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OPINION COMMITTEE

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April 28, 2000

OPEN RECORDS DIVISION

Honorable John Cornyn
Attorney General of Texas
Supreme Court Building
Post Office Box 12548
Austin, Texas 78711-2548

RQ-0227-JC
FILE # ML-41402-00
I.D. # 41402

Re: Request for Attorney General Opinion regarding county responsibility for costs in Mental Health Proceedings

Dear General Cornyn:

The Laredo State Center, located in Webb County, Texas, is a mental health facility serving a four county area within the state's mental health system. The Laredo State Center provides inpatient and outpatient mental health services. Until recently, the Laredo State Center was primarily a crisis intervention unit for inpatient mental health services. Individuals detained under an emergency detention procedure under subchapter A (apprehension of person by a peace officer) or B (judge's or magistrate's order for emergency apprehension and detention) of chapter 573 of the Texas Health and Safety Code were able to receive emergency inpatient services at the Laredo State Center. Further, individuals committed pursuant to an application for court-ordered mental health services were also able to receive inpatient mental health services at the Laredo State Center. However, given that the Laredo State Center was only a crisis intervention unit, involuntary in-patients placement at the Laredo State Center could only be done with patients who were under an order of protective custody. See, Subchapter B of chapter 574 of the Texas Health and Safety Code. In other words, while an application was pending for temporary mental health services, the Webb County probate court, where the application was filed, could issue a temporary restraining order whereby the Laredo State Center would be ordered to provide inpatient services for a period not to exceed fourteen (14) days. Thereafter,

any patient needing temporary mental health inpatient services for a period longer than fourteen (14) days were transported to the San Antonio State Hospital (hereinafter "SASH") under an order from a Webb County probate. See, Tex. Health and Safety Code Ann. § 574.0034(g)(Vernon Supp. 1999). The court-ordered stay at SASH could not exceed ninety (90) days. *Id.* § 574.034(g) (Vernon Supp. 1999).

Until recently, SASH, located in Bexar County, was the regional hospital that provided inpatient hospital care for various south Texas counties including Webb County. As previously mentioned, patients receiving mental health services beyond their fourteen (14) day stay at the Laredo State Center were transported by the Webb County Sheriff's Office to SASH under an order and writ of commitment from a Webb County Probate Court. *Id.* at §§ 574.034(g) & 574.045(a)(4) (Vernon Supp. 1999). At SASH, situations did arise whereby Bexar County, through the Bexar County Clerk's office, would also conduct court hearings in Bexar County for mental health services for patients that were court committed in Webb County or were admitted to SASH from Webb County under the emergency detention procedures outlined under subchapter A or B of chapter 573 of the Texas Health and Safety Code. Examples of such services included hearings on Petitions for an order to Administer Psychoactive Medication, See, Tex. Health and Safety Code Ann. §574.106 (Vernon Supp. 1999); Applications for an Order for Temporary Mental Health Services, See, Tex. Health and Safety Code Ann. § 574.001 (Vernon Supp 1999); Application for and Order for Extended Mental Health Services. See, Tex. Health and Safety Code Ann. § 574.035 (Vernon Supp. 1999). Similar court hearing situations have arisen with patients that were court committed in Webb County but admitted for in-patient services at other state hospitals, i.e. Kerr County (Kerrville State Hospital); Tom Green/Howard County (Big Springs State Hospital).

With each non-Bexar County application for involuntary mental health services or petition to administer psychoactive medication that was heard by a Bexar County Probate Court, Bexar County, through the Bexar County Clerk, used its resources to pay for the required application fee under Government Code section 118.052, and other costs such as attorney's fees, physician examination fees, compensation for court-appointed personnel, law library fee, sheriff fee, dispute resolution fee, records fee, master fee, judicial education fund fee, county judge fee, appeals fee. Clearly, some of the fees charged are fees that are not enumerated under Texas Health and Safety Code section 571.018. *Id.* Tex. Health & Safety Code Ann. § 571.018 (Vernon Supp. 1999). Although section 571.018 addresses the duty of these non-Bexar Counties, such as Webb County, to pay certain costs, there is no provision in the Code which explicitly provides a method for Bexar County to seek reimbursement from the "responsible county" (i.e. Webb County). Further, there is no local intergovernmental agreement between Bexar County and Webb County or any other county that conducted mental health hearing on Webb County residents that Webb County would be responsible for paying the costs for these mental health hearings.

Although the responsible county (i.e. Webb County) may seek reimbursement from the patient, section 571.018 of the Texas Health and Safety Code does not seem to provide that Bexar County or any other non responsible county to seek reimbursement from the responsible county because a "county" is not included in the definition of "patient," "person," or "estate," the only entities from which reimbursement may be sought under section 571.018(d). See, Tex. Health and Safety Code § 571.003(16) and (17) (Vernon 1992).

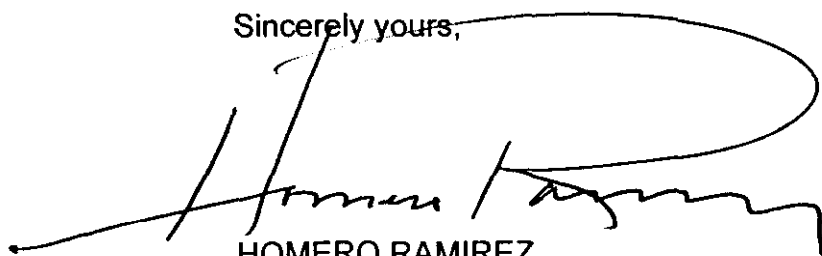
Attorney General Opinion John Cornyn 102 assumed, for the purposes of the opinion it rendered, that there was a legal basis for a county that is not responsible for mental health service proceeding costs under section 571.018 to pay those costs and that entitled the nonresponsible county to reimbursements for the costs paid from the responsible county. See, Att'y. Gen. Op. No. JC-102 (1999).

Accordingly, I respectfully request an answer to the following questions:

- (1). Is there a legal basis for a county that is not responsible for mental health service proceeding costs under section 571.018 of the Texas Health and Safety Code to pay those costs and seek reimbursement from the responsible county for the costs paid by the non responsible county?
- (2). If there is a legal basis for a county that is not responsible for mental health service proceeding costs under section 571.018 of the Texas Health and Safety Code to pay those costs and get reimbursement from the responsible county, exactly what costs are reimbursable to the non responsible county?

I look forward to hearing your responses. If I can be of any further assistance, please do not hesitate to contact me toll free at 1-888-829-2655

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Homero Ramirez', with a large, sweeping flourish that loops back over the signature.

HOMERO RAMIREZ
Webb County Attorney