



**Office of the Attorney General
State of Texas**

June 29, 1992

DAN MORALES
ATTORNEY GENERAL

Honorable Michael G. Mask
Jack County Attorney
County Courthouse, Third Floor
Jacksboro, Texas 76458

Letter Opinion No. 92-21

Re: Whether a county's reduction of the number of justice of the peace precincts to one also reduces the number of constable positions to one (RQ-328)

Dear Mr. Mask:

You state that the Jack County Commissioners Court has, pursuant to article V, section 18, subsection (a) of the Texas Constitution, designated the county as a single precinct so as thereafter to elect only one justice of the peace for the county. Such designation was precleared by the United States Justice Department pursuant to section 5 of the Voting Rights Act of 1965, 42 U.S.C. § 1973c.¹ You state, however, that although the commissioners, in reducing the number of justice of the peace precincts to one, did not intend thereby to reduce the number of constable positions from the four theretofore existing in the county, it has been discovered that article V, section 18 appears to indicate that reducing the number of justice precincts to one also had the effect of reducing the number of constable positions to that number. You ask whether that is indeed the case. In our opinion, it is.

Jack County has a population of under 18,000. With respect to such counties, article V, section 18(a) provides, in pertinent part:

Each county in the State with a population of less than 18,000, according to the most recent federal census, from time to time, for the convenience of the people, shall be designated as a single precinct or, if the Commissioners Court determines that the county needs more than one precinct, shall be divided into not

¹Section 5 of the Voting Rights Act requires that certain public entities, including most political subdivisions in Texas, obtain approval from the Justice Department before implementing changes affecting voting in public elections.

more than four precincts. . . . *In each such precinct there shall be elected one Justice of the Peace and one Constable*
(Emphasis added.)

We think that the above-quoted provisions of article V, section 18 clearly indicate on their face that in the situation you describe, a reduction of the number of precincts from which justices of the peace are to be elected to one also reduces the number of constables to be elected to that number. We do not believe a court would find that the commissioners' asserted lack of intent to reduce the number of constable positions alters that result.

You also ask whether we think it necessary -- if under the above-quoted Texas constitutional provisions, the commissioners court has, albeit unintentionally, reduced the number of constables' positions to one -- for the county to seek additional preclearance from the Justice Department for such reduction in the number of constables. You attach to your request a copy of the preclearance letter from the Justice Department for the reduction in the number of justice of the peace positions. We note that that letter appears to assume that the reduction in the number of justices of the peace would also entail the same reduction in the number of constables.² Nevertheless, we do not think it appropriate, in an attorney general opinion, to attempt to determine whether the requisites of the Voting Rights Act have been met in this instance to the satisfaction of the Justice Department. That is a matter for the county to resolve directly with that agency.

S U M M A R Y

By reducing the number of county justice of the peace positions to one, Jack County also thereby reduced the number of constable positions to that number.

Yours very truly,



William Walker
Assistant Attorney General
Opinion Committee

²The preclearance letter begins: "This refers to the reduction in the number of justice of the peace and constable precincts to one" (Emphasis added.)