



# ECTOR COUNTY, TEXAS

## The History and Evolution of the Constable Office in Texas\*

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The office of constable dates back at least to 1066 and the Norman Conquest of England. William the Conqueror appointed constables to supervise individual communities, or boroughs. A constable's duties varied considerably in different circumstances and times. They were often similar to those of a sheriff, who supervised a shire (the equivalent of a county). Over time, however, as sheriffs were given increasing administrative duties, constables assumed primary responsibility for local law enforcement. The office of constable had been transplanted to the British colonies in North America by the mid-seventeenth century, and with it continued the divergence between constable and sheriff. In America as in England, the main qualification for the office of sheriff was "that he be of sufficient estate." This limited the choices for sheriff to a relatively small and elite group of planters in each county. As a result, few sheriffs had either the ability or desire to serve warrants or bring offenders to justice. Consequently, the constable and justice of the peace were about the only law and order most rural American settlers ever saw.

On March 5, 1823, John Tumlinson, the newly elected alcalde of the Colorado District in Stephen F. Austin's first colony in Texas, wrote to the Baron de Bastrop in San Antonio that he had "appointed but one officer who acts in the capacity of constable to summon witnesses and bring offenders to justice." That appointee, Thomas V. Alley, thus became the first Anglo law enforcement officer in the future republic and state of Texas. Other prominent colonists who served as constable included John Austin and James Strange.

The [Constitution of the Republic of Texas](#) (1836) provided for the election in each county of a sheriff and "a sufficient number of constables." During the ten years of the republic's existence, thirty-eight constables were elected in twelve counties, the first in Nacogdoches County and the largest number (thirteen) in Harrisburg (later Harris) County. Court records indicate that violent crime was rare in the republic, except when horse or cattle thieves entered Texas from Arkansas or Louisiana; most indictments were for nonlethal crimes such as illegal gambling or assaults resulting from fights or scuffles. Juan N. Seguín and Elliott M. Millican both served as constables during the republic.

Shortly after Texas became a state, an act passed by the legislature specified that the constable should be "the conservator of the peace throughout the county," adding that "it shall be his duty to suppress all riots, routs, affrays, fighting, and unlawful assemblies, and he shall keep the peace, and shall cause all offenders to be arrested, and taken before some justice of the peace." Constables were the most active law-enforcement officials in many counties during the early statehood of Texas.

After Texas seceded from the United States in 1861, many county offices, including that of constable, remained unfilled or were filled by men less competent than their predecessors. During the military occupation of Texas after the Civil War, the election of county officials all but ceased, as the Union military appointed more than 200 individuals to state and county offices. A number of these appointees refused to serve; from 1865 to 1869, over one-third of the county offices in Texas were vacant. Many counties had no appointed or elected constables during this period. Austin, DeWitt, Fayette, McLennan, and Navarro counties had but a single constable each, appointed by Gen. Edward R. S. Canby, head of the Fifth Military District, in 1868–69.

Under the [Constitution of 1869](#), a [Reconstruction](#) document that centralized many governmental functions, no constables were elected in Texas from 1869 to 1872, though some were appointed by justices of the peace. Many of these appointees lacked experience in handling violent offenders and access to secure jail facilities and had few deputies to call upon for assistance. They were no match for the poor, embittered, and heavily armed former soldiers from both sides who roamed the state, often turning to crime. As a result, the office of constable began to diminish in importance, and the better-equipped county sheriffs began to assume a leading role in law enforcement. Still, a number of prominent peace officers of the late nineteenth and twentieth centuries began their careers as constables or deputy constables, including Thomas R. Hickman, George A. Scarborough, and Jess Sweeten. In 1896, while serving as a United States deputy marshal, Scarborough shot and killed the controversial El Paso constable John Selman, who had himself gunned down the notorious John Wesley Hardin in 1895.

The [Constitution of 1876](#), designed to decentralize control of the state government, reduced the power of many state officials and mandated that constables would once again be elected at the precinct level. A 1954 constitutional amendment extended their term of office from two years to four. Today, constables numbering approximately 780 are elected from precincts in most Texas counties. Their law-enforcement roles vary widely, but in general their police powers are no different from those of other peace officers in the state. Complete records do not exist, but the most recent estimate is that at least ninety-three Texas constables have died in the line of duty, including sixty-seven in the twentieth century.

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