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OPEN RECORDS DIVISION

# Oliver S. Kitzman

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Waller County

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MAY 28 2003

**RQ-0070-GA** OPINION COMMITTEE

John Cornyn  
Office of the Attorney General  
State of Texas  
Post Office Box 12548  
Austin, Texas 78711-2548

FILE # ML-43114-03  
I.D. # 43114

Dear Sir:

The Road and Bridge Department of Waller County plans to install stop signs at either end of a particular county road.

Owen Ralston, Waller County Judge has requested that I seek the opinion of your office regarding whether Section 251.152 of the Texas Transportation Code requires the commissioners court to place a newspaper notice and hold a public hearing before authorizing Road and Bridge to install stop signs on a county road.

Thank you for your assistance.

Sincerely,

  
Debra S. Mergel

Daniel Kamin  
First Assistant

Lief Erickson  
Assistant

Ross Macha  
Assistant

Debra Mergel  
Assistant

Bennie Zajicek  
Investigator



**Oliver S. Kitzman**

Criminal District Attorney  
Waller County

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JUN 24 2003  
OPINION COMMITTEE

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June 18, 2003

Nancy S. Fuller  
Chair, Opinion Committee  
Office of the Attorney General  
Post Office Box 12548  
Austin, TX 78711-1548

FILE # ML-43114-03  
I.D. # 43157

Re: ID#43114

Dear Ms. Fuller:

This is in response to your letter of May 29<sup>th</sup>. Unfortunately, although it was stamped in at our office on June 2<sup>nd</sup>, I did not receive your letter on my desk until June 16<sup>th</sup>. Therefore, my brief is being sent later than the deadline given in your letter. I apologize for the delay; I was unaware that a brief was required.

Enclosed is my brief. Thank you for your consideration.

Sincerely,

Debra S. Mergel

Daniel Kamin  
First Assistant

Lief Erickson  
Assistant

Ross Macha  
Assistant

Debra Mergel  
Assistant

Bennie Zajicek  
Investigator

**ISSUE SUBMITTED:**

Whether Waller County Commissioners Court is required, under Section 251.152 of the Texas Transportation Code, to place a notice in the newspaper and hold a public hearing before approving the placement of stop signs on a county road.

**FACTS:**

A recent Waller County Commissioners Court agenda included an item from the Road and Bridge department requesting authorization to install stop signs at either end of a county road. During discussion by the court, Commissioner Louis Canales, Precinct 4, asked whether we needed to have a public hearing on the matter. Commissioner Canales read Section 251.152 of the Texas Transportation Code to the court. Other commissioners stated that they had never had a public hearing on such matters in the past. It was agreed that Assistant District Attorney Debra Mergel would seek the answer from the Attorney General's office.

**LEGAL ARGUMENTS:**

Section 251.152 of the Texas Transportation Code reads as follows:

- (a) Except as provided by Section 251.159, before the commissioners court may issue a traffic regulation under this subchapter, the commissioners court must hold a public hearing on the proposed regulation.
- (b) The commissioners court shall publish notice of the hearing in a newspaper of general circulation in the county. The notice must be published not later than the seventh or earlier than the 30<sup>th</sup> day before the day of the hearing.

“This subchapter” refers to Subchapter E. County Traffic Regulations, which includes Sections 251.151 to 251.161 of the Texas Transportation Code.

Section 251.159 allows commissioners court to issue a traffic regulation without a public hearing unless a county resident requests one. Section 251.159 does not apply to Waller County, Texas because “this section applies only to a county with a population of more than 200,000” and Waller County, Texas is much smaller than that.

The question remains whether the installation of stop signs is “a traffic regulation under this subchapter.” Stop signs are mentioned in Section 251.155(c), but it seems that that section is dealing with “restricted traffic zones.” Waller County has not established restricted traffic zones, so it seems that 251.155(c) does not apply.

The other regulations of traffic mentioned in Subchapter E are load limits (251.153), speed limits (251.154), parking restrictions (251.156), prohibiting use of a road (251.157), and temporary use of county road for civic event (251.158).

Waller County Commissioners Court has authority to regulate traffic on a county road. Section 251.151, Texas Transportation Code. It seems that a stop sign is a regulation of traffic. Therefore, my conclusion is that Waller County Commissioners Court is required to follow 251.152 and place the newspaper notice and hold the public hearing before approving the installation of the stop signs on a county road.



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