not a neglect of his duty of office; however, Article 6885 of Vernon's Civil Statutes provides:

"Each constable shall execute and return according to law all process, warrants and precepts to him directed and delivered by any lawful officer, attend upon all justice courts held in his precinct and perform all such other duties as may be required of him by law."
(Emphasis added.)

Article 2.13 of the 1966 Code of Criminal Procedure provides:

"It is the duty of every peace officer to preserve the peace within his jurisdiction. To effect this purpose, he shall use all lawful means. He shall in every case where he is authorized by the provisions of this Code, interfere without warrant to prevent or suppress crime. He shall execute all lawful process issued to him by any magistrate or court. He shall give notice to some magistrate of all offenses committed within his jurisdiction, where he has good reason to believe there has been a violation of the penal law. He shall arrest offenders without warrant in every case where he is authorized by law, in order that they may be

taken before the proper magistrate or court
and be tried." (Emphasis added.)

When reading the last part of Article 6885, Vernon's Civil Statutes, together with Article 2.13, 1966 Code of Criminal Procedure, it seems clear that the constable does have a duty to work traffic accidents, when he has good reason to believe that there has been a violation of the penal law involved in such accidents, which occur within his jurisdiction. Therefore, it is the opinion of this office that while the mere publication of an intention not to work traffic accidents within his jurisdiction would not be a neglect of a constable's duty of office, his actual refusal to investigate such an accident, when he has good reason to believe that there has been a violation of the penal law, would be a neglect of his duty of office.

SUMMARY

The publication of a notice of intention that a constable will no longer work any traffic accidents in his jurisdiction is not a neglect of a constable's duty of office. A constable's refusal to work a traffic accident where he has good reason to believe there has been a violation of the penal law involved in such accident is a neglect of a constable's duty of office.

Yours very truly,

WAGGONER CARR
Attorney General of Texas

By: Robert E. Owen
ROBERT E. OWEN
Assistant Attorney General

REO/er

APPROVED:

OPINION COMMITTEE

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APPROVED FOR THE ATTORNEY GENERAL
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