

**Trinity County Attorney**  
**Joe Warner Bell**

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OPINION COMMITTEE

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OPINION COMMITTEE

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*RQ-0433-JC*

Thursday, September 06, 2001

Re: Management of Community Supervision and  
Community Corrections by Constitutional County Judges

Dear Sir,

Herewith I am forwarding a request for an opinion regarding Constitutional County Judges participation in the management of Community Supervision and Community Corrections.

Are the Constitutional County Judges who try misdemeanor criminal matters eligible to participate in the management of the Community Supervision and Community Corrections Departments in the judicial district in which they preside?

Community Supervision and Community Corrections Departments are established by the district judges in each judicial district. TEXAS GOVT. CODE § 76.002(a)(1). Said district judges employ personnel to operate the Department and supervise the defendants. TEXAS GOVT. CODE § 76.002(a)(2). Each Department is managed by "[t]he district judges trying criminal cases and judges of statutory county courts trying criminal cases". TEXAS GOVT. CODE § 76.002(d).

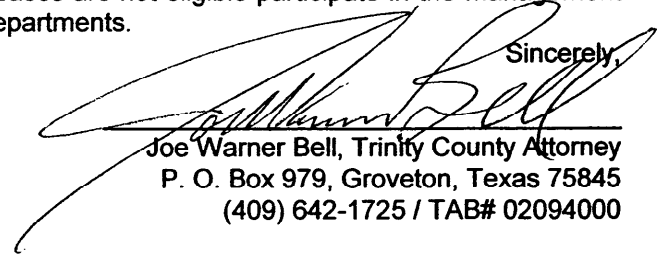
§ 76.002 was supposedly a non-substantive recodification of CODE of CRIMINAL PROCEDURE Art. 42.131 and the substance of that article is basically the same, including the division of responsibilities, although fashioned differently.

Constitutional County Judges are not mentioned in §72.002, but one is eligible for membership in the Community Justice Council as a representative of the county governments. *Id.* §72.003.

The law does not expressly define "statutory county courts." By common usage constitutional county courts are those created and described in the Article V. See Tex. Const. Art. V, §§ 1, 15 & 16. Statutory county courts are "such other courts as [the Legislature] may deem necessary" and are thereby created by statute. Article V. See Tex. Const. Art. V, § 1. See *Gillette's Estate v. State* (Civ. App. 1926) 286b S.W. 261; Cf. *Harris County v. Stewart*, 91 T. 133, 41 S.W. 650 (1897).

Since both constitutional and statutory county courts are mentioned in Chapter 76, and particularly, both are mentioned in § 76.003, and constitutional county court judges are not listed as eligible to participate in the management of the Community Supervision and Community Corrections Departments, it appears that even constitutional county judges who preside over misdemeanor cases are not eligible participate in the management of the Community Supervision and Community Corrections Departments.

Sincerely,



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