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MAR - 6 2002

OPINION COMMITTEE



P.O. BOX 633  
MT. VERNON, TX 75457  
(903) 537-2212  
FAX: (903) 537-2628

RQ-0519-JC

TOM RAMSAY  
TEXAS HOUSE OF REPRESENTATIVES

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MAR 05 2002

OFFICE OF THE ATTORNEY GENERAL  
EXECUTIVE ADMINISTRATION

2704

March 4, 2002

The Honorable John Cornyn, Attorney General  
The State of Texas  
P.O. Box 12548  
Austin, Texas 78711

FILE # ML-42500-02

I.D. # 42500

Dear General Cornyn:

Concerns were brought to my attention regarding Senate Bill 7 of the 77th Legislature, entitled the Texas Fair Defense Act which went into effect this past January 1, 2002. While the intent of the bill is certainly admirable, there are two areas which necessitate clarification. They are as follows:

1.) Nowhere in the bill is the term "indigency" defined. Therefore, a board of judges hearing criminal cases shall be established by each county to determine indigency in their county, and thus indigency status differs from county to county. Under the Indigent Health Care Act, indigency is set by the state and each county must apply the same guidelines to assure equal application of the law. **QUESTION: Is it a violation of the equal protection clause of the Texas constitution to allow each county to determine its own indigency standard under Senate Bill 7?**

2.) Further, Senate Bill 7 provides for a system whereby in counties of less than 250,000 citizens, an attorney shall be appointed for any eligible defendant within 3 days of the defendant's request. In counties of 250,000 or more, the Courts shall appoint counsel within 1 day of the request. **QUESTION: From a constitutional equal protection standpoint, are citizens of counties with a population of less than 250,000 going to be denied equal protection under the law?**

I respectfully submit these two questions to you for an opinion to be rendered by your office. Please do not hesitate to contact my office if you have any questions or concerns. I thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Tom Ramsay".  
Tom Ramsay  
State Representative  
District 2

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**TOM RAMSAY**  
**TEXAS HOUSE OF REPRESENTATIVES**

cc: **Senator Rodney Ellis**  
**The Honorable Juan Hinojosa**  
**The Honorable Senfronia Thompson**  
**The Honorable Toby Goodman**  
**The Honorable John Shields**  
**The Honorable Terry Keel**