



**THE ATTORNEY GENERAL
OF TEXAS**

December 29, 1988

**JIM MATTOX
ATTORNEY GENERAL**

Honorable Jesusa Sanchez-Vera
Jim Wells County Attorney
P. O. Drawer 2080
Alice, Texas 78333

LO-88-137

Dear Ms. Sanchez-Vera:

Because of the tremendous increase in the volume of requests for opinions and open records decisions, we are responding to your request with the enclosed Letter Opinion or Open Records Ruling. A Letter Opinion or Open Records Ruling has the same force and effect as a formal Attorney General Opinion or Open Records Decision, and represents the opinion of the Attorney General unless and until it is modified or overruled by a subsequent Letter Opinion or Open Records Ruling, a formal Attorney General Opinion or Open Records Decision, or a decision of a court of record.

Very truly yours,

A handwritten signature in cursive script that reads "Jim Mattox".

**J I M M A T T O X
Attorney General of Texas**

JAM/bc
Enclosure



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

December 29, 1988

Honorable Jesusa Sanchez-Vera
Jim Wells County Attorney
P. O. Drawer 2080
Alice, Texas 78333

LO-88-137

Dear Ms. Sanchez-Vera:

You ask whether it is appropriate for an individual to continue to serve on a grand jury for three months after her husband is sworn in as district judge.

You ask about the prohibition on dual office holding set out in article XVI, section 40, of the Texas Constitution. That provision prohibits a person from holding two offices of emolument. Neither a grand juror nor a petit juror holds an "office" within the meaning of article XVI, section 40. Attorney General Opinion V-371 (1947). Therefore, the prohibition on dual office holding is inapplicable to the situation you ask about.

Further, we find no statutory provision that disqualifies a grand juror on the basis of a relationship to an officer of the court. See generally Code Crim. Proc. art. 19.31.

However, if the wife of the judge wishes to step down to avoid any appearance of impropriety, she could request to be excused under article 19.25 of the Code of Criminal Procedure, which allows a court to excuse from grand jury service citizens whose reasons appeal to his sound discretion. See Attorney General Opinion WW-910 (1960).

Yours very truly,

A handwritten signature in cursive script that reads "Sarah Woelk".

Sarah Woelk
Assistant Attorney General
Opinion Committee

SW/bc

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