



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**WAGGONER CARR  
ATTORNEY GENERAL**

January 25, 1966

Honorable James E. Barlow  
Criminal District Attorney  
Bexar County  
San Antonio, Texas

Opinion No. C-586

Re: After January 1, 1966,  
what statute will govern  
the appointment, removal  
and compensation of  
grand jury bailiffs in  
Bexar County?

Dear Mr. Barlow:

You have requested the Attorney General's opinion concerning the statutes that will govern the appointment, removal and compensation of grand jury bailiffs in Bexar County after January 1, 1966.

Your opinion request and the briefs submitted point out that there appear to be at present three statutes bearing upon the question presented. These statutes are Article 19.36 of the Code of Criminal Procedure, (Acts, 1965, 59th Leg., Ch. 722 - S.B. 107); Article 367h, Vernon's Code of Criminal Procedure; and Article 199(37)(Q), Vernon's Civil Statutes.

The latter two statutes are still in effect by virtue of the provisions of Article 54.02, Section 1(b) and Section 2(a), Code of Criminal Procedure, respectively, saving them from repeal.

Both of the latter statutes are special legislation, and according to the general rules of statutory construction, would govern over the provisions of Article 19.36 of the new Code of Criminal Procedure in event of any conflict. Of the latter two statutes, Article 199(37)(Q) applies specifically to Bexar County, while Article 367h has a broader application, i.e., to counties with a population of 250,000 or more inhabitants. Thus, according to the above rule of statutory construction, Article 199(37)(Q) would govern over the more general provisions of Article 367h.

Therefore, according to Article 199(37)(Q), the District Judges of the 144th and 175th District Courts shall alternately appoint grand jury bailiffs not to exceed seven.

Each Judge may appoint three of such bailiffs, and if needed, may jointly appoint the seventh such bailiff. Bailiffs thus appointed are subject to removal at the will of the Judge or Judges so appointing them.

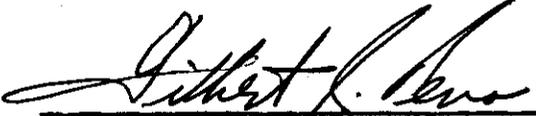
This does not mean, however, that Article 367h is without any force or effect. Since Article 199(37)(Q) provides only for a method of selection and removal of such bailiffs, Article 367h will control as to the method of fixing the compensation of such bailiffs, which compensation shall be fixed by the Commissioners Court of Bexar County together with an automobile allowance to be set by the Commissioners Court, all in accordance with the provisions of such statute.

S U M M A R Y

Article 199(37)(Q), V.C.S., governs the appointment and removal of grand jury bailiffs in Bexar County. Article 367h, V.C.C.P., governs the compensation of such grand jury bailiffs.

Yours very truly,

WAGGONER CARR  
Attorney General of Texas

  
GILBERT J. PEÑA  
Assistant Attorney General

GJP/dt

APPROVED:

OPINION COMMITTEE

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APPROVED FOR THE ATTORNEY GENERAL  
BY T. B. Wright