



**RQ-810**

**JAMES W. CARR**  
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April 3, 1995

Dan Morales  
Attorney General  
Capitol Station  
P.O. Box 12548  
Austin, Texas 78711-2548

Attention: Opinion Committee

Dear Mr. Morales:

As a result of your recent opinion, the municipal courts and the Justice of the Peace courts in this county have concluded that they have no jurisdiction over the offense of Minor in Possession of Alcohol. Now the question is whether the county courts have jurisdiction over first offense MIP cases.

Article 4.07 of the Code of Criminal Procedure seems to limit county court jurisdiction to offenses where the fine to be imposed exceeds \$500.00. The maximum fine under Section 106.05(c) of the Alcohol Code is \$200.00.

Please advise whether the county courts have jurisdiction over first offense MIP cases.

Yours very truly,

James W. Carr

JWC:am

cc: Charles J. Rother  
Lavaca County Judge  
Hallettsville, Texas

Mickey Weiser  
Justice of the Peace, Precinct One  
Hallettsville, Texas 77964

Delores Kyle  
Lavaca County Auditor  
Hallettsville, Texas 77964

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Opinion Committee

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FILE # ~~MC 33827-95~~  
I.D.# ~~33827~~  
34109

DAVID M. MOTLEY, COUNTY ATTORNEY

ILSE D. BAILEY, ASSISTANT COUNTY ATTORNEY  
HAROLD J. DANFORD, ASSISTANT COUNTY ATTORNEY

May 22, 1995

The Honorable Dan Morales  
Attorney General of Texas  
P. O. Box 12548, Capitol Station  
Austin, Texas 78711-2548

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MAY 23 1995

Attention of Opinions Committee

Opinion Committee

Re: Interpretation of A.G. Op. No. DM-320 -- In what court does jurisdiction lie for Alcoholic Beverage Code cases of Minor in Possession of Alcohol (§106.5), Consumption of Alcohol by a Minor (§106.4) and Purchase of Alcohol by a Minor (§106.02)?

Dear General Morales:

This office respectfully requests that you elaborate on the issue addressed in your recent opinion DM-320, in which you determined that justice courts do not have jurisdiction to hear criminal cases filed under Texas Alcoholic Beverage Code §§ 106.02 (Purchase of Alcohol by a Minor), 106.04 (Consumption of Alcohol by a Minor) or 106.05 (Minor in Possession of Alcohol). Specifically, we require an answer to the question of where these cases may be filed initially, if they may not be brought in the justice court.

Based on the analysis in the attached brief, we conclude that perhaps the district court is technically the appropriate forum for such cases, but we hesitate to impose this burden on the district courts without benefit of your analysis.

Attorney General Morales  
May 22, 1995  
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Your response will enable us to pursue prosecution of the numerous Alcoholic Beverage Code cases that are currently awaiting prosecution in this county as a result of your earlier opinion on this issue.

Very truly yours,



David Motley  
County Attorney

cc: Kerr County Justices of the Peace  
Judge E. Karl Prohl, 198th Judicial District  
Judge Steven Ables, 216th Judicial District

Enclosures