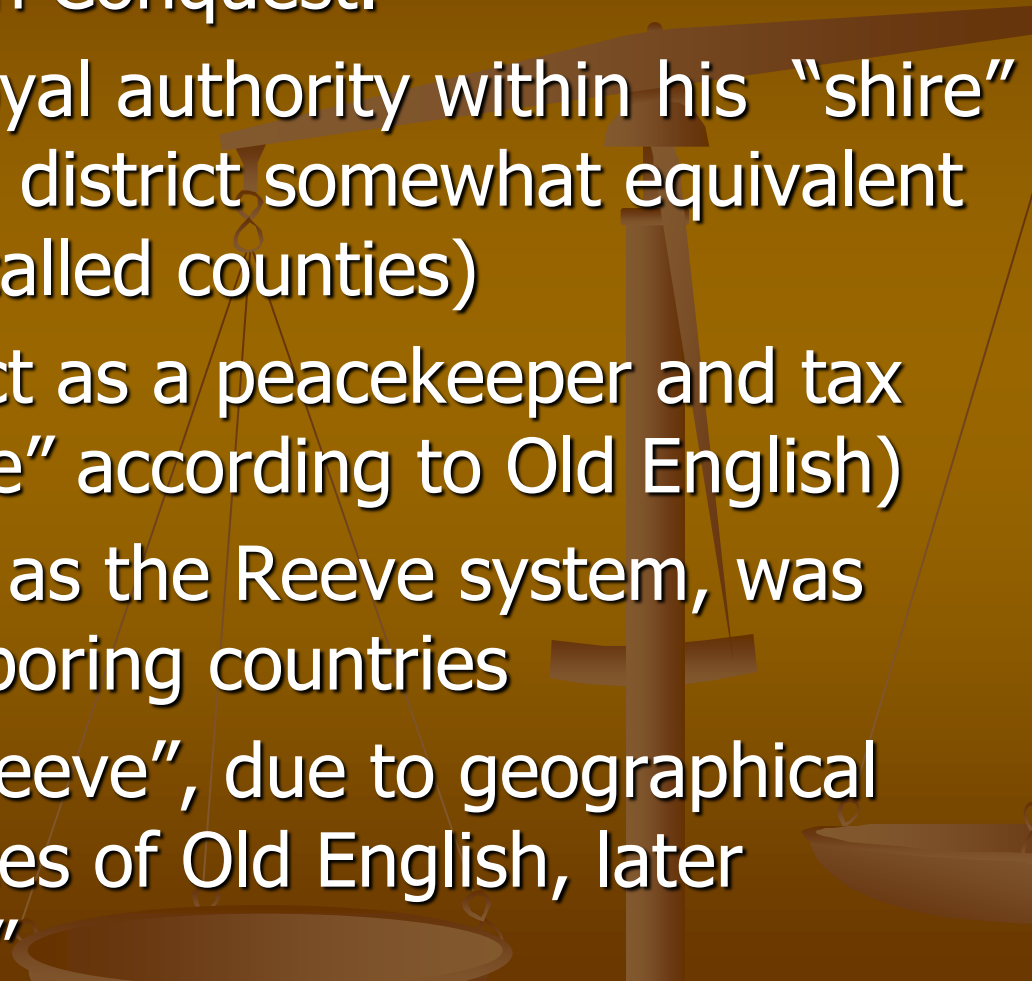


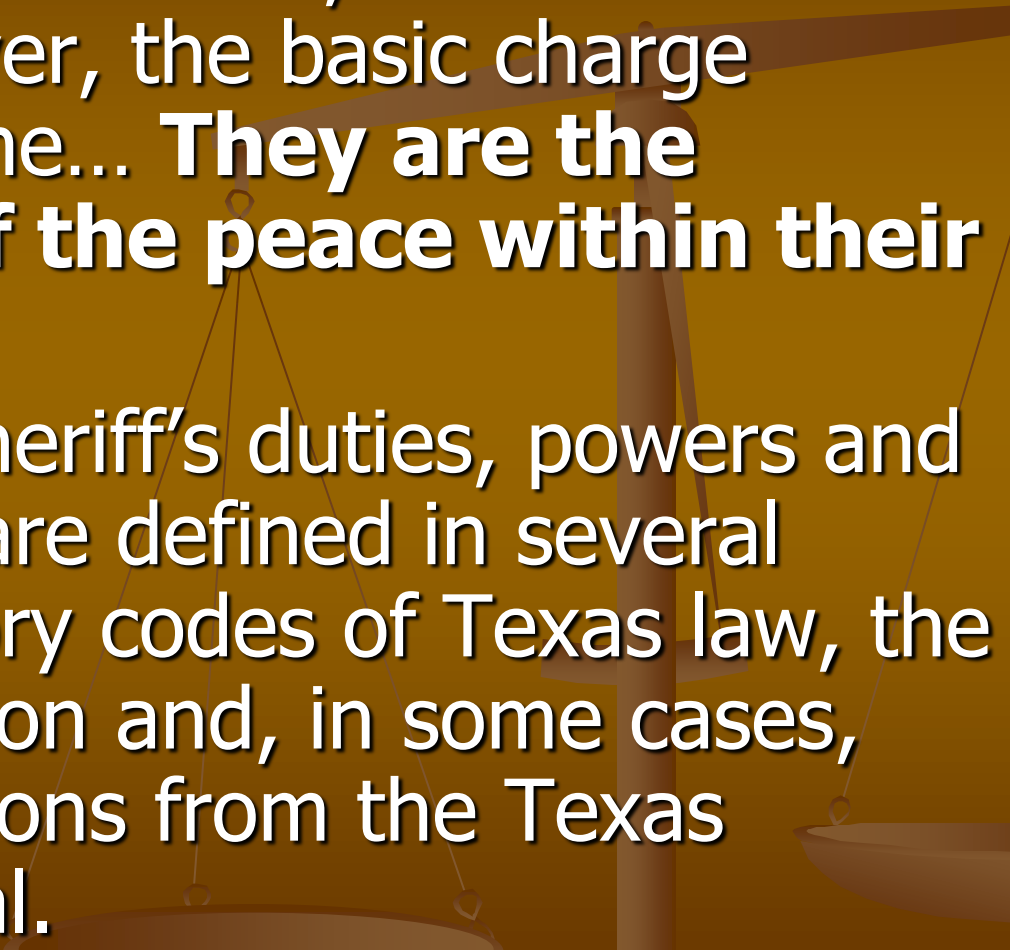
Duties and Responsibilities of the Texas Sheriff



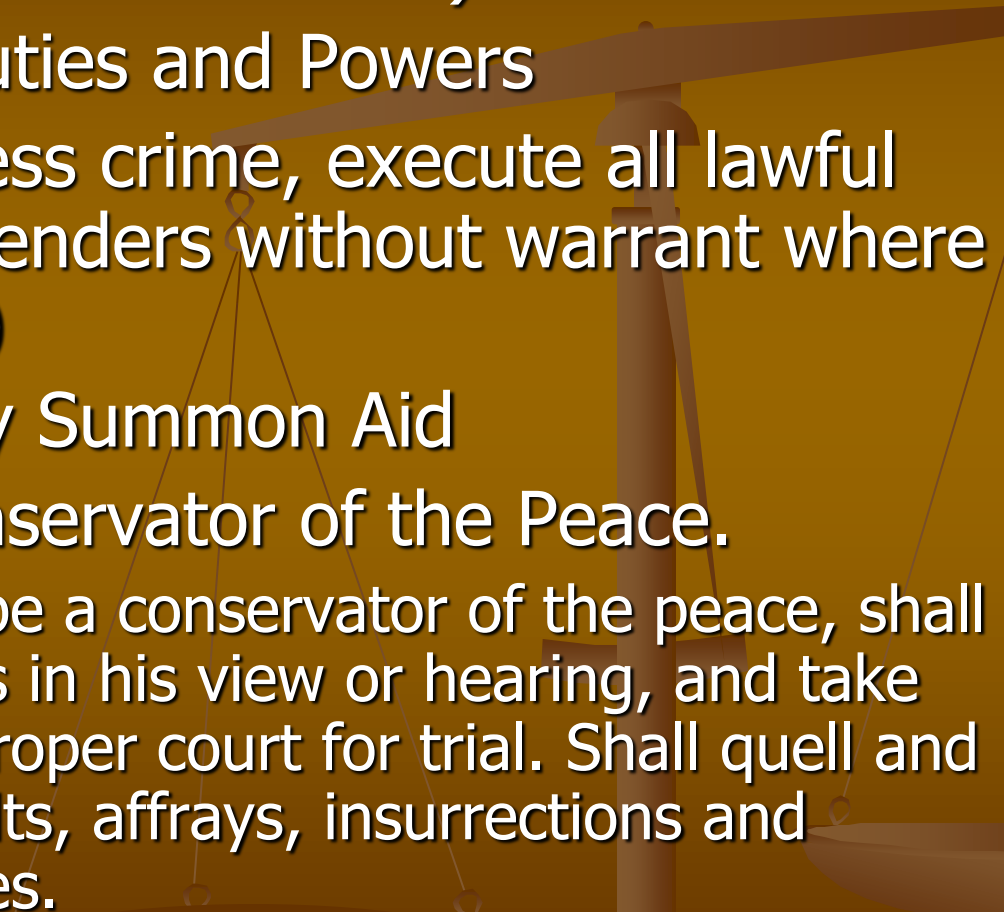
Daniel C. Law
Sheriff, Caldwell County, Texas
Current President, Texas Sheriff's Association

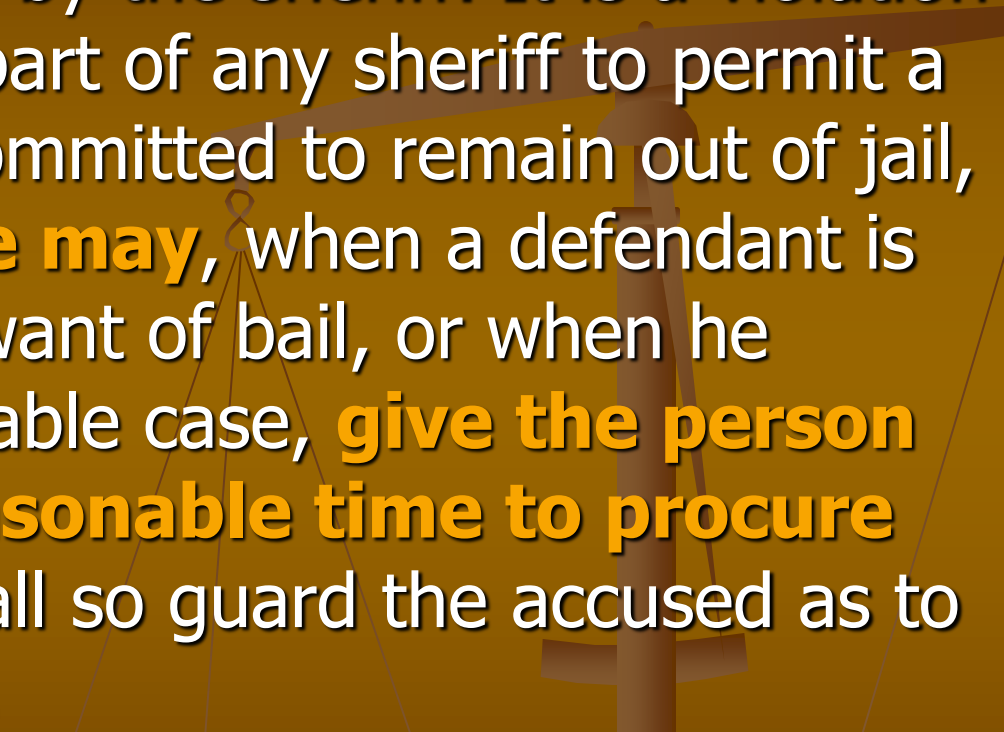
A Brief History

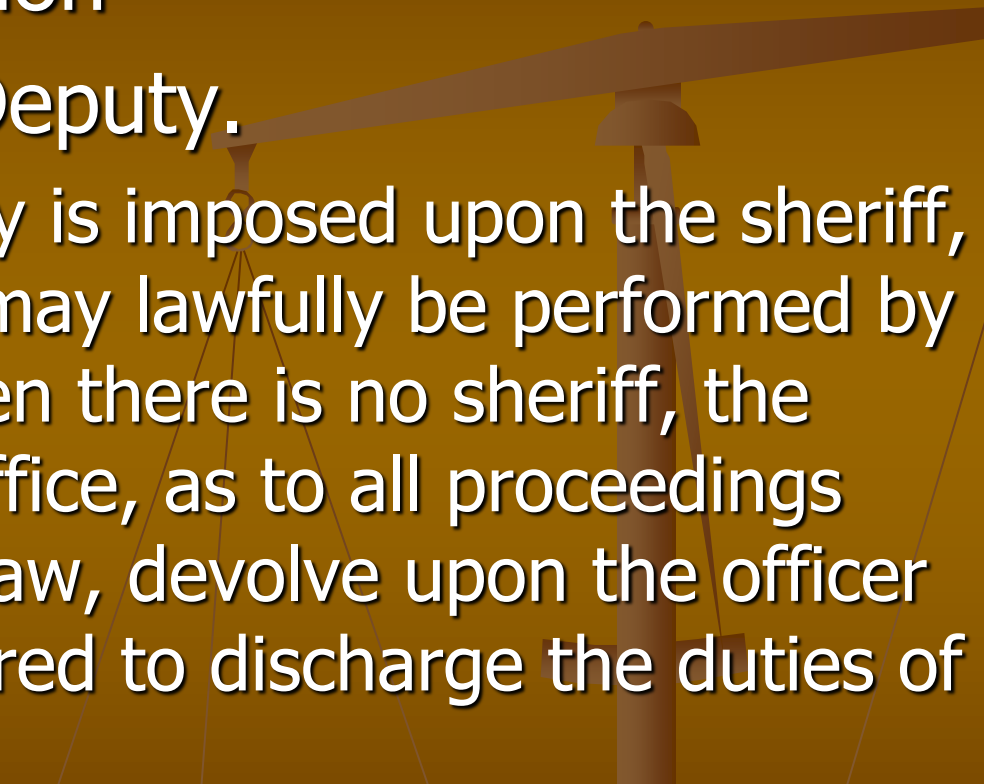
- The office of sheriff originated in England, before the Norman Conquest.
 - He represented royal authority within his “shire” (an administrative district somewhat equivalent to what are now called counties)
 - His duty was to act as a peacekeeper and tax collector (a “Reeve” according to Old English)
 - This term, as well as the Reeve system, was adopted by neighboring countries
 - The term “Shire Reeve”, due to geographical linguistic differences of Old English, later became... “Sheriff”
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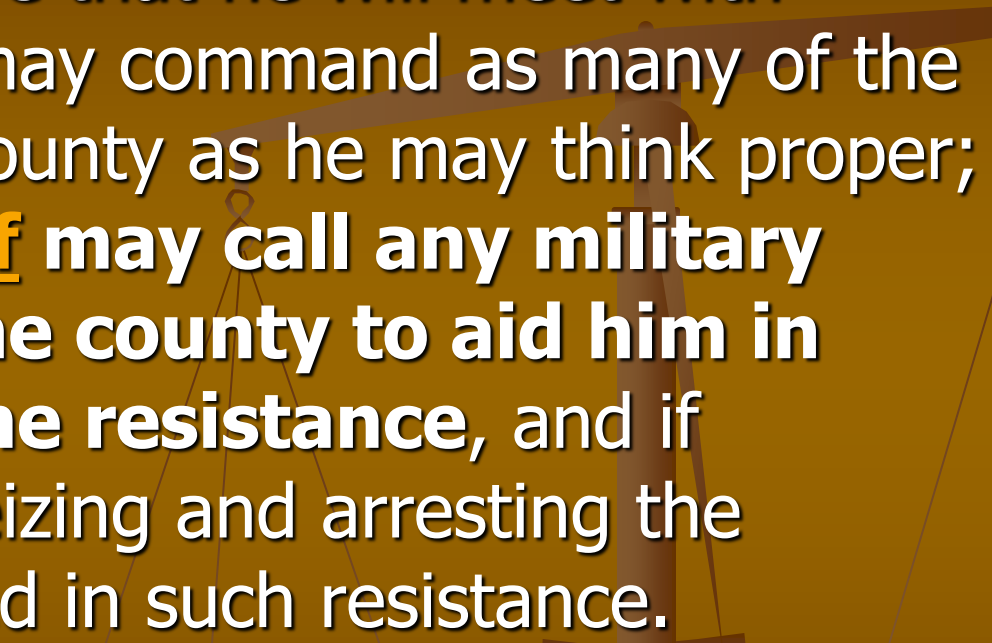
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- The duties, powers, and responsibilities of the Sheriff differ greatly from state to state, and in some cases, between counties, however, the basic charge remains the same... **They are the conservator of the peace within their county.**
 - In Texas, the Sheriff's duties, powers and responsibilities are defined in several different statutory codes of Texas law, the Texas Constitution and, in some cases, outlined in opinions from the Texas Attorney General.

Some Statutes

- CCP Art. 2.12. – Who are Peace Officers (The Sheriff is listed first for a reason)
 - CCP Art. 2.13 – Duties and Powers
(prevent or suppress crime, execute all lawful process, arrest offenders without warrant where authorized by law)
 - CCP Art. 2.14. May Summon Aid
 - CCP Art. 2.17. Conservator of the Peace.
 - Each sheriff shall be a conservator of the peace, shall arrest all offenders in his view or hearing, and take them before the proper court for trial. Shall quell and suppress all assaults, affrays, insurrections and unlawful assemblies.
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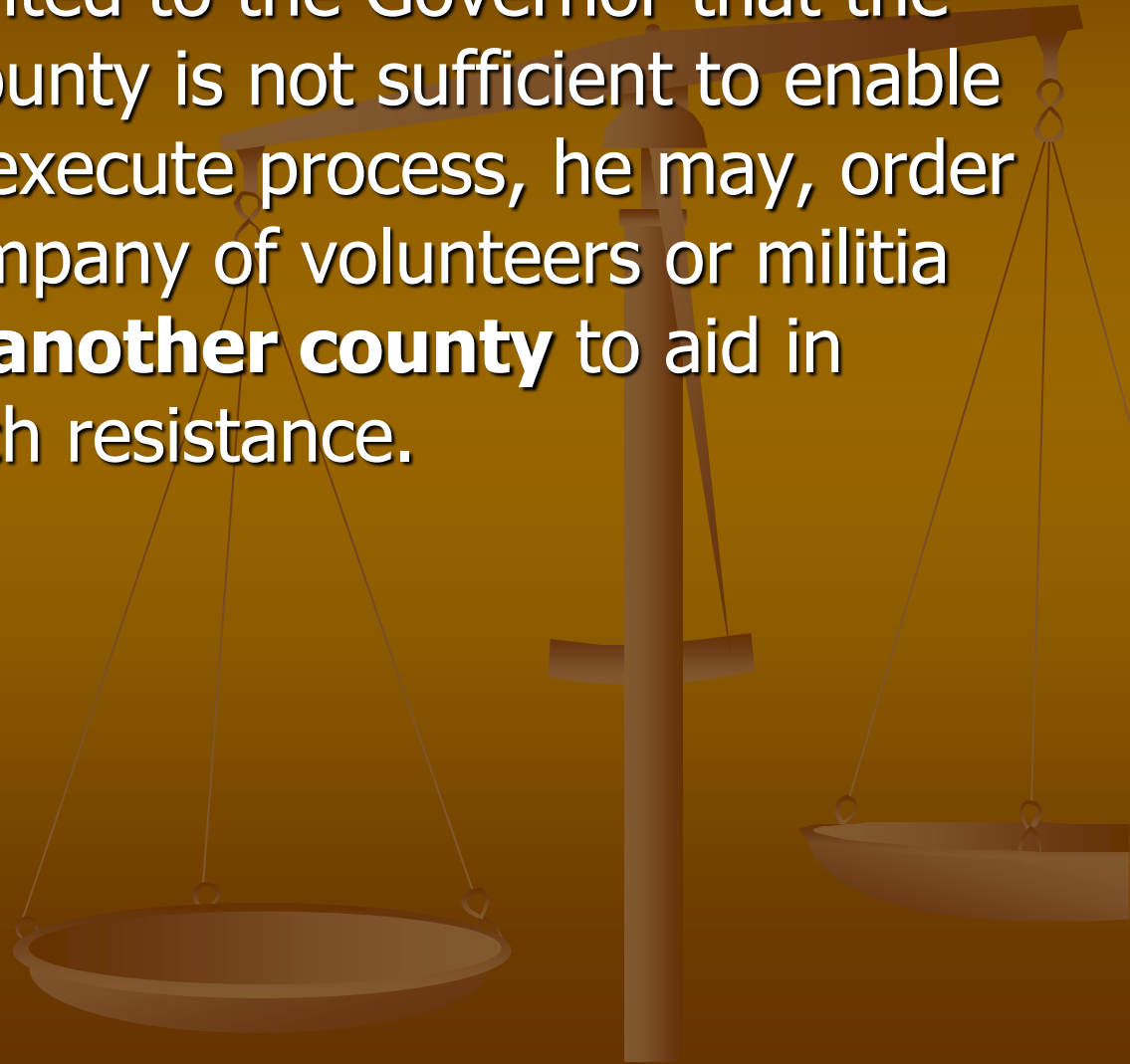
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- CCP Art. 2.18. Custody of Prisoners.
 - When a prisoner is committed to jail, he shall be placed in jail by the sheriff. It is a violation of duty on the part of any sheriff to permit a defendant so committed to remain out of jail, **except that he may**, when a defendant is committed for want of bail, or when he arrests in aailable case, **give the person arrested a reasonable time to procure bail**; but he shall so guard the accused as to prevent escape.

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- CCP Art. 2.19. Report as to Prisoners
 - CCP Art. 2.195. Report of Warrant or Capias Information
 - CCP Art. 2.20. Deputy.
 - Wherever a duty is imposed upon the sheriff, the same duty may lawfully be performed by his deputy. When there is no sheriff, the duties of that office, as to all proceedings under criminal law, devolve upon the officer who is empowered to discharge the duties of sheriff.

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- CCP Art. 8.01. Officer May Require Aid.
 - When any officer is resisted, or when he has reason to believe that he will meet with resistance, he may command as many of the citizens of his county as he may think proper; and **the Sheriff may call any military company in the county to aid him in overcoming the resistance**, and if necessary, in seizing and arresting the persons engaged in such resistance.

■ CCP Art. 8.02. Military Aid in Executing Process.

- If it be represented to the Governor that the power of the county is not sufficient to enable the **Sheriff** to execute process, he may, order any military company of volunteers or militia company from **another county** to aid in overcoming such resistance.

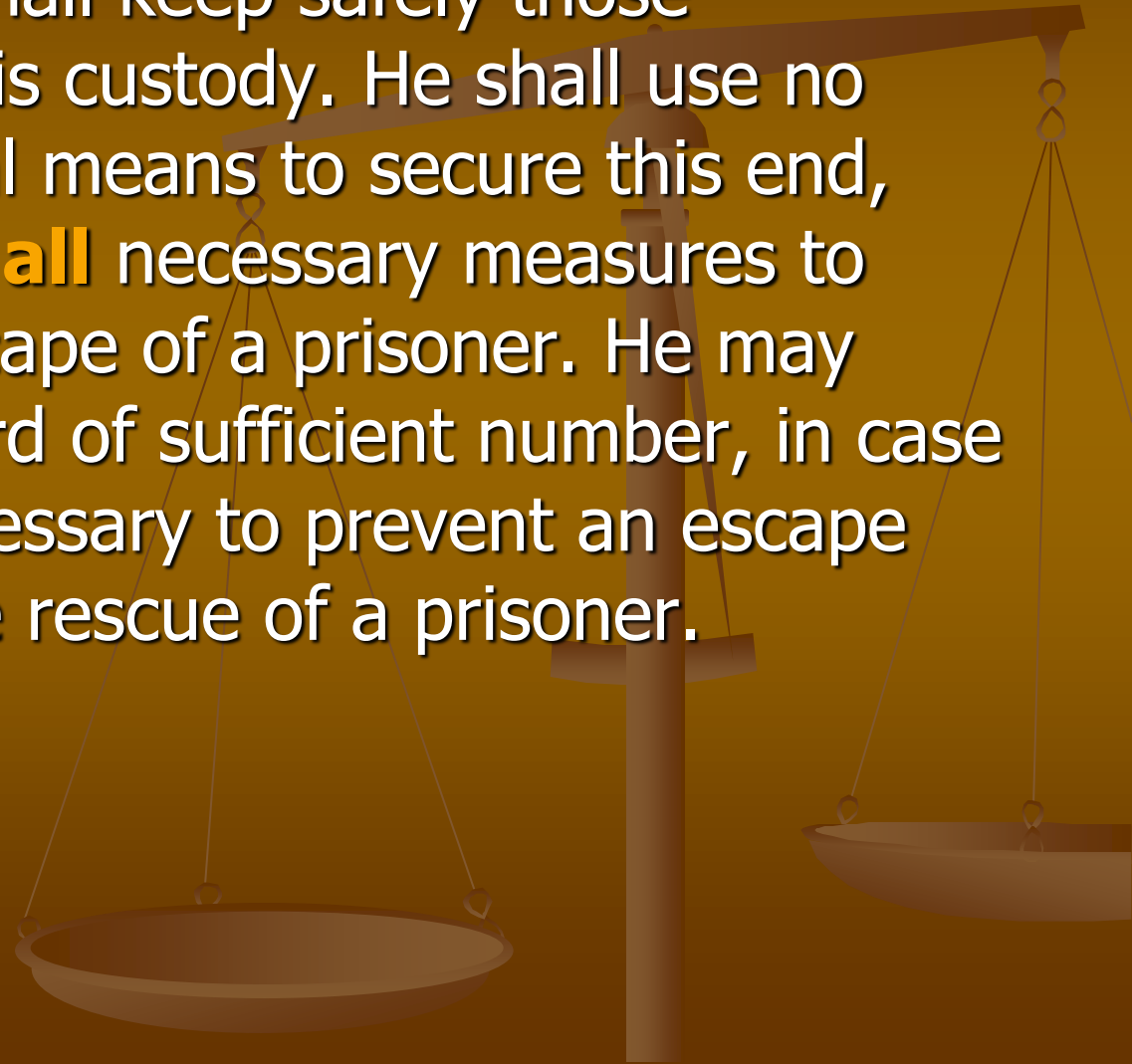


- Art. 8.03. Military Aid in Suppressing Riots.
 - Whenever, for the purpose of suppressing riots or unlawful assemblies, the aid of military or militia companies is called, **they shall obey the orders of the civil officer** (the Sheriff) who is engaged in suppressing the same.



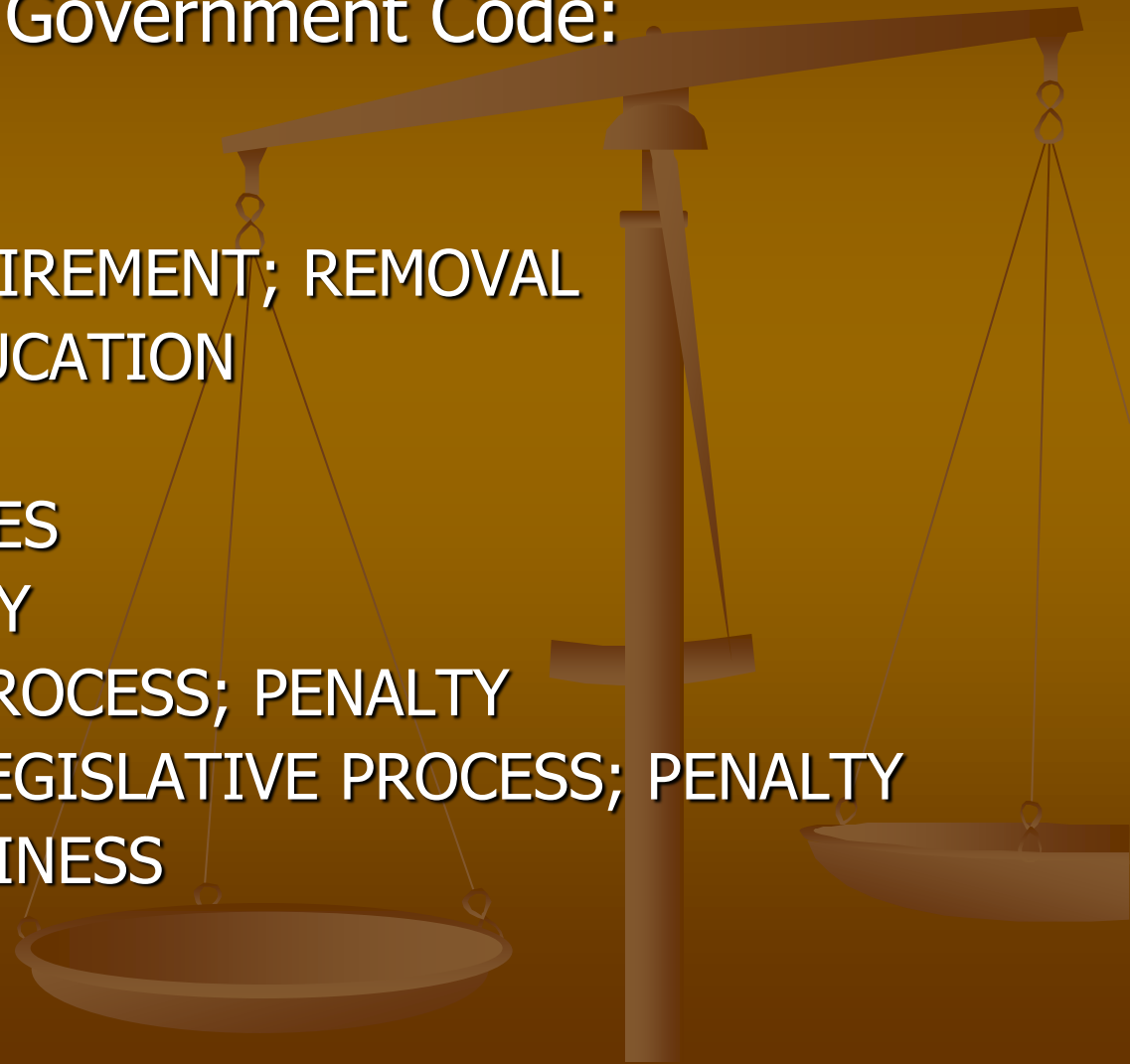
■ CCP Art. 16.21. Duty of Sheriff as to Prisoners.

- Every sheriff shall keep safely those committed to his custody. He shall use no cruel or unusual means to secure this end, but shall adopt **all** necessary measures to prevent the escape of a prisoner. He may summon a guard of sufficient number, in case it becomes necessary to prevent an escape from jail, or the rescue of a prisoner.

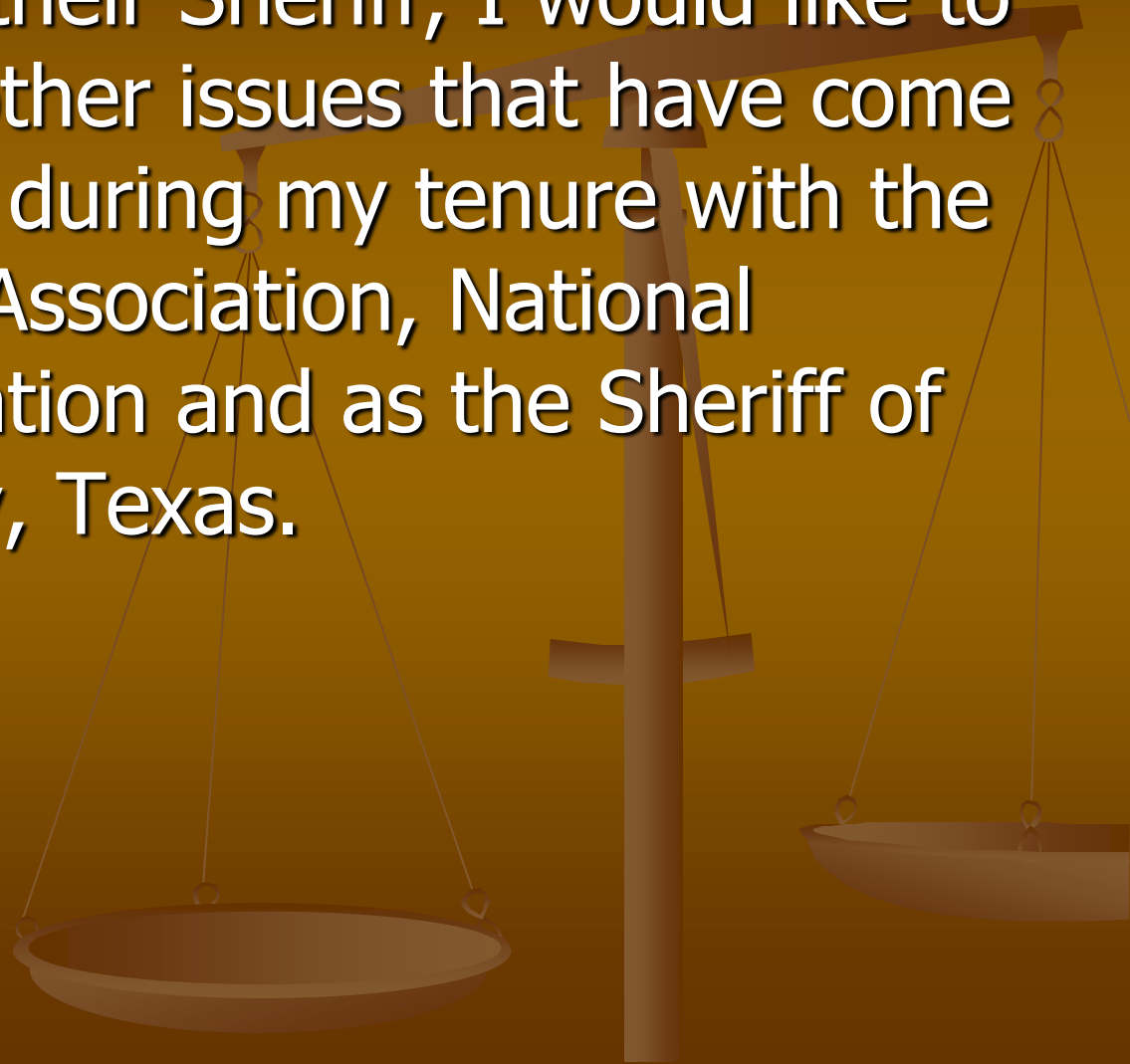


Other Areas of Responsibility

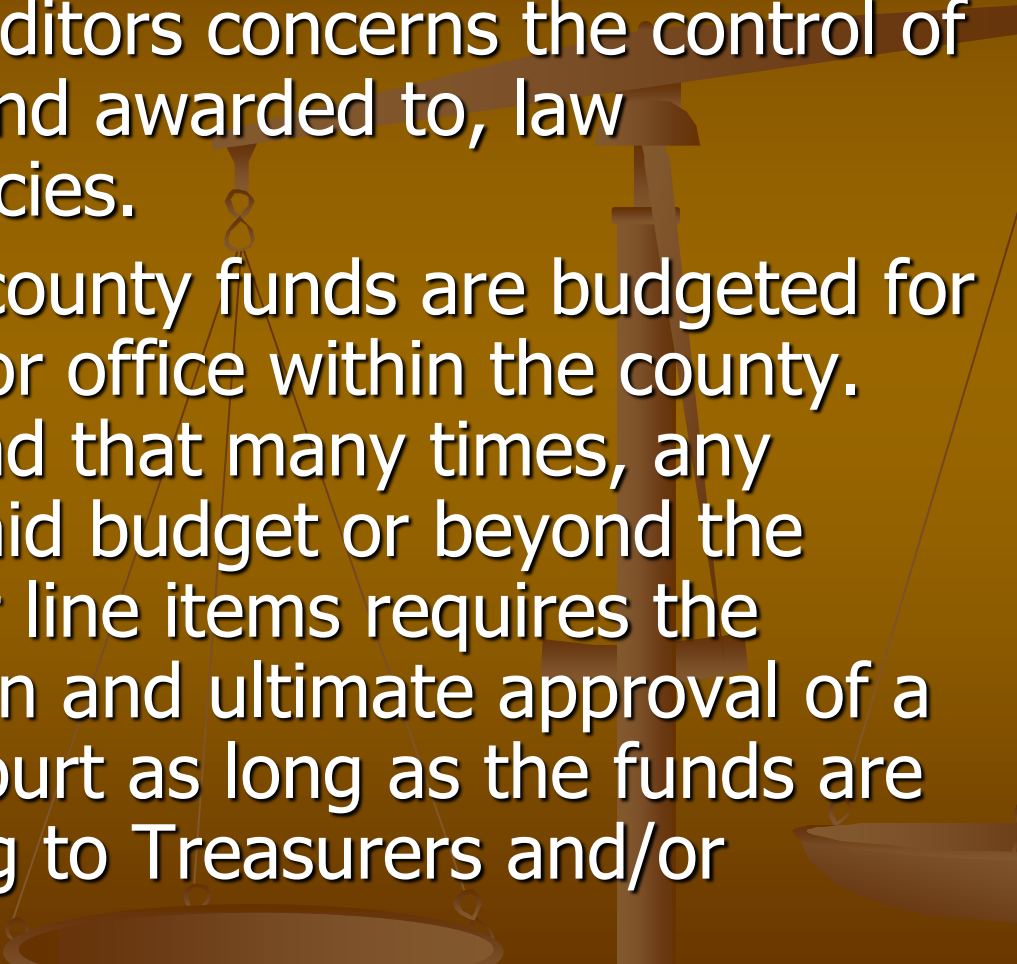
- Chapter 85, Local Government Code:
 - OATH AND BOND
 - QUALIFICATIONS
 - NEW BOND REQUIREMENT; REMOVAL
 - CONTINUING EDUCATION
 - DEPUTIES
 - RESERVE DEPUTIES
 - GUARDS; PENALTY
 - EXECUTION OF PROCESS; PENALTY
 - EXECUTION OF LEGISLATIVE PROCESS; PENALTY
 - UNFINISHED BUSINESS

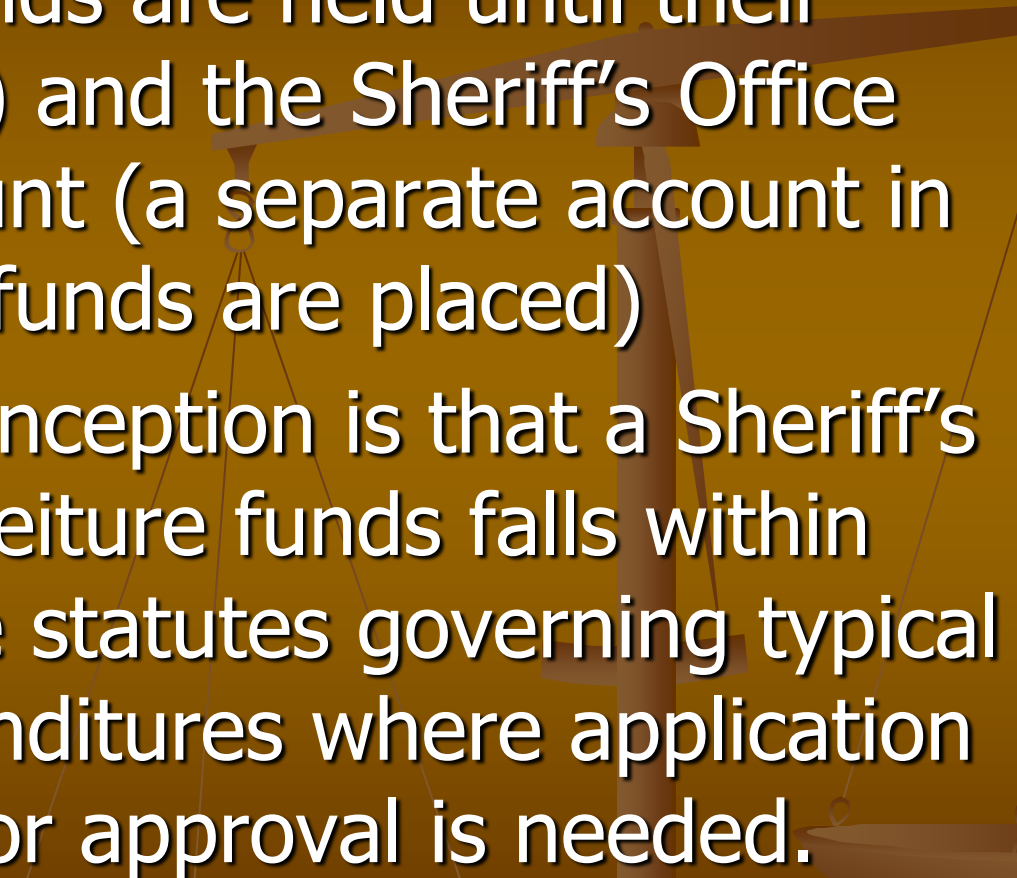


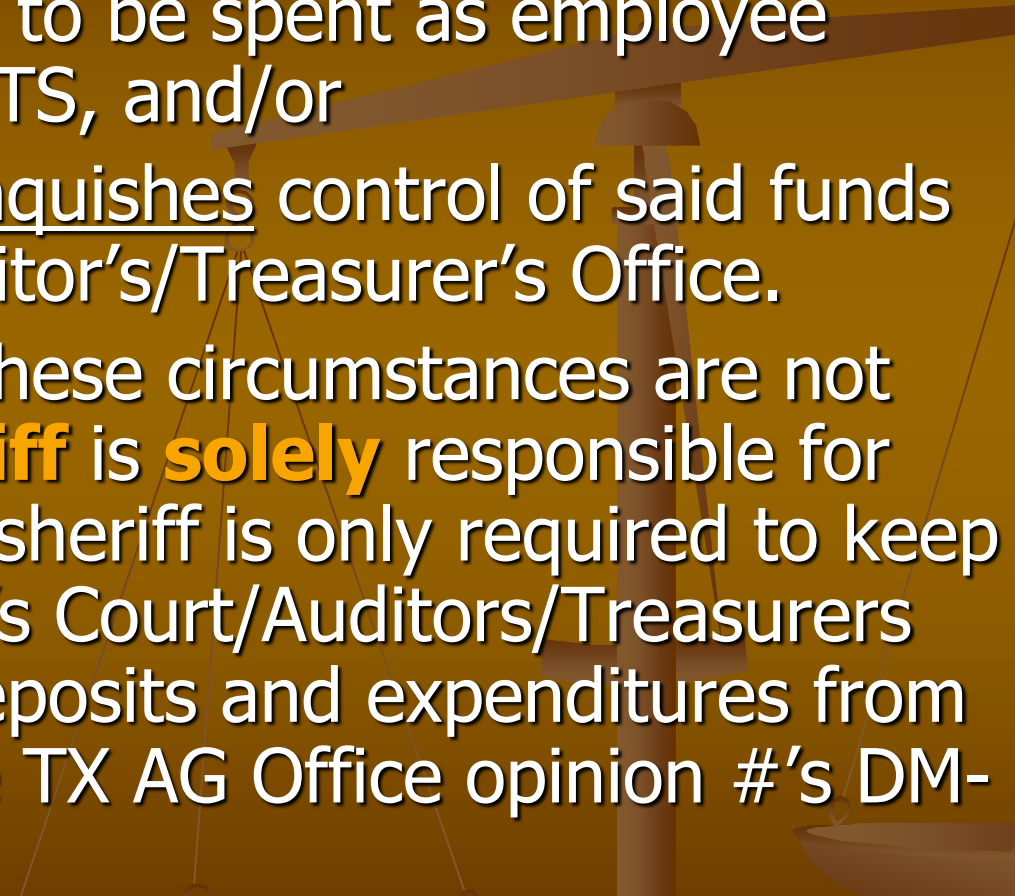
Rather than spending more time explaining what basically everyone already knows and expects of their Sheriff, I would like to address a few other issues that have come to my attention during my tenure with the Texas Sheriff's Association, National Sheriff's Association and as the Sheriff of Caldwell County, Texas.

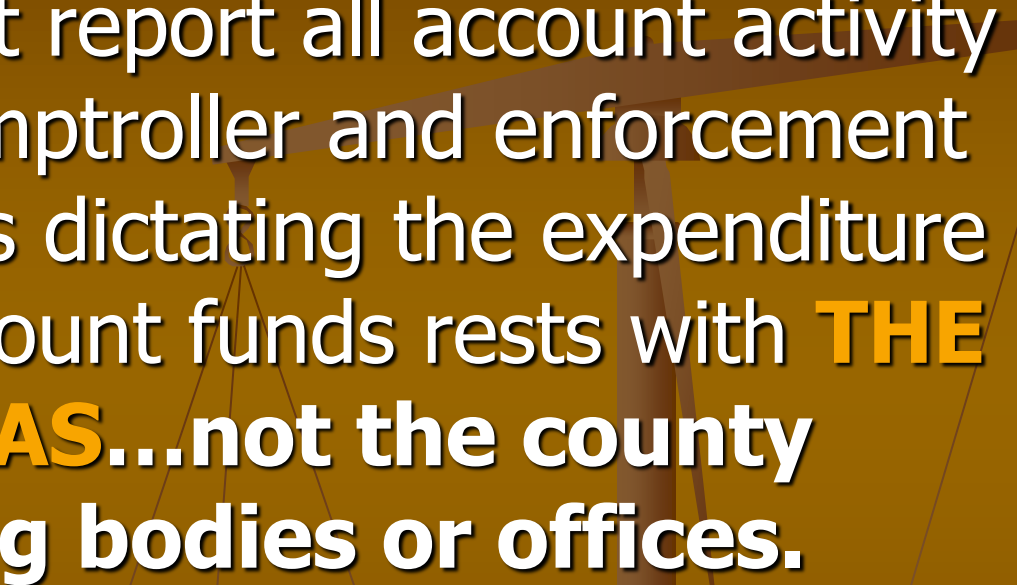


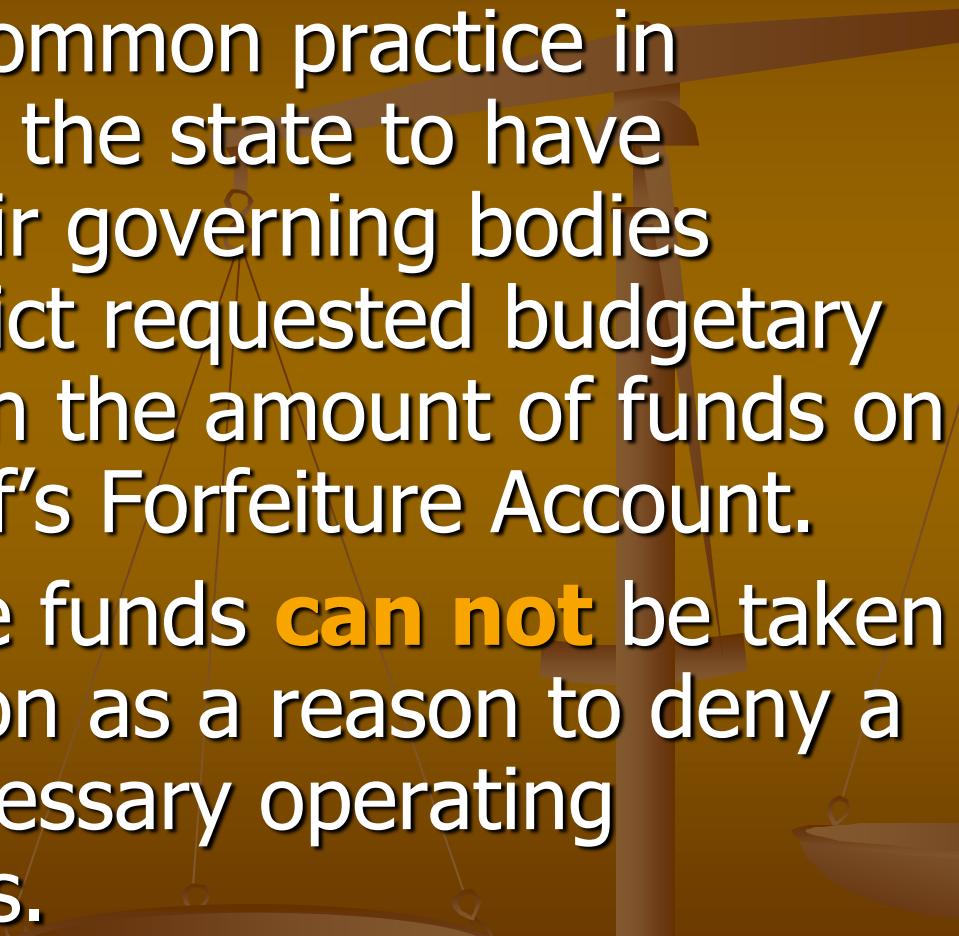
CCP CHAPTER 59

- One common area of misunderstanding between Sheriffs, Commissioner's Courts, County Treasurers and Auditors concerns the control of funds seized by, and awarded to, law enforcement agencies.
 - We all know that county funds are budgeted for each department or office within the county. We also understand that many times, any spending above said budget or beyond the scope of particular line items requires the meeting, discussion and ultimate approval of a Commissioner's Court as long as the funds are available according to Treasurers and/or Auditors.
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- One area of exception is a Sheriff's Office Seizure Account (a separate account in which seized funds are held until their final disposition) and the Sheriff's Office Forfeiture Account (a separate account in which awarded funds are placed)
 - A popular misconception is that a Sheriff's spending of forfeiture funds falls within the scope of the statutes governing typical budgetary expenditures where application is made and prior approval is needed.

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- The spending of these funds only become part of this requirement if one of two defined circumstances are met:
 - 1. If the funds are to be spent as employee SALARIES/BENEFITS, and/or
 - 2. The Sheriff relinquishes control of said funds to the County Auditor's/Treasurer's Office.
 - If at least one of these circumstances are not present, the **Sheriff** is **solely** responsible for these funds. The sheriff is only required to keep the Commissioner's Court/Auditors/Treasurers informed of the deposits and expenditures from this account. (see TX AG Office opinion #'s DM-246 and DM-247)

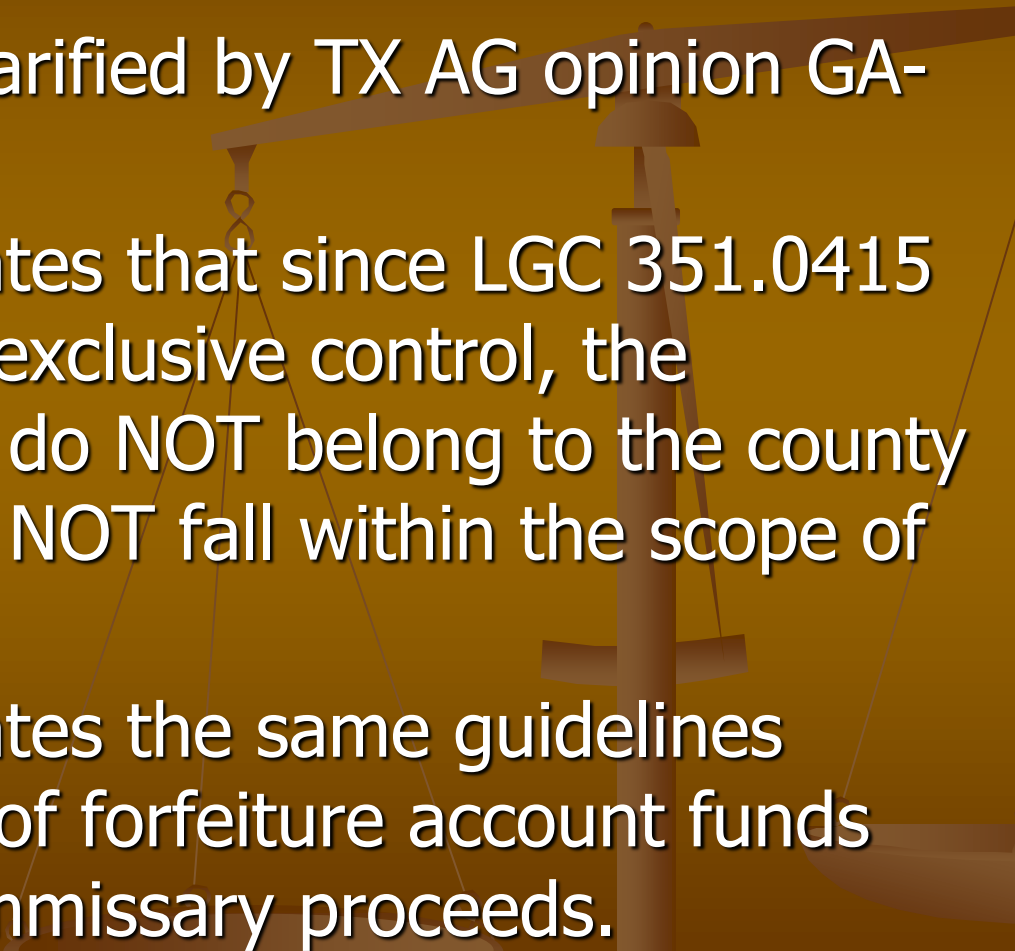
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- The Sheriff must report all account activity to the State Comptroller and enforcement of the provisions dictating the expenditure of forfeiture account funds rests with **THE STATE OF TEXAS...not the county level governing bodies or offices.**

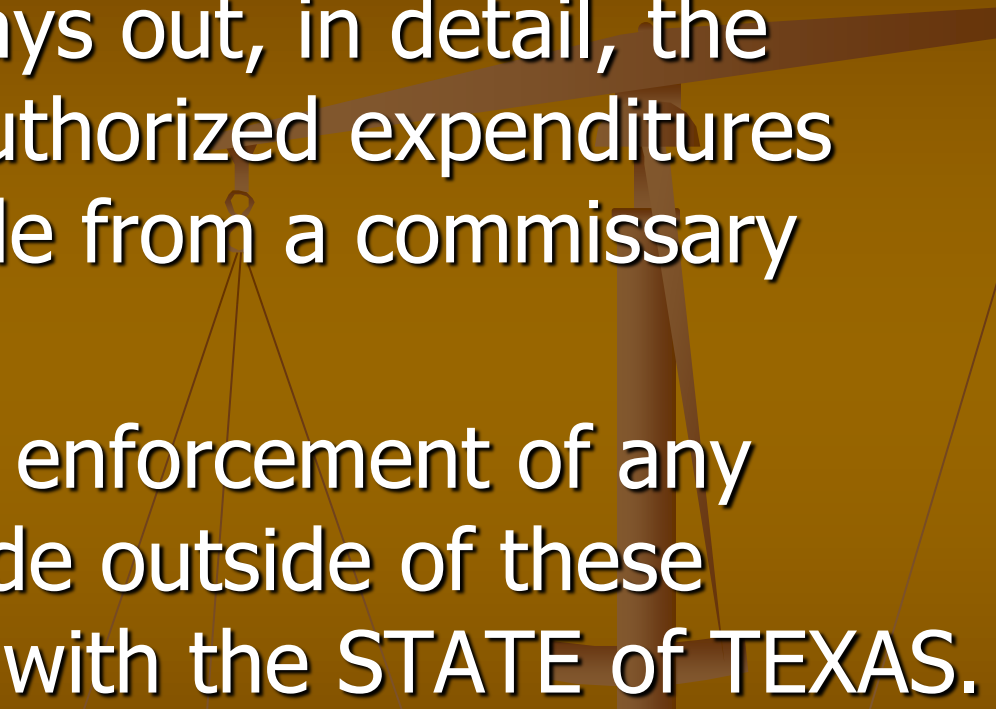
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- Another area of misunderstanding surrounding these funds is concerning Sheriff's Office budget requests.
 - It is an all too common practice in counties around the state to have members of their governing bodies attempt to restrict requested budgetary awards based on the amount of funds on hand in a Sheriff's Forfeiture Account.
 - By Statute these funds **can not** be taken into consideration as a reason to deny a Sheriff their necessary operating budgetary needs.

- An example of this happened recently when an unnamed commissioner's court was presented with an unnamed Sheriff's operating budget request packet. In that packet, the Sheriff listed the previous year's gasoline expenditure of \$1,200,000.00 (numbers used are for reference only and do **not** represent actual expenditures) and requested a budgetary increase of \$100,000.00 to account for a sharp increase in fuel prices. The unnamed commissioner's court refused the request, awarding an increase of only \$ 25,000.00 and cited the reason for the denial was that the Sheriff reportedly had just over \$75,000.00 in a forfeiture account. This practice is not only illegal, it is wholly counterproductive.

Commissary Proceeds

- This, too, has been a source of misunderstanding for many Commissioner's Courts and County Auditors/Treasurers. It is felt by many governing bodies that proceeds from inmate commissary programs are funds belonging to the county as is indicated by LGC 113.021, however, LGC 351.0145 indicates the Sheriff, or his designee, has **EXCLUSIVE** control of the commissary funds.

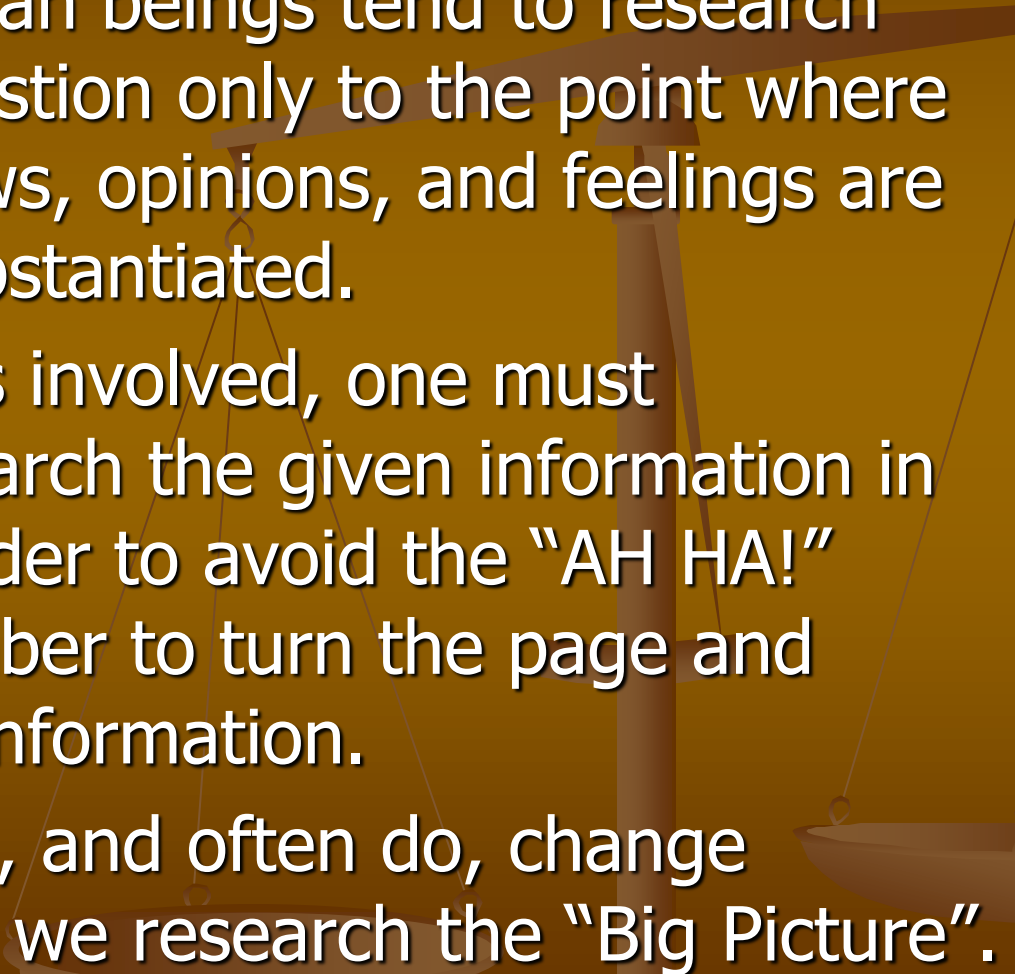
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- The misunderstanding stems from the fact these two codes seem to be in direct conflict with one another.
 - The matter was clarified by TX AG opinion GA-0791
 - This opinion indicates that since LGC 351.0415 grants the Sheriff exclusive control, the commissary funds do NOT belong to the county and as a result do NOT fall within the scope of LGC 113.021.
 - This opinion indicates the same guidelines governing control of forfeiture account funds also applies to commissary proceeds.

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- LGC 351.0415 lays out, in detail, the guidelines for authorized expenditures that can be made from a commissary account.
 - Once again, the enforcement of any expenditure made outside of these guidelines rests with the STATE of TEXAS.

Courthouse Safety & Security



- Another misconception between county officials rests with courthouse safety and security.
- It has been argued many ways the interpretation of the statute as written in the Local Government Code Title 9, chapter 291 section 291.003 which is titled Control of Courthouse: The County Sheriff Shall have charge and control of the county courthouse, subject to the regulations of the Commissioners Court. This is also emphasized in AG Letter Opinion DM 94-038.

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- A large portion of these misunderstandings can be blamed on the “Ah Ha!” factor of human nature
 - This is where human beings tend to research information in question only to the point where their personal views, opinions, and feelings are supported and substantiated.
 - When “legalese” is involved, one must remember to research the given information in its **entirety**, in order to avoid the “AH HA!” factor...So Remember to turn the page and research ALL the information.
 - The meanings can, and often do, change dramatically when we research the “Big Picture”.

Questions/Comments

