



SENATOR MIKE MONCRIEF

# The Senate Chamber Austin 78711

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- Sunset Commission
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FILE # ML - 40218-98  
 I.D. # 40218

April 15, 1998

The Honorable Dan Morales  
 Attorney General of the State of Texas  
 P.O. Box 12548  
 Austin, Texas 78711-2548

*RQ-1128*

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 Opinion Committee

**Re: Request for Attorney General Opinion**

Dear General Morales:

As a person authorized to request a written opinion from the Attorney General on a question affecting the public interest, I hereby request your opinion on the following issue:

*May a City operating under Chapter 143 of the Local Government Code conduct entrance examinations for beginning positions in the police department at different locations for the same eligibility list if each applicant takes the examination on the same date and/or on consecutive dates and is examined in the presence of other applicants?*

*The City of Fort Worth is interested in offering its police civil service examination in different cities throughout Texas. For example, the City is proposing to offer the same examination in Tyler, San Antonio, and Lubbock on the same date or three - four consecutive dates, with each applicant taking the examination in the presence of other applicants. The City would then compile the results and establish one eligibility list.*

*The relevant law is found at Section 143.025 of the Texas Local Government Code. A copy of the said Section is attached hereto for reference.*

Section 143.025 (b) reads:

*"An eligibility list for a beginning position in the fire or police department may be*



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*created only as a result of a competitive examination held in the presence of each applicant for the position. The examination must be based on the person's knowledge of and qualifications for fire fighting and work in the fire department and work in the police department and must inquire into the applicant's general education and mental ability. A person may not be appointed to the fire or police department except as a result of the examination. (Emphasis added.)*

*A literal reading of Section 143.025 (b) would mean that the examination must be given at one (1) location, otherwise it would be impossible for it to be "held in the presence of each applicant for the position." However, other subsections of Section 143.025 give rise to an ambiguity.*

*Section 143.025 (d) reads:*

*"Examinations for beginning positions in the fire department may be held at the different locations if each applicant takes the same examination and is examined in the presence of other applicants." (Emphasis added.)*

*Section 143.025 (d) specifically grants the authority to conduct examination for beginning positions at different locations for the fire department. The police department is not named in this portion of the statute. The police department is neither specifically prohibited nor specifically allowed to hold examinations at different locations.*

*Section 143.025(f) says:*

*An applicant may not take an examination for a particular eligibility list more than once.*

*This section infers that the examination may be given at different times and/or locations. This section is not limited to the fire or police applicants, and appears to apply to both.*

*A review of Vernon's Ann. Civ. St. art. 1269m, at section 9, the predecessor of Chapter 143 of the Texas Local Government Code, shows at subsection (a) that the fire department was granted legislative authority to conduct entrance examinations at different locations, but not the police department. However, the police department was*

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*not specifically prohibited from conducting the examinations at different locations,  
either.*

*A review of recent sessions of the Texas Legislature reflects that there have been at least  
three bills introduced relating to beginning positions in civil service departments. but none  
of them specifically addressed multiple site testing for civil service police department  
entry level positions.*

*The Texas Legislature was silent as to whether police may also use "different locations"  
for the civil service examinations, as can the fire departments. The statute contains some  
ambiguity regarding multi-location testing of police applicants for the same eligibility  
list. Due to concern that this Commission not misinterpret state law, it is requested that  
you render an Attorney General Opinion that answers the question that we now submit to  
you.*

*Respectfully requested,*



*Mike Moncrief  
State Senator, District 12  
1701 River Run, Suite 504  
Fort Worth, Texas 76107*

*Enclosure (Section 143.025, Texas Local Government Code)*