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GOVERNMENTAL INQUIRY
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Honorable Dan Morales
Attorney General of Texas
P.O. Box 12548
Austin, Texas 78711-2548

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Opinion Committee

Dear General Morales:

Prior to the enactment of SB 1395 during the 75th Session of the Texas Legislature, local juvenile boards determined the budget of juvenile probation departments. SB 1395 did not repeal other statutes addressing the budgets of local juvenile probation departments. It simply added Section 111.094 to the Local Government Code. Section 111.094. Local Government Code states:

The commissioners court in preparing the county budget shall determine the amount of county funds to be spent for the juvenile probation department in the county budget.

While this indicates that the commissioners court shall "determine the amount of county funds to be spent for juvenile probation funds in the county budget," Section 152.0004, Human Resources Code(HRC) states:

(a) The commissioners court shall pay the salaries of juvenile probation personnel and other expenses certified as necessary by the juvenile board chairman from the general funds of the county.

When the two statues are viewed together, they seem to indicate that the commissioners court determines the total amount of the budget and the juvenile board determines the individual salaries of juvenile probation personnel. This interpretation

is supported by the fact that Section 141.042 (a)HRC provides the Texas Juvenile Probation Commission (TJPC) with the authority to adopt reasonable rules that provide:

(1) minimum standards for personnel, staffing, case loads, programs, facilities, record keeping, equipment, and other aspects of the operation of a juvenile board that are necessary to provide adequate and effective probation services.

In developing standards for juvenile probation departments, TJPC established two levels of standards - "recommended" and "mandatory." Standard 341.3(d), which is a mandatory standard, states:

The juvenile board shall ensure that all salary levels of juvenile probation department personnel are reasonable and comparable with prevailing salaries of the public and private sector. The salary scale for juvenile probation officers shall be no less than the salary scale for adult probation officers...

In addition, the receipt of state funds by the juvenile board is contingent upon the juvenile board entering into a State Financial Assistance Contract whereby the board agrees to:

...comply with all TJPC administrative rules contained in Chapter 341 (Probation Standards), Chapter 343 (Juvenile Detention Standards), Chapter 344 (Post-Adjudicatory Standards) and Chapter 345 (Community Corrections Standards) of Title 37 Texas Administrative code which are applicable to juvenile boards, juvenile probation departments and any programs and facilities operated by or under the authority of Recipient.

For the juvenile board to comply with all standards, the juvenile board would have to comply with Standard 341.3(d) cited above that requires the board to ensure salary levels for juvenile and adult probation personnel to be the same. Furthermore, Section 152.0012 HRC clearly states that the juvenile probation department is under the jurisdiction of the juvenile board rather than commissioners court and that with regard to the juvenile probation department budget, the commissioners court is to consider "only the amount of county funds..."

The juvenile board shall prepare a budget for the juvenile probation department and the other facilities and programs under the jurisdiction of the juvenile board. The commissioners court shall review the budget and consider only the amount of county funds derived from county taxes, fees, and other county sources in the budget. The commissioners court may not review any part of the budget derived from state funds.

Since

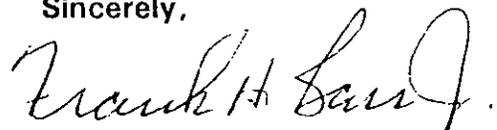
- (1) the statutes authorize TJPC to set standards for Juvenile Boards,
- (2) TJPC standards require the juvenile board to assure that the scale for juvenile probation officers is no less than that of adult probation officers,
- (3) the receipt of state funds is contingent upon compliance with TJPC standards, and
- (4) the statutes provide that "the county determine the amount of county funds to be spent for the juvenile probation department",

it would appear that while the commissioners court determines the "amount of county funds to be spent for the juvenile probation department," the juvenile board determines both the salaries of juvenile probation personnel and how the funds approved by the county are to be distributed among the various line items within the budget.

We would appreciate the Attorney General's opinion on the following:

- (1) Who has the authority to establish the salaries of juvenile probation department personnel, and
- (2) Which governmental entity has the authority to determine the amount of the individual line items within the juvenile probation department budget?

Sincerely,



Frank H. Bass, Jr.
County Attorney

FHB/gs