



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**WILL WILSON  
ATTORNEY GENERAL**

July 12, 1962

Honorable W. C. Lindsey  
Criminal District Attorney  
Jefferson County  
Beaumont, Texas

Opinion No. WW-1383

Re: Whether the person  
appointed by the 136th  
District Court as Act-  
ing Sheriff of Jefferson  
County should be paid a  
salary under the stated  
facts.

Dear Mr. Lindsey:

You have requested an opinion from this office on the following matter:

Whether Richard E. Culbertson appointed by the 136th District Court as Acting Sheriff of Jefferson County should be paid a salary when he was appointed Acting Sheriff by the Judge of the 136th District Court and a few hours later the Judge of the 60th District Court enjoined him from acting as Acting Sheriff.

It has been held by this office in Opinion No. WW-1064 that a person who is appointed as Acting Criminal District Attorney during the suspension of the elected Criminal District Attorney is entitled to compensation equivalent to that authorized to be paid to the Criminal District Attorney, while actually discharging the duties of his office. It is the opinion of this office that the Acting Sheriff of Jefferson County is a de facto officer and is entitled to the same compensation as a de jure officer acting in the same capacity.

The Supreme Court of the State of Texas in The State of Texas, ex rel George Dishman, et al. v. Honorable Gordon D. Gary, District Judge, (Sup.Ct., July 2, 1962) \_\_\_ Tex. \_\_\_, held:

"We hold that the order purporting to reinstate Cause No. B-77,303 on the docket of the 60th District Court dated June 6, 1962 and the injunctive ancillary orders contained in the decree hearing on said date are nugatory and void for the reasons

herein set forth and should accordingly be expunged from the records of said 60th District Court."

The above opinion holds that the 60th District Court's temporary restraining order enjoining and restraining Richard E. Culbertson from acting or purporting to act as Acting Sheriff of Jefferson County is null and void and that the order of the 136th District Court appointing him Acting Sheriff is a valid order.

It is therefore our opinion that the Commissioner's Court is required to pay the compensation to the Acting Sheriff equivalent to that authorized to be paid the elected sheriff during the time he discharges the duties of the office.

S U M M A R Y

Richard E. Culbertson, appointed Acting Sheriff of Jefferson County by the 136th District Court, is entitled to the same compensation as the elected officer to the position during the time he discharges the duties of the office.

Very truly yours,

WILL WILSON  
Attorney General of Texas

By *Charles R. Lind*  
Charles R. Lind  
Assistant Attorney General

CRL:bjh

APPROVED:

OPINION COMMITTEE:

W. V. Geppert, Chairman  
Malcolm Quick  
Morgan Nesbitt  
Dudley McCalla

REVIEWED FOR THE ATTORNEY GENERAL  
BY: HOUGHTON BROWNLEE, JR.