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TOM RAMSAY
TEXAS HOUSE OF REPRESENTATIVES

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OPINION COMMITTEE

RQ-0432-JC

FILE # ML-42150-D1

I.D. # 42150

Office of the Attorney General
Attn: Liz Robinson
Opinion Committee
P.O. Box 12548
Austin, TX 78711-2548

Dear Ms. Robinson:

This is a request for an Attorney General's opinion regarding the abolishment of a constable's office as a result of redistricting. Please see the attached correspondence from Representative John Longoria that inquires about the duties and responsibilities as well as constables' constitutional rights to serve their full term when their position has been abolished because of redistricting. Please contact my staff if you have any questions, or require further information.

Thank you for your assistance in this matter.

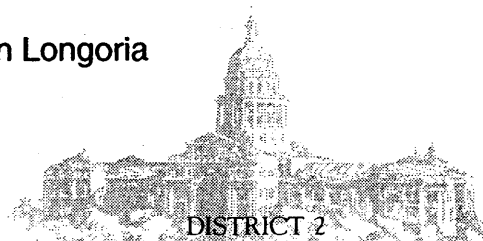
Sincerely,

Tom Ramsay
Tom Ramsay
Chairman
House County Affairs Committee

TR/mw

enclosure

cc: Representative John Longoria



TEXAS HOUSE OF REPRESENTATIVES

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JOHN A. LONGORIA

5 September, 2001

The Honorable Tom Ramsay
Chairman of the Committee on County Affairs
Room E1.404, Capitol Extension
Austin, Texas

Re: Request for Opinion by the Attorney
General of the State of Texas

Topic: Constable's Position Abolished
By Commissioners Court's Redistricting

Dear Chariman Ramsay,

In Bexar County the County Commissioners Court has recently accomplished a redistricting of the Justice of the Peace and Constable Precincts. As a result several important questions have resulted and I would appreciate the Chair requesting clarification by the Attorney General.

History: Pursuant to Article 5, Section 18 of the Texas Constitution the Constable In Constable/Justice Precinct 5 was elected to a four year term in the year 2000. That term began in 2001. In August 2001 the Commissioners Court Redistricted the Precincts effectively abolishing Constable Precinct 5 and put the Constable of Constable Precinct 5 in Constable Precinct 1. The Court then designated the Constable of Precinct 1 as the Constable of the "newly" drawn Constable Precinct 1 in Bexar County.

Questions:

What are the duties of the duly elected Constable of the abolished Constable Precinct 5, what rights does the said Constable have, what responsibilities does he have as pertain to his public service as a Constable and in directing the activities of deputies in the "new" precinct 1?

Section 81.021 of the Texas Local Government Code states that a Constable is entitled to serve for the full term to which he was elected. Since the Constable



DISTRICT 117

in this matter was elected in 2000 to take office in 2001 presumably he holds office until 2005. What is the salary he is to receive? The statute further declares "The officer is entitled to serve for the remainder of the term to which the officer was elected." How is that statute to be applied as it pertains to his service in enforcing the laws of the State of Texas within the Constable Precinct in which he resides? How is the statute applied in reference to his direction and administration of the activities of the deputies in the "new" precinct?

The 1974 Attorney General's opinion number H-220 concluded that a Constable elected to a full term is entitled to serve the entire four (4) year term, and the redistricting of his precinct by the Commissioners Court resulting in his not living in his former precinct does not cause him to vacate his office. Given the circumstances above and the opinion cited, what is the salary to be received by the constable in this situation? What duties as constable is he entitled or authorized to perform? What are his responsibilities and privileges that he has regarding the training and administration of deputy constables of the precinct in which he now resides? As Constable does he retain the authority to deputize and maintain an adequate force, a roster of deputies, as it were?

What is the Constable prohibited from doing in regard to constable duties, responsibilities and privileges? What of his duly commissioned deputies? Does the Constable retain all his rights, privileges authorities and responsibilities?

Mr. Chairman, as you can see there are significant questions to be addressed. The Attorney General is the appropriate Official to address this question and I ask that you do me the courtesy of submitting these questions.

Sincerely,



John A. Longoria