



**THE ATTORNEY GENERAL  
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON  
ATTORNEY GENERAL**

March 28, 1961

Overruled by amendment to  
Art. 45.04, C.C.P. and to  
Arts. 998 and 999, V.C.S.,  
60th Leg., 1967, Ch. 523,  
Pamphlet No. 4, Pages  
1171-1172

Honorable J. Edward Line  
County Attorney  
Deaf Smith County  
Hereford, Texas

Opinion No. WW-1028

Re: Whether a police officer of  
a city has the authority to  
execute a warrant of arrest  
issued out of the corporation  
court, outside of the city  
but within the county in which  
the city is located?

Dear Mr. Line:

You have asked the following questions:

"Can a police officer of the City of Hereford, Texas, execute a warrant of arrest issued out of the corporation court of Hereford, Texas, outside of the city limits of Hereford, Texas, within Deaf Smith County."

The City of Hereford is located within Deaf Smith County.

Article 998, Vernon's Civil Statutes, concerning the powers and duties of police officers, states that:

"... such officers shall have like powers, rights and authority as are by said title vested in city marshals."

Article 999, Vernon's Civil Statutes, on the powers and duties of marshals states:

"... he shall have like power, with the sheriff of the county to execute warrants; ... In the prevention and suppression of crime and arrest of offenders, he shall have, possess and execute like power, authority, and jurisdiction as the sheriff ..."

In Newburn v. Durham, 88 Tex. 288, 31 S.W. 195, 196 (1895) the Supreme Court stated:

"Since the jurisdiction of the marshal is measured by that of the sheriff in the 'prevention and suppression of crime and arrest of offenders' against the laws of the state, it must be co-extensive with the limitations of the county."

However, in Minor v. State, 219 S.W.2d 467 (Tex. Crim. 1949) a majority of the court of Criminal Appeals specifically stated that they do not agree. Judge Beauchamp, in his concurring opinion stated:

"I cannot subscribe to the implication that a city policeman has authority equal to that of the sheriff co-extensive with the bounds of the county."

This view was also expressed by Judge Hawkins in his dissenting opinion. See also 28 Tex. Law Rev. 862 (note 1950).

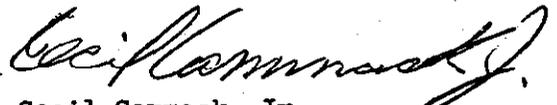
We must therefore conclude that a police officer may not execute a warrant of arrest outside the limits of the city of which he is an officer unless there is a specific statute giving him authority in a specific case. See Hurley v. State, 234 S.W.2d 1006 (Tex. Crim. 1950).

#### S U M M A R Y

A police officer of a city does not have the authority to execute a warrant of arrest issued out of the corporation court, outside of the city but within the county in which the city is located.

Very truly yours,

WILL WILSON  
Attorney General of Texas

By   
Cecil Cammack, Jr.  
Assistant Attorney General

CC:br

APPROVED:

OPINION COMMITTEE  
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REVIEWED FOR THE ATTORNEY GENERAL

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