



Justices of the Peace and Constables Association of Texas, Inc.

The Gavel and The Badge

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4th Quarter 2010

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CAN A JUSTICE OF THE PEACE DETERMINE OWNERSHIP OF A MOTOR VEHICLE?

ANSWER: NO

A.G. Opinion GA-0761

This article is a re-print of an E-Letter sent out in the Spring. It is for all judges and court clerks. Please note that the last paragraph of this article is new and describes the proper procedure for a tax-assessor to use. If you are not subscribed to the Training Center E-Letter, you really need to be. Just go to the TJCTC web site and subscribe at the E-Letter page.

The Training Center has been receiving questions generated by a recent Attorney General Opinion, GA-0761. Some justices of the peace have experienced constituents coming to their courts to get a **court order for title/ownership of a motor vehicle** so that the local tax assessor will issue a new title and registration. **Because the Opinion does not say what the tax assessors claim it does**, we want to give you our opinion about the issue as well. Remember, you can get a copy of this Opinion on the Attorney General's web site at www.oag.state.tx.us, if you would like to read the entire Opinion.

Special points of interest:

For detailed information on articles or ads, please contact Constable Michael Truitt at 972-434-7220 or email at Michael.Truitt@dentoncounty.com

You may submit information in MS Word format on a disk or by email.

Editor

Constable Michael Truitt
Denton County
972-434-7220

Assistant Editor

Judge Suzan Thompson
Matagorda County
979-863-2035

Continued Page 7



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Harold Lerew is the attorney responsible for the content of this advertisement.

President's Message – Judge Jackie Miller, Jr.

Happy Holidays to all,

The upcoming Legislative season is upon us. Our legislative committees are in full swing working for the upcoming 2011 legislative session. Please let myself or any of our legislative committee members know if there are any issues that we may need to address during the upcoming session.

Our conference committee is hard at work putting the final touches on our state convention coming up in June 2011 in Wichita Falls. We are looking forward to a great time to be had by all. There will be lots of activities planned as well as training sessions for all to attend. Please feel free to go ahead and make your reservations as soon as possible. Bring any door prizes and items to be donated for the silent auction.

May God bless you and your families during this upcoming year.

Jackie Miller, Jr.
Justice of the Peace, Pct. 2.
Ellis County, Texas 75165



**Message from President - Elect Constable
Chad Jordan**

Congratulations and Welcome to the Newly Elected Judges and Constables!

Get to know your Association and be involved. You can make a difference. Members pass along the information about the Newly Elected Seminars to your new colleagues.

Many thanks to all of you that I have had the opportunity to meet and visit with as I travel around the State. I want to thank the JPCA Board of Directors and members for continuing to make this association what it is today.

Your Education Committees and the Justice Court Training Center have worked hard this year to meet your educational needs and expectations. Register as soon as possible, classes are filling up fast.

Mark your Calendars for February 22, 2011 for JPCA DAY at the State's Capitol. The 81st Legislative Session is getting geared up to be an interesting year. Know who your State Representative and Senators are to be an active participant in this Session. Remember to Adopt a Legislator. The forms are available online.

Constable Chad Jordan - President - Elect

Message from 2nd Vice President Judge Martin Castillo

Greetings,

I hope everyone's holidays will be eventful. The educational committees for the Judges, Constables, Deputy Constables, and Clerks have been working hard to develop great opportunities for you to attend 2010-2011 seminars. Make sure you sign up for classes now.

As the Legislative year start out, we all need to get to know our House Representative and State Senator. We may be calling on you to send e-mails, phone calls and talk to Representatives to let them know we have a powerful voice in Austin. We have a good reputation and we would like to keep it that way. Any help that you can give to the legislative committees will be greatly appreciated.

The Training Center is all ways ready to provide assistance to any one. We are very fortunate to have the staff at Texas Justice Court Training Center. They are a great group to work with. I hope to see many of you at up coming seminars.

Judge Martin Castillo – 2nd Vice President



Message from 3rd Vice President Constable Michael Truitt

Hello Everyone and Happy Holidays,

I would like to congratulate all of the new Constables and J.P.'s elected this year. I would like to encourage each of you to take advantage of the vast knowledge available to you from JPCA. If you have questions, please feel free to contact your district director, any officer, or any education committee member for help.

This holiday season finds us once again on the cusp of another legislative season in Texas. Between budget shortfalls and redistricting, it is going to prove to be a very busy season. Be sure keep abreast of all of the activities through our website, Facebook, and Twitter. Make plans now to attend the JPCA Legislative Day on February 22 at the Texas Capital.

Here is to a Happy and Prosperous New Year!

Constable Michael Truitt - 3rd Vice President



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- Delinquent Account Holder Assistance
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The attorney responsible for the contents of this advertisement is F. Duane Force.

The Gavel and the Badge

Attorney General Opinion No. GA-0761 states, in part:

While the “true owner” language in article 47.02(b), whether read in conjunction with article 47.04 or read alone, could support the conclusion that a justice of the peace or a municipal judge has authority to award title or ownership of a motor vehicle, **we cannot conclusively state that a justice of the peace or a municipal court judge has such authority.** (Emphasis added by Training Center.)

The Opinion discusses the fact that the justice court (and in some cases, the municipal court) has the authority to award **possession** of a motor vehicle, **but only in those specific instances.** It concludes that Articles 47.01a and 47.02 of the Code of Criminal Procedure clearly allow a JP **to award possession of a motor vehicle that is seized in a criminal investigation**, whether a criminal trial is pending or not, but these are related to criminal cases and return of stolen property. Specific procedures apply when there is a trial pending or no trial pending. We agree with the Opinion’s analysis and conclusions on this point, including the doubt it expresses about authority to award **title or ownership and the limits of the JP’s authority to award possession only.**

We concur also with the discussion of a justice court’s authority to foreclose a lien on personal property under Tex. Gov’t C. § 27.031(a)(3), and want to stress that the property foreclosed upon must fall within the dollar amount jurisdiction of the justice court (\$10,000). However, the Opinion **does not say that the justice court can award title and ownership in all instances.** The primary conclusion of the Opinion is that the “... Texas Department of Motor Vehicles **may**, under section 501.074(a)(4) of the Transportation Code, **accept a court order from a justice or municipal court in carrying out its duty to issue a new certificate of title for a motor vehicle, the ownership of which has been transferred by operation of law.** ...” We agree, but the requirements of each statute discussed above must be met.

If the vehicle is abandoned property or subject to a lien, there may be an applicable procedure that could be handled by the justice court. If the person who possesses the car falls into one of the classes of lien holders listed in the Property Code, then you may be able to foreclose the lien subject to the \$10,000 limit of your jurisdiction. Of course, you cannot issue an order **if there is no case filed in your court.**

All you have to do is deny the request for the order and send the person who requests it to the tax-assessor’s office to ask them to hold a hearing under Transportation Code § 501.052(a)-(b) if the person is “...aggrieved by a refusal, suspension, or revocation under [Section 501.051](#) [Transportation Code] **may apply for a hearing to the county assessor-collector for the county in which the person is domiciled.** On the day an assessor-collector receives the application, the assessor-collector shall notify the department of the date of the hearing.” The hearing shall be held “...**not earlier than the 11th day and not later than the 15th day after the date the assessor-collector receives the application for a hearing.**” If the person wants to appeal the decision of the tax-assessor, the **appeal is to the county court of the county of the applicant’s residence.** Tex. Transp. C. § 501.052(e).



A handwritten signature in black ink, reading "Patricia F. Broline". The signature is written in a cursive style with a large initial "P".

Patricia F. Broline, Senior Program Attorney
Texas Justice Court Training Center

Constable's Education Committee **Bobby Gutierrez, Constable – Chairman**

JPCA President Judge Jackie Miller has made appointments to the Constable's Education Committee after the annual convention in South Padre island this past May. These appointments fill vacancies from expired terms or voluntary resignations. The committee is comprised as follows:

Constable Bobby Gutierrez, Williamson County Precinct 3 – Chair
Chief Deputy Delton Thrasher, Tarrant County – Vice Chair
Constable Wayne (DOC) Pierce, Hunt County – Secretary
Constable Larry Gallardo, Hidalgo County, Precinct 3 – Immediate Past President
Constable Charles Wiggins, Jefferson County
Lt. Ryan Gable, Harris County
Constable Mark McDonald, Comanche County
Constable Eddie Guerra, Hidalgo County Precinct 4
Chief Deputy Randolph Doyer, Williamson County Precinct 2

We have assembled a very strong faculty to teach our 20 Hour and One-Day programs. You may have noticed, and may continue to notice, that we have upwards of three (3) instructors in a class. New faculty members being training and groomed to reach the point of lead instructor. So, don't be surprised when you see this. We continue to have an instructor development program in place. This will give us the flexibility to provide scheduling options should an instructor not be able to attend a particular program and we keep the high quality of instructor base for you.

We are constantly looking for experienced, mature and qualified faculty. We have high standards and expectations of our instructors. If you are interested in participating, and sharing your knowledge and experience with colleagues, please let us know.

At this writing, we are preparing to get started on the 20 Hour Civil Process Training Programs for FY2010-2011. Our first program will be in San Antonio on November 7-10, 2010, at the Hilton San Antonio Hill Country Hotel. Please check the Texas Justice Court Training Center Website (TJCTC) and get signed up for the upcoming programs. We have 20 Hour Civil Process programs in Austin – February 2011, McAllen in March, Galveston in April, and Rockwall in May. Don't wait until the last minute for your training. Sign up now.

Our BIG program will be in Austin in February when we meet-up with the JP Continuing Education program so we can have JPCA Day at the State Capitol. I'm sure you will see more information on this as we get closer. Please mark your calendars to be there. We want a strong showing at the Capitol so our legislators can listen to JPCA for our needs and requests this legislative session.

JPCA sent out email invitations to all Elected Constables to participate in a survey to access constable training. I know we didn't reach everybody. We've had fair participation so far. If the elected constable has not already participated in the survey, please get on the JPCA Web Site and request access to the survey. We really need to hear from the constables. Our future planning depends on the information solicited from our members.

The Constable's Education Committee will be meeting in early February to decide on 20 Hour Civil Process Curriculum, and One-Day Seminar Program Curriculum with the Texas Justice Court Training Center 2011 training grant. We would like to know your thoughts and training needs. Remember – we are limited to the Court of Criminal Appeals grant. That means the curriculum subject matter must be closely relevant to supporting the JP Court and civil law.

Training



Texas Justice Court Training Center

www.tjctc.org

Justice of the Peace 20 hour Seminars

| | |
|------------------------|----------------|
| February 20 - 23, 2011 | Austin |
| March 1 - 4, 2011 | Corpus Christi |
| March 27 - 30, 2011 | Galveston |
| June 26 - 29, 2011 | Amarillo |

Court Personnel Seminars

| | |
|-----------------------|----------------|
| December 1 - 3, 2010 | San Marcus |
| January 24 - 26, 2011 | Austin |
| February 9 - 11, 2011 | Rockwall |
| April 4 - 6, 2011 | Corpus Christi |
| May 9 - 11, 2011 | Galveston |
| May 25 - 27, 2011 | Dallas |
| June 1 - 3, 2011 | San Antonio |
| July 6 - 8, 2011 | San Antonio |

Constable Civil Process Seminars

| | |
|------------------------|-----------|
| February 22 - 25, 2011 | Austin |
| March 6 - 9, 2011 | McAllen |
| April 10 - 13, 2011 | Galveston |
| May 17 - 20, 2011 | Rockwall |

New Justice of the Peace School

| | |
|---------------------------|-------------|
| I. December 12 - 15, 2010 | Austin |
| II. January 9 - 14, 2011 | Austin |
| III. April 17 - 20, 2011 | San Antonio |

Court Personnel 10 Hour Workshop Dates

| | |
|-----------------------|------------------|
| January 20 - 21, 2011 | Fredricksburg |
| February 3 - 4, 2011 | League City |
| March 17 - 18, 2011 | Laredo |
| April 28 - 29, 2011 | Wichita Falls |
| May 16 - 17, 2011 | Rockwall |
| June 16 - 17, 2011 | Lake Sam Rayburn |
| August 15-16, 2011 | San Marcos |

TX-Dot One-Day Workshop Dates

| | |
|--------------------|---------------|
| December 7, 2010 | Beaumont |
| February 18, 2011 | McKinney |
| March 22, 2011 | Midland |
| June 21, 2011 | San Marcos |
| August 19, 2011 | Tyler |
| August 30, 2011 | Wichita Falls |
| September 16, 2011 | Fulton |

Constable One-Day Workshops

| | | |
|------------------|-------------|-----------------------------------|
| February 2, 2011 | San Antonio | Executions Computer Workshop |
| March 25, 2011 | Tyler | Executions Computer Workshop |
| April 1, 2011 | Lake Conroe | Manufactured Housing Evictions |
| May 3, 2011 | McKinney | Manufactured Housing Evictions |
| June 21, 2011 | San Marcos | Service Member's Relief Act / HOA |

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| | |
|--------------------------|-------------|
| March 28 - April 1, 2011 | San Antonio |
| July 11 - 15, 2011 | Huntsville |
| November 14 - 18, 2011 | Huntsville |

Newly Elected Constable Course
(40 Hrs)

| | |
|-----------------------|------------|
| January 17 - 21, 2011 | Huntsville |
|-----------------------|------------|

Constables Leadership College

| | | |
|------------|---------------------|-------------|
| Module II | January 10-14, 2011 | San Antonio |
| Module III | May 23-27, 2011 | Huntsville |

***2011 Convention
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2010 - 2011 JPCA Officers

Constable Michael Truitt (3rd Vice President), Constable Larry Gallardo (Past President), Judge Martin Castillo (2nd vice president), Judge Phil Montgomery (Secretary/Treasurer), Judge Jackie Miller, Jr. (President), Constable Jim Roberts (Sergeant-at-Arms), Judge Jim Humphrey (Judge Advocate), Constable Chad Jordan (President Elect)

JPCA Legislative Day February 22, 2011



- 1100 Meet at Capital for Photos and Resolutions
1300 - 1630 Talk to YOUR County Representatives
1730 - 2000 Legislative Reception at Omni Downtown

Adopt A Legislator

The J.P. and Constable Legislative Committees need your help! We need you to sign-up to adopt your local State House and Senate members so that they may be kept **abreast of issues important to J.P.'s and Constables around the state.**

For more information contact Kirsha Haverlah at kirsha.haverlah@co.travis.tx.us or go to JPCA.com for the form.



*The Texas Apartment Association
congratulates*

The Justices of the Peace and Constables Association of Texas
on another successful year. We look forward to working with you for years to come.
Together with our 26 local affiliates, we thank you for your continued service.

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Bryan/College Station Apartment Association
Apartment Association of Central Texas
Corpus Christi Apartment Association
Corsicana Apartment Association
El Paso Apartment Association
Galveston County Apartment Association
Apartment Association of Greater Dallas
Greater Longview Area Apartment Association
Heart of Texas Apartment Association
Houston Apartment Association
Lubbock Apartment Association

Midland Apartment Association
North Texas Rental Properties Association
Apartment Association of the Panhandle
Apartment Association of the Permian Basin
Piney Woods Apartment Association
Rio Grande Valley Apartment Association
San Angelo Apartment Association
San Antonio Apartment Association
Apartment Association of Southeast Texas
Apartment Association of Tarrant County
Texarkana Area Apartment Association
Tyler Apartment Association
Victoria Apartment Association

Texas Apartment Association



Regional Associations

Central Texas JPCA

President - Constable Adan Ballesteros
10409 Burnet Rd., Suite 150
Austin, TX 78757
512-854-9697
www.ctjpc.com
adan.ballesteros@co.travis.tx.us

West Texas JPCA

President - Judge Melba Crutcher
MCrutcher@yoakumcounty.org
Membership information: Judge Rita Little
414 Denver, Suite 101, Dalhart, TX 79022
806-244-4827 Fax (806) 244-1285
jop@dallam.org
www.wtjpc.org

East Texas JPCA

President - Judge James Meredith
903-842-2661
jmeredith@smith-county.com

North Texas JPCA

President - Constable Wayne "Doc" Pierce
P.O. Box 411
Commerce, TX 75429
Off: 903-866-7937
wpierce@huntcounty.net

South Texas JPCA

President - Judge George E Solis
Cell: 956-966-6715 Off: 956-689-3381
uncarnal@aol.com
Membership - Judge Lilia Salinas
361-279-6218
lgsalinas@duval-county.net

Any updated information on Regional Associations needs to be emailed to :
michael.truitt@dentoncounty.com

JPCA ad hoc Benevolence Committee:

Please contact one of the above for any family related or benevolence issues that need a JPCA response. Requests for flowers, get well wishes, and condolences should be directed through them for approval.

Jeannie Barham

barhamjmarie@msn.com
903-654-3061

Rhonda Kirkwood

rkirkwood@navarrocounty.org
903-875-3355

Lisa Humphries

lhumphries@navarrocounty.org
903-654-3056

*The Gavel & The Badge To **Go Green** in 2011*

In 2011, *The Gavel & The Badge* will be converting to email delivery in an attempt to do our part in conserving our natural resources. Please make sure that when you sign up for membership or renew your membership you include your email address. A trial email delivery will be done with the 4th quarter 2010 version of *The Gavel & The Badge* in November.

For those who do not have an email address but have access to a computer, a copy of *The Gavel & The Badge* can be found on the JPCA website at www.jpca.com. For those who do not have access to a computer, a limited number of copies will be published and mailed.

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NTJPCA News

What an attendance, it was a full house in Sulphur Springs for NTJPCA'S Annual Conference. Thanks to all that attended and to the host county for a welcoming stay and generous hospitality.

We welcome Judge Russ Casey as our new President and would like to thank Constable Wayne Pierce our past president for his leadership and hard work. When Doc says he has it covered you can forget about it because you know its handled, have to love that, good people. Congratulations to all the new officers and board members.



Constable Ron Hickman and Velda Williams were our instructors, thank you for taking time out of your schedule for us, it's greatly appreciated. Thank you also to Perdue, Brandon, Fielder, Collins and Mott.

The "Larry Waller Memorial Scholarship" awarded three recipients, Grace Treider- Miller, Christine Bookout and Donna Pierce for \$1000.00 each. Special awards were presented to Judge Jayne Choate and Constable Roger Maynard, both



will be retiring this year. A motion was made and passed to make a contribution to legislation for JPCA in the amount of \$1000.00 and \$1000.00 for the JPCA scholarship fund. For future education conferences please check the website

www.ntj pca.com, membership renewals have gone out in the mail if you aren't a member now's the time. Thank you all for your continued support and in the words of Larry Waller "you should have been there".

Rita Hudgins

The Gavel and the Badge



JPCA of Texas Inc.
Judge Phil Montgomery Secretary/Treasurer
Membership Application
P.O. Box 623
Devine, Texas 78016
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Fax: 830-665-8021
jp4_163@yahoo.com

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| | | For Complete Details) | Bronze - \$1,000.00 |

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Check out the Association Website at

www.jpca.com

Check out the online version of the newsletter and sign up to receive it automatically by email and save the Association lots of postage!

The Gavel



&



The Badge

The Official Newsletter of the Justice of the Peace
and Constables Association of Texas
