



PRICE DANIEL  
ATTORNEY GENERAL

**THE ATTORNEY GENERAL  
OF TEXAS**

AUSTIN 11, TEXAS

*see V-233*

March 26, 1947

Hon. M. Riley Wyatt, Chairman  
State Prison Board  
San Antonio, Texas

Opinion No. V-105

Re: Authority of Prison  
Board to direct gen-  
eral manager to permit  
the use of inmate labor  
on sewage project with  
the City of Huntsville.

Dear Mr. Wyatt:

Your request for an opinion on the above cap-  
tioned subject reads as follows:

"The Texas State Board of Health has practically condemned the existing sewage disposal plant in Huntsville as inadequate.

"The City of Huntsville has always handled the disposal of sewage from the prison system in Huntsville since the prison has no sewage disposal plant of its own. At present, it is estimated the sewage flow from the prison system constitutes one-third of the estimated total normal flow to the sewage treatment plant.

"The City of Huntsville has never imposed a sewer service charge on the prison system because of a contract entered into between the city and the prison system, which provides that the prison system will pay its prorata share of the cost of any improvements or extensions at the city's sewer disposal plant.

"In view of the foregoing hazards, the Texas State Board of Health has directed the City of Huntsville to take steps immediately to correct the condition existing, and with reference to this sewage the City of Huntsville has called upon the prison

board to furnish inmate labor in the construction of this sewer extension program.

"In view of the contract heretofore entered into (copy of which is herewith enclosed), and further in view of the benefits to accrue to the prison board, can the prison board authorize the general manager to permit the use of inmate labor on this project?"

Article 6166a, of Vernon's Civil Statutes, reads in part as follows:

" \* \* \* All persons shall be worked within the prison walls and upon farms owned or leased by the State; and in no event shall the labor of a prisoner be sold to any contractor or lessee to work on farms or elsewhere, nor shall any prisoner be worked on any farm or otherwise upon shares except such farms be owned or leased by the State of Texas."

In Opinion No. 0-4322, addressed to Mr. S. M. Lister, dated April 15, 1942, this Department held that the Texas Prison Board does not have authority under Article 6166a, Vernon's Civil Statutes, to permit the use of trusty prisoners by State officials, members of the Prison Board, and employees of the prison system. In Opinion No. 0-4727, dated July 31, 1942, this Department held that while Article 6166a authorizes the Prison Board to lease real estate for agricultural or grazing purposes, it was of the opinion that this does not authorize the contracting of convict labor under the cloak of a lease of real estate, and that Article 6166a must be construed together with Article 6166a, in that the employment of convicts as guards in the operation of the prison system is so obviously opposed to the general principles and the statutory policies hereinabove mentioned and discussed, that the power will not be implied as incident to the general power of the manager to control the prison system; that authority was not vested to use convicts as guards to replace employed guards.

The Legislature, in its regular biennial appropriation, provides for the various employees and

operation of the Texas Prison System. It was the evident intention of the Legislature to prohibit the use of convict labor in the performance of work pertaining to the prison system, when such work is to be performed outside the prison walls, and not on the farms owned or leased by the prison system.

The manifest intention of Article 6166a compels us to answer that convict labor may not be used outside the prison walls and off of State property for construction of sewerage lines in the City of Huntsville.

SUMMARY

Texas Prison Board is not authorized to direct the general manager to permit the use of inmate labor on sewage project outside walls or off of farms of Texas Penitentiary. (Article 6166a, V. C. S.)

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By *Artie Stephens*  
Artie Stephens  
Assistant

APPROVED MAR. 26, 1947

*Price Daniel*  
ATTORNEY GENERAL

AS:JMc:mrj