

ABOLISHING A JUSTICE OFFICE

- ▶ WHAT IS A JUSTICE OF THE PEACE
- ▶ CAN A JUSTICE OFFICE BE ABOLISHED
- ▶ IF SO, UNDER WHAT CIRCUMSTANCES
- ▶ QUESTIONS FOR THE COURT
 - ▶ WHETHER TO ABOLISH
 - ▶ WHEN IS THE EFFECTIVE DATE

WHAT AM I DOING

- ▶ DUTIES A JUSTICE OF THE PEACE PERFORMS
- ▶ LEGAL ABILITY TO ABOLISH A JUSTICE COURT
- ▶ THE JUSTICES OF THE PEACE IN BRAZOS COUNTY
- ▶ FACTORS OF INTEREST
 - ▶ STAFFING
 - ▶ BUDGETS
 - ▶ REVENUES
 - ▶ CASES

JUSTICE COURTS and JUSTICES OF THE PEACE

a constitutional office whose origins date back to the early days of Texas statehood.

Jurisdiction in Class C offenses.

Jurisdiction of minor civil matters.

Brazos County has 5 JP Courts and 4 precincts

Justices are elected to a 4 year term of office by the voters residing in that precinct.

Required to complete an 80-hour course covering the proper execution of that office's duties the first time they serve.

After that, they must complete 20 hours of relevant coursework per year.

MAGISTERIAL DUTIES

- ▶ Determines probable cause, issues arrest warrants, issues both adult and juvenile statutory warnings, and conducts bail examinations for arrested persons.
- ▶ Conducts reviews for sufficiency and issuance of search warrants.
- ▶ Conducts magistrations (Miranda Rights) for both adult and juveniles.
- ▶ Issues emergency protective orders.
- ▶ Reviews applications for emergency detention and issues mental health and chemical dependency warrants.
- ▶ Conducts hearings concerning the disposition of stolen property.
- ▶ Conducts handgun license denial hearings.
- ▶ Conducts death investigations and orders autopsies.

Administrative Duties

- ▶ Performs marriage ceremonies.
- ▶ Handles and collects fees, fines and court costs.
- ▶ Manages bank deposits.
- ▶ Prepares report for auditor and treasurer.
- ▶ Supervises employees.
- ▶ Prepares correspondence to defendant and parties to litigation as required by statute.
- ▶ Handles failure to attend school offenses, disorderly conduct, minor in possession, and other offenses against juveniles.

CIVIL JURISDICTION

- ▶ Files petitions instituting civil action within the jurisdiction of Justice Court.
- ▶ Files petitions instituting proceedings to enforce deed restrictions.
- ▶ Files petitions instituting evictions from residential and commercial properties.
- ▶ Files petitions instituting civil action within the jurisdiction of *Small Claims Court* and *Justice Court* which have a maximum "amount of controversy" of \$10,000.00 exclusive of interest and court cost.
- ▶ Issues writs of possession, garnishment, attachment, sequestration and writs of reentry.
- ▶ Presides over suits involving the enforcement of a deed restriction for a residential subdivision

IS IT LEGAL TO ABOLISH A JUSTICE COURT

- ▶ MEREDITH v. SHARP 256 SW2d 870
- ▶ "...the Constitution confides in the Commissioners' Court the authority to create a justice of the peace court ... that the convenience of the people is the basic purpose for designating such an additional justice court..."
- ▶ A discretionary act of the Commissioners Court and not a ministerial function.

AG OPINION

- ▶ WW-1251 1962
- ▶ SUMMARY: The Commissioners Court may abolish any justice court within a precinct if they find that such justice court is not justified for the convenience of the people within such precinct, provided that such precinct still has one justice of the peace.

IS DUE PROCESS DUE?

- ▶ Yes – But A public officer holds a qualified interest which is not property within the sense of constitutional guarantees against governmental takings of property without compensation.
- ▶ SAFEGUARDS - The justices were noticed of this hearing, they will be afforded time to speak – this hearing is noticed according to open governments laws.

COMMISSIONERS COURT FINDINGS

▶ **FOR THE CONVENIENCE
OF THE PEOPLE**

JUSTICE COURT BUDGETS

COURT	2010	2011	2012	2013	2014
	Budget	Budget	Budget	Budget	Budget
JP 1	339,616.39	347,778.57	346,019.39	355,026.39	338,085.00
JP 2.1	212,030.90	217,929.69	223,122.90	229,889.90	231,466.00
JP 2.2	219,920.26	232,754.15	223,973.26	227,950.57	230,724.00
JP 3	343,628.18	352,434.13	318,272.18	327,680.18	310,636.00
JP 4	178,176.61	209,717.93	226,656.74	233,665.74	236,381.00
totals	1,293,372.34	1,360,614.47	1,338,044.47	1,374,212.78	1,347,292.00
Combined 2.1 & 2.2	431,951.16	450,683.84	447,096.16	457,840.47	462,190.00