



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**CRAWFORD C. MARTIN
ATTORNEY GENERAL**

April 28, 1969

Honorable W. C. Lindsey
Criminal District Attorney
Jefferson County Courthouse
Beaumont, Texas

Opinion No. M-381

RE: Authority of a
constable to
form a standby
auxiliary force
under stated
facts.

Dear Mr. Lindsey:

In your letter to Attorney General Martin, you asked the following questions:

- "1. What authority, if any, does a constable have to form a standby auxiliary force?
- "2. If such authority exists, what procedure should be followed in activating the auxiliary force?
- "3. If such authority exists, may the auxiliary officer carry a pistol while on official duty?
- "4. If such authority exists, will the auxiliary officer be permitted to work alone, or will he have to work under the immediate direction of the constable or a deputy constable?
- "5. Would the auxiliary officer be entitled to compensation or would they be required to serve without compensation?"

You further state:

"The proposed auxiliary force will number about 50 men. These individuals will attend training classes much like rookie policemen are required to do now.

Constable Rollins has informed me that if an auxiliary force is permitted, he intends to use them in civil disorders, disasters, parades, civic functions, ballgames, etc."

Article 6879 and 6879 (a), Vernon's Civil Statutes, set forth the rules governing the appointment of deputy constables. You will note that the Commissioners' Court is required to approve and confirm the appointment of deputy constables, and that each constable is limited in the number of deputies he may appoint. Therefore, it is our opinion that a constable does not have the authority to form a standby auxiliary force by the appointment of deputies.

The various statutes which authorize the constables (and sheriff, etc.) to call citizens to their aid are aimed at specific emergency situations and do not contemplate a permanent organization to give such aid.

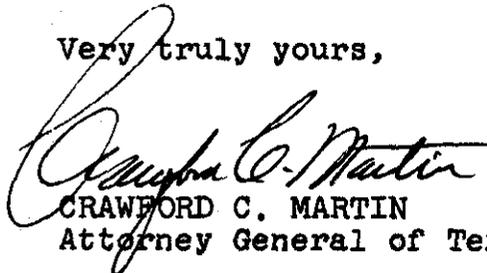
We also observe that the legislature has outlawed bodies of citizens, other than the state and federal militia, from associating themselves together in a militia-type organization and carrying firearms in public. See Article 5780, Section 6, Vernon's Civil Statutes.

Since our research of the Texas Statutes and Constitution fails to disclose any authority which would permit or authorize a constable to form an auxiliary force, it is unnecessary to answer your other questions which were conditioned on the existence of such authority.

SUMMARY

There is no statutory or constitutional authority for a constable to form a standby auxiliary force for civil disaster or police duty as contemplated under the stated facts.

Very truly yours,


CRAWFORD C. MARTIN
Attorney General of Texas

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