



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GROVER SELLERS  
ATTORNEY GENERAL

Honorable John T. Hutchison  
County Attorney  
Lamar County  
Paris, Texas

Dear Sir:

Opinion No. 0-5766  
Re: Salaries of deputy sheriffs  
in Lamar County.

Your letter of December 15, 1943, requesting the opinion of this department on the questions stated therein, reads, in part, as follows:

"The Commissioners' Court of Lamar County recently increased the pay of the chief deputy sheriff from \$150.00 a month to \$175.00 a month.

"Question No. 1: Can the Commissioners' Court of Lamar County increase the pay of the two other deputy sheriffs from \$150.00 a month, if so, to what amount?"

"Question No. 2: If they do not have any right to increase the pay above \$150.00 a month from the salary fund, would they have the right to increase the pay above that amount, and order the increase paid out of the general fund of the county?"

Lamar County has a population of 50,425 inhabitants according to the 1940 Federal Census.

Article 3902, Vernon's Annotated Civil Statutes, provides, in part, as follows:

"Whenever any district, county or precinct officer shall require the services of deputies, assistants or clerks in the performance of his duties he shall apply to the County Commissioners' Court of his county for authority to appoint such deputies, assistants or clerks, stating by sworn application the number needed, the position to be filled and the amount to be paid. Said application shall be accompanied by a statement showing the probable receipts from fees, commissions and compensation to be collected by said office during the fiscal year and the probable disbursements which shall include all salaries and expenses of said office; and said court shall make its order authorizing the appointment of such deputies, assistants and clerks and fix the compensation to be paid them within the limitations herein prescribed and determine the number to be appointed as in the discretion of said court may be proper; provided that in no case shall the Commissioners' Court or any member thereof attempt to influence the appointment of any person as deputy, assistant or clerk in any office. Upon the entry of such order the officers applying for such assistants deputies or clerks shall be authorized to appoint them; provided that said compensation shall not exceed the maximum amount hereinafter set out. The compensation which may be allowed to the deputies, assistants or clerks above named for their services shall be a reasonable one, not to exceed the following amounts:

" . . . .

"3. In counties having a population of (37,501) thirty-seven thousand five hundred and one and not more than sixty thousand (60,000) inhabitants, first assistant or chief deputy not to exceed twenty-one hundred (\$2100.00) dollars per annum; other assistants, deputies or clerks not to exceed eighteen hundred (\$1800.00) dollars per annum each. Provided that nothing in this Act shall be construed as repealing or affecting Section 2 of H. B. No. 694, Chapter 315, Acts 1935, 44th Legislature, page 724."

The foregoing provision of Article 3902, is applicable to Lamar County as said county has a population of 50,425 inhabi-

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tants according to the 1940 Federal Census. The maximum annual salary that the County Commissioners' Court can legally authorize for the chief deputy sheriff of said county is Twenty-one Hundred Dollars. The maximum salary for other deputy sheriffs cannot legally exceed Eighteen Hundred Dollars each per annum.

Therefore, in answer to your first question, you advised that it is our opinion that the Commissioners' Court of Lamar County does not have the legal authority to authorize an increase in the salary of the two deputy sheriffs in any amount exceeding \$150.00 each a month.

In view of the foregoing statute and what has heretofore been said, your second question is respectfully answered in the negative.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

(s) Ardell Williams  
Assistant

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AW:fo

APPROVED JAN . 8, 1944

(s) Grover Sellers

ATTORNEY GENERAL OF TEXAS

APPROVED OPINION COMMITTEE  
BY (S) BWB, CHAIRMAN