



**THE ATTORNEY GENERAL  
OF TEXAS**

WAGGONER CARR  
ATTORNEY GENERAL

AUSTIN 11, TEXAS  
July 10, 1964

Honorable W. G. Woods, Jr.  
County Attorney  
Liberty County  
Liberty, Texas

Opinion No. C-280

Re: Whether it is the duty  
of the County or Dis-  
trict Attorney to repre-  
sent individual petition-  
ers in alcoholism commit-  
ment cases under Article  
5561c, V.C.S.

Dear Mr. Woods:

You requested an opinion of this office on the following  
question:

"Is there a duty upon a County or  
District Attorney to represent an  
individual petitioner, not acting for  
a governmental agency, who files a  
petition under authority of Article  
5561c, V.C.S., asking that an alco-  
holic person be remanded for treat-  
ment to the custody of the Texas  
Commission on Alcoholism."

Article 5, Section 21, Texas Constitution, provides  
as follows:

"A County Attorney, for counties in  
which there is not a resident Criminal  
District Attorney, shall be elected by  
the qualified voters of each county,  
who shall be commissioned by the Gover-  
nor, and hold his office for the term  
of four years. In case of vacancy the  
Commissioners Court of the county shall  
have the power to appoint a County  
Attorney until the next general elec-  
tion. The County Attorneys shall repre-  
sent the State in all cases in the Dis-  
trict and inferior courts in their res-  
pective counties; but if any county  
shall be included in a district in  
which there shall be a District Attor-  
ney, the respective duties of District

Attorneys and County Attorneys shall in such counties be regulated by the Legislature. The Legislature may provide for the election of District Attorneys in such districts, as may be deemed necessary, and shall hold office for a term of four years, and until their successors have qualified." (Emphasis supplied.)

Section 1 of Article 5561c of Vernon's Civil Statutes, which provides for the care and treatment of alcoholics, sets forth the purposes of the Act and states:

" . . . Alcoholism is hereby recognized as an illness and a public health problem affecting the general welfare and the economy of the State. . . . It is hereby declared that the procedure for commitment of alcoholics as hereinafter provided for is not punitive but is a committal for treatment of an illness affecting not only the individual but the public welfare as well."

The emergency clause of the Act in question states, in part:

" . . . and the fact that the State's facilities are not adequate to treat and rehabilitate alcoholics; and the fact that there is no public problem more important or pressing than this; and the further fact that this is one of the major problems confronting the nation as a whole, create an emergency. . . ." (Emphasis supplied.)

Section 9 of the Act provides for the remand of an alcoholic to the Commission on alcoholism for treatment, when it has been properly shown to the Court, upon petition filed by the alleged alcoholic's husband, wife, child, mother, father, next of kin, next friend, or the county health officer, that such person is an alcoholic. Section 12 provides that the judge of the Court, upon finding a person guilty of a misdemeanor, which violation resulted from such person's chronic and habitual use of alcohol, may remand such person, if over eighteen years of age, to the Commission for care and treatment, in lieu of the imposition of the sentence.

Article 5561c clearly reveals that the State of Texas is an interested party in the care and treatment of alcoholics. As the Constitution provides that the County and District Attorneys shall represent the State in all cases in the courts, it is our opinion that it is the duty of such officials to represent the State in alcoholism commitment cases. In answer to your specific question, as worded, we are unable to find a constitutional or statutory provision that places a duty upon a county or district attorney to represent private individuals in Court.

S U M M A R Y

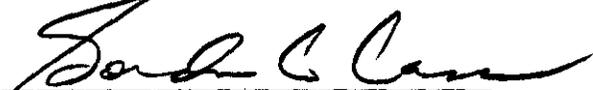
Under the provisions of the Act on Alcoholism (Article 5561c of Vernon's Civil Statutes) it is the duty of county and district attorneys to represent the interest of the State of Texas in alcoholic commitment cases. It is not the duty of such officials to represent private individuals in Court.

Yours very truly,

WAGGONER CARR  
Attorney General of Texas

By:

  
Sam Kelly  
Assistant

  
Gordon C. Cass  
Assistant

SK,GCC/jp

APPROVED:

OPINION COMMITTEE,  
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Jerry Brock  
George Gray  
Lonnie Zwiener  
Arthur Sandlin

APPROVED FOR THE ATTORNEY GENERAL

By: Stanton Stone

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