



**CAMERON COUNTY DISTRICT ATTORNEY**  
CAMERON COUNTY COURTHOUSE  
974 E. HARRISON STREET ★ BROWNSVILLE, TEXAS 78520

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OPINION COMMITTEE

**Yolanda de León**  
County and District Attorney

February 18, 2004

FILE # ML-43510-04  
I.D. # 43510

Office of the Attorney General  
Opinion Committee  
P.O. Box 12548  
Austin, Texas 78711-2548

**RQ-0185-GA**

Re: Request for an Attorney General's Opinion Concerning  
V.T.C.A., Health and Safety Code §694.002.

Dear Sirs:

This office is requesting an opinion regarding an interpretation of the above section of the Health and Safety Code.

**QUESTIONS PRESENTED**

1. Whether Cameron County has the authority by either the State's Constitution or statute to lawfully acquire and operate property for the exclusive internment of deceased paupers?
2. Does Cameron County have discretion under Health and Safety Code §694.002 to adopt a rule that will allow the County to lawfully acquire and operate property for the exclusive internment of deceased paupers?

**BRIEF**

**FACTS PRESENTED**

The following were the facts presented to this office:

“Cameron County has grown considerably over the past decade, and with that growth came increasing numbers of deaths. It is also common knowledge that a noticeable percentage of those deaths comprise persons whose financial resources were either negligible or completely absent.”

**CONCLUSIONS AND FINDINGS**

After a thorough review of the relevant statutes, case law, and attorney general opinions, this office found as follows:

1. A county commissioners' court has no power except that specifically conferred by the State Constitution or statute. *Hill County v. Bryant & Huffman*, 264 S.W. 520 (Civ. App. 1924); *Moore v. McLennan County*, 275 S.W. 478 (Civ. App. 1925); *Renfro v. Shropshire*, 566 S.W.2d 688 (Civ. App. 1978) ref. n. r. e.
2. A county is required to provide for the disposition of the body of a deceased pauper. Commissioners' court may adopt rules to implement this section. *See V.T.C.A. Health and Safety Code §694.002.*

3. If a person is indigent at the time of death, the county in which the death occurred has a duty to inter the remains. *See Health and Safety Code §694.002 and §711.002(e)*. Cameron County is required to inter an indigent's remains regardless of whether an inquest was conducted or not because the justices of the peace are required to conduct an inquest if a death occurs within one of the enumerated requirements. *See V.T.C.A. Code of Criminal Procedure Art. 49.04.*

A county has to pay the costs of internment even if the indigent individual has surviving relatives. *See Atty. Gen. Op. No. JC-0228 (2000)*.


4. Health and Safety Code Chapter 713.021 et al., (County Regulation of Cemeteries) does not apply due to statutory population limitations. Only a county with a population of 8,200 or less may own, operate and maintain a cemetery. *See Health and Safety Code Chapter 713.027*. Only a county with a population of 40,000 or less can care for a cemetery older than 50 years. *See Health and Safety Code Chapter 713.028*. In addition except as provided by Sections 713.027 and 713.028, a county cannot use public funds, or county employees or equipment to maintain a cemetery. *See Health and Safety Code Chapter 713.026*.

**CONCLUSION**

Based on the above research, there does not appear to be any statutory authority for a county to establish, maintain, and operate a cemetery for the interment of paupers.

Submitted

Yolanda De León  
Cameron County and  
District Attorney



BY: Francisco J. Martinez  
Assistant County and  
District Attorney