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April 6, 2005

RQ-0337-GA

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OPINION COMMITTEE

The Honorable Gregg Abbott
Attorney General of Texas
PO Box 12548
Austin, TX 78711-2548

FILE # ML-44181-05

I.D. # 044181

Re: Opinion request regarding Local Government Code 154.005(d) and Article 16, Section 61 of the Texas Constitution.

Dear General Abbott:

Article 16, Section 61 of the Texas Constitution states that "[a]ll fees earned by district, county and precinct officers shall be paid into the county treasury." However, Section 154.005(d) of the Local Government Code states that a constable may receive a fee, commission, or payment for delivering eviction notices required by Section 24.005 of the Property Code. The statute further sets out that "[f]or purposes of collecting fees for serving said notices, a constable is considered a private process server."

A question has arisen as to exactly what fees a constable may keep for himself and what fees he must remit to the county. Please accept this letter as a request for an Attorney General's Opinion on the following issues:

What are the notices "required by Section 24.005, Property Code, relating to eviction actions" for purposes of Section 154.005 of the Local Government Code?

What fees, commissions, or payments may a constable retain for himself?

Thank you for your consideration of these questions. If you have any questions, or if you need additional information, please contact Rowland Greenwade in my office.

Regards,



Will Hartnett

Will Hartnett