

**STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
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August 28, 2002

Opinion No. 02-094

Powers and Duties of Williamson County Constables

QUESTIONS

1. What are the powers and duties of a constable in Williamson County? Do such powers include law enforcement powers?
2. May a constable in Williamson County enforce traffic laws? If so, in what court would traffic citations be prosecuted?

OPINIONS

1. A Williamson County constable is “a conservator of the peace . . . with all the power and authority belonging to the office of constable by common law,” including law enforcement powers unless such powers have been removed by action of the county legislative body.
2. Assuming that the county legislative body has not withdrawn law enforcement power, a Williamson County constable may enforce traffic laws. The resulting traffic citations would be prosecuted in the General Sessions Court for Williamson County.

ANALYSIS

1. The powers and duties of constables are set out in Tennessee Code Annotated §§ 8-10-108 through -114. Pursuant to those statutes, Tennessee constables are primarily empowered to execute process. However, a constable of a county that falls within population brackets set out in § 8-10-108(b), which includes Williamson County,¹ is also “a conservator of the peace . . . with all the power and authority belonging to the office of constable by common law,” including law enforcement powers. Tenn. Code Ann. § 8-10-109(a). These powers are reflected in the constables’ oath of office, which states in part:

¹ The statute includes all counties with a population of not less than 57,550 and not more than 59,400 “according to the 1960 federal census or any subsequent federal census.” Tenn. Code Ann. § 8-10108(b). In the 1980 federal census, Williamson County had a population of 58,108. Tenn. Code Ann. Vol. 13 at 1021.

the constable will cause the peace of the state to be kept, to the best of the constable's power; that the constable will arrest all such persons as go in the constable's sight armed offensively, or who commit any riot, affray, or the breach of the peace, will use the constable's best endeavor, on complaint made, to apprehend all felons, rioters, or persons riotously assembled; and that, if such persons flee or make resistance, the constable will pursue, and make hue and cry, according to law.

Tenn. Code Ann § 8-10-108(b).

We note that in some counties, including Williamson,² the county legislative body may withdraw law enforcement powers from constables by adopting a resolution by two-thirds vote at two consecutive meetings. Tenn. Code Ann. § 8-10-109(b)(1). We have not inquired whether the Williamson County legislative body has passed such a resolution. However, if it has not, a Williamson County constable is vested with law enforcement powers.

2. This Office has previously opined that the law enforcement powers of a constable include the power to enforce traffic laws. Op. Tenn. Atty. Gen. 94-095 (copy attached). As with traffic citations issued by other Williamson County law enforcement officials, traffic citations issued by a Williamson County constable would be prosecuted in the General Sessions Court of Williamson County.

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² Counties that may not remove the law enforcement powers of constables are identified by population brackets in Tennessee Code Annotated § 8-10-109-(b)(2), according to the 1990 or a subsequent federal census. Tenn. Code Ann. § 8-10-109(b)(1). In 1990 and 2000, the population of Williamson County was 81,021 and 126,638, respectively. Tenn. Code Ann. Vol. 13 at 1022; Official Website of United States Census Bureau at <http://quickfacts.census.gov/qfd/states/47/47187.html>. Neither of these populations fit within the brackets identifying counties to which § 8-10-109(b)(1) does not apply.

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