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MAR 17 2006

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OPINION COMMITTEE

RQ-0465-GA

March 14, 2006

Greg Abbott
Attorney General of Texas
Post Office Box 12548
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FILE # ML-44693-06
I.D. # 44693

Dear Sir:

Bill Bright, Waller County Constable, Precinct Two, has requested that I seek the opinion of your office. May animal control be performed by the constable at the precinct level, without commissioners' court having adopted animal control policies and procedures or assigned the constable to perform the animal control?

My brief of the relevant law is enclosed.

Thank you for your assistance.

Sincerely,

Debra S. Mergel
Assistant Criminal District Attorney

Several Waller County residents within Precinct Two have approached their constable regarding their concerns about the lack of animal control. (Waller County has not enacted an animal control ordinance.) The residents of Precinct Two have offered to furnish a building and van for animal control, for their precinct only. The constable asks whether he may provide animal control at the precinct level, without a county-wide animal control ordinance and without going through commissioners' court.

A county, through its commissioners' court, has only the authority specifically given to it by the state constitution and statutes. Texas Health and Safety Code Chapter 826 authorizes the commissioners' court to enact an animal control ordinance for the unincorporated areas of the county.

Texas Local Government Code Section 81.032 authorizes commissioners' court to accept a "gift, grant, donation, bequest, or devise of money or other property" on the county's behalf, in order to perform a function allowed the county. See Texas Attorney General Opinion GA-0229.

I find no authority for a county constable to provide animal control on his own. In addition, only the commissioners' court may accept a gift of a building or vehicle on behalf of the county.