

BOWIE COUNTY CRIMINAL DISTRICT ATTORNEY

BOBBY LOCKHART

P.O. BOX 3030
601 MAIN
TEXARKANA, TEXAS 75504
(903) 735-4800 • Fax (903) 735-4819

First Assistant
James Elliott
Assistants
Michael Shepherd
Alwin A. Smith
Carol Dalby
Kristie Wright
Nicole Habersang
Kristian Young

Hot Checks
Joyce Owen
Shelley Wells



September 6, 2001

RQ-0431-JC

Mr. John Cornyn
Attorney General's Office
AG Opinion Section
P. O. Box 12548
Austin, Texas 78711-2548

FILE # ML-42146-01
I.D. # 42146

RECEIVED
SEP 10 2001
OPINION COMMITTEE

Re: A.G. Opinion/Section 86.0021(b) Local Government Code

Dear Sir:

In March of 2000 Benny Barrett was duly elected to the position of Constable for Precinct 3 of Bowie County. That particular Constable's position was vacant at the time of the election. On May 1, 2000 the Commissioners Court appointed Barrett to fill the remainder of the unexpired term, which was until December 31, 2000. On January 1, 2001 Barrett was sworn in to his elected position as Constable for Precinct 3. Barrett took the proper oath of office on both occasions.

On September 5, 2001 it came to our attention that Barrett had not yet notified the Commissioners of evidence that he had been issued a permanent peace officer's license according to Section 86.0021(b) of Local Government Code. We contacted the Texas Commission of Law Enforcement Standards and learned that Barrett was not licensed under Chapter 415 of the Government Code.

This office took the position that Constable Barrett had 270 days from May 1, 2000, when he was appointed to fill the unexpired term, to provide the Commissioners Court evidence that he had been issued a permanent peace officer's license. Also, that his failure to do so was a forfeiture of his office under 86.0021(b).

Constable Barrett contends that he had 270 days from January 1, 2001 to provide the Commissioners Court with evidence that he is a licensed peace officer.

We understand that under the law prior to the enactment of Section 82.0021(b) that every time a constable (or elected peace officer) assumed a new term that he had a new two year period to obtain a permanent peace officer's license.

Mr. John Cornyn
Page 2
September 6, 2001

Our question is:

Whether Constable Barrett had 270 days from May 1, 2000 (the day he was appointed to the unexpired term) or had 270 days from January 1, 2001 (the day he took office by virtue of his election) to provide the Commissioners Court with evidence that he has been issued a permanent peace officer's license... in accordance with Section 86.0021(b) of the Local Government Code.

Sincerely,

A handwritten signature in black ink that reads "Bobby Lockhart". The signature is written in a cursive style with a large, prominent "B" and "L".

Bobby Lockhart
Criminal District Attorney

BL/pc