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OPINION COMMITTEE

Brian Bartko
Asst. Criminal District Attorney
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Chief Criminal Investigator
Michael Matthews II
Asst. Criminal District Attorney
Vickie Horton
Crime Victim's Coordinator

MARK E. PRICE
CRIMINAL DISTRICT ATTORNEY
SAN JACINTO COUNTY
#1 State Hwy. 150 Rm# 21
Coldspring, TEXAS 77331-0430

(936) 653-2601 Telephone
(936) 653-2602 Telephone
(936) 653-4865 Telephone
(936) 653-2143 Facsimile

E-mail:
sjcdabmb@consolidated.net

November 4, 2005

FILE # ML-44497-05

I.D. # 44497

Greg Abbott Attorney General
Opinion Committee
P. O. Box 12548
Austin, Texas 78711-2548

RQ-0412-GA

Re: Authority and/or Duty to remove abandoned Mobile homes from County Road right-of-ways.

Dear General Abbott:

The question has been asked whether a Constable and/or a County Commissioner have a right or even a mandatory duty to remove an abandoned mobile home from a County Road right-of-way. It is the understanding of this office that two Mobile homes have been abandoned for several months and present a potential safety hazard unless moved.

Section 545.3051 of the Transportation Code provides that if a, "law enforcement agency determines that the property blocks the roadway or endangers public safety", that they may remove the property from a roadway or right-of-way.

The section further states that an authority or a law enforcement agency is not liable for:

- (1) any damage to personal property removed from a roadway or right-of-way under this section, unless the removal is carried out recklessly or in a grossly negligent manner; or
- (2) any damage resulting from the failure to exercise the authority granted by this section

If you have any questions or wish to discuss this please do not hesitate to call.

Very Truly Yours,

Mark E. Price



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OPEN RECORDS DIVISION

Brian Bartko
Asst. Criminal District Attorney
Charlie Harris
Chief Criminal Investigator
Michael Matthews II
Asst. Criminal District Attorney
Vickie Horton
Crime Victim's Coordinator

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(936) 653-2143 Facsimile

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sjcdabmb@consolidated.net

FILE # RQ-0412-GA
I.D. # 44523

07 December 2005

Greg Abbott, Attorney General
Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548

VIA Certified mail
**Re: Authority and/or Duty to remove abandoned Mobile Homes from
County Road Right of Ways.**

Attorney General #RQ-041-GA

Dear General Abbott:

This is a supplement to my request for the Attorney General Opinion referenced above. The question has also been asked is there any potential liability to the County or the individual peace officer if the peace officer refuses to remove a mobile home from a County right of way and someone is killed or injured as proximate cause of the injury. Please give your opinion both as to a situation where the decision not to move the mobile home is a result of the decision of the individual officer and where it is the result of County or department policy. If you have any questions, please do not hesitate to call.

Very truly yours

Mark E. Price
Criminal District Attorney