

A. J. (Jack) Hartel
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THE COUNTY OF LIBERTY

Office of the County Attorney
LIBERTY, TEXAS 77575-9127

June 25, 1991

Honorable Dan Morales
Attorney General of Texas
Attention: Opinion Committee
P. O. Box 12548
Austin, Texas 78711-2548

RQ-158

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Opinion Committee

RE: REQUEST FOR ATTORNEY GENERAL'S OPINION

Dear Mr. Morales:

Liberty County is in the process of trying to provide medical care to its county jail inmates. These people are all parties (defendants) to a lawsuit, or lawsuits styled THE STATE OF TEXAS VS. (THE NAME OF THE INMATE). In order to do so we are attempting to hire a physician and a nurse. This is difficult to do given the scarcity of physicians in our county. In order to make it as attractive as possible to them, we are interested in knowing whether or not they would be entitled to the indemnity and legal representation provided under Sections 104.001, 104.009, or 110-002 of the Civil Practices and Remedies Code.

QUESTION 1: Under what circumstances would a licensed physician and/or a licensed nurse, employed on a part-time basis by Liberty County to render health care services to criminal defendants being held in the county jail, some of whom are awaiting transfer to the state penitentiary and many of whom qualify to receive state-mandated health care treatment under the Indigent Health Care and Treatment Act, be entitled to the indemnification and legal representation benefits provided for under Sections 104.001, 104.004, and/or 110.002 of the Civil Practices and Remedies Code?

Honorable Dan Morales, Attorney General
June 25, 1991
Page 2

QUESTION 2: Given the circumstances described above, (i.e., Liberty County providing health care to criminal defendants) is the County a 'State Agency' for purposes of Sections 104.001 and 104.004 of the Civil Practices and Remedies Code?

QUESTION 3: If the indemnification and legal representation benefits as described in Sections 104.001 and 104.004 of the Civil Practices and Remedies Code are available to a licensed physician and a licensed nurse rendering health care services to criminal defendants being held in a county jail, then, assuming that these defendants also qualify to receive health care services under the Indigent Health Care and Treatment Act, would these benefits be 'in addition to' those provided in Section 110.002 of the Civil Practices and Remedies Code, or would they be 'exclusive of' the benefits found in Section 110.002?

My own research, which includes asking one of your assistants to check on the existence of any previous opinions or cases, has not turned up any precedents.

I thank you most sincerely for your expeditious reply to these important questions.

Very truly yours,



A. J. Hartel
County Attorney

AJH:el

cc: Honorable Dempsie Henley, County Judge
Mr. Bobby Blake, County Commissioner, Prec. 1
Mr. Lee Groce, County Commissioner, Prec. 2
Mr. Melvin Hunt, County Commissioner, Prec. 3
Mr. Bobby Payne, County Commissioner, Prec. 4