

METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY



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Legal Opinion 2005-05

To: Daron Hall, Sheriff
Davidson County Sheriff's Office

Date: September 9, 2005

You have requested a legal opinion from the Department of Law on the following question:

Question

May the Davidson County Sheriff's Office assume full responsibility for inmate health care in Davidson County detention facilities?

Short Answer

No. Inmate medical care is the responsibility of the Chief Medical Director of the Metropolitan Board of Health. A Private Act of the General Assembly in 1943 created a Director of Health of the Board of Health for Davidson County and gave the Director of Health the responsibility for the medical care of those confined in the jail. The Metropolitan Charter that became effective in 1963 assigned the responsibilities of the Davidson County Director of Health to the Chief Medical Director of the Metropolitan Board of Health. Therefore, the Chief Medical Director of the Metropolitan Board of Health is responsible for providing medical care to those housed in the jails.

Background

Since 1877, Tennessee has provided for a "county jail physician" to provide "medical attendance upon prisoners confined" in the county jails. 1877 Tenn. Pub. Acts, Chap. 160. In 1883, county jail physicians were given the duty "to render all such medical aid and surgical attention, make such sanitary inspection and prescribe such rules and regulations in regard to heating and ventilating jails and supplying them with such sewerage as may be necessary and sufficient for the comfort and well-being of persons confined therein." 1883 Tenn. Pub. Acts Chap. 233, §1. Further, the county jail physician was designated as the *ex officio* county health officer. *Id.* at § 2.

Prior to the formation of the Metropolitan Government, the Tennessee General Assembly established the framework of the governments of Davidson County through the passage of private acts that applied only to Davidson County or to the City of Nashville. In the Private Acts of 1909, Chapter 339, the General Assembly created the Board of Health for Davidson County and provided that the “health officer” for the county would be the Secretary of the County Board of Health. 1909 Tenn. Priv. Acts, Chap. 339 §6. That 1909 Private Act was amended in 1943 to create a “Director of Health” whose job it was to:

(P)erform all duties at present or hereafter prescribed by the statutes of the State of Tennessee pertaining to the public health, and such further duties, not in conflict with said statutes as the County Board of Health, by resolutions adopted from time to time may require him to perform. Said Director of Health shall likewise perform all duties and responsibilities and exercise all the prerogatives of county health officers and jail physicians now or hereafter prescribed by the statutes of Tennessee.

1943 Tenn. Priv. Acts, Ch. 110 § 8. The Private Acts of 1949 provided that the Davidson County Sheriff’s authority included the authority to designate by agreement “jail wards” at public and private hospitals that were subject to the control and supervision of the sheriff “**except** that they [the wards] shall be subject to the **medical supervision** of the staff of each such hospital.” Tenn. Priv. Acts 1949, Chapter 332, § 5 (emphasis added).

Analysis

The Metropolitan Charter is the organic law of the Metropolitan Government to which all its actions are subordinate. *City of Lebanon v. Baird*, 756 S.W.2d 236, 241 (Tenn. 1988) (Action of a municipality that fails to comply with its charter or applicable statutory authority is ultra vires and voidable or void); *Barnes v. City of Dayton*, 20 Tenn. 400, 410, 392 S.W.2d 813, 817 (1965) (City could not sell beer unless authorized by its Charter or general law.) The powers, rights, and duties of a municipality are established by its charter and the state’s general laws. *Id* at 817.

When the Metropolitan Charter became effective on April 1, 1963, all the functions of Davidson County became functions of the Metropolitan Government. Metropolitan Charter §§ 1.01 and 1.05. The Metropolitan Charter provides that, “[t]he board of health, through its chief medical director shall exercise all the administrative functions of the metropolitan government pertaining to the physical and mental health of people.” Metropolitan Charter § 10.103(1). The Metropolitan Charter also provides that the board of health, through its chief medical director, is responsible for the “**functions previously assigned by law to the health officers or the health departments of the City of Nashville and Davidson County, or such as hereafter may be assigned to the city or county health officers or city health departments or county health departments in Tennessee.” Metropolitan Charter § 10.103(6) (emphasis added).**

The 1943 Private Act gave the Davidson County Director of Health the responsibilities of the health officers and jail physicians that included the responsibility for the medical care to those confined in the jails. The private acts are valid laws “until the contrary is made to appear by some competent judicial tribunal.” *Lawrence County v. Hobbs*, 30 Beeler 323, 331, 194 Tenn. 323, 331, 250 S.W.2d 549, 552 (Tenn. 1952). (County officials were permitted to rely on validity of a private act providing for the compensation of the Clerk and Master until the private act was found invalid.) Private acts that establish the powers of municipalities will withstand implied repeal by later, general legislation if there is any way to construe them to avoid a direct conflict. *Kentucky-Tennessee Clay Company v. Huddleston*, 922 S.W.2d 539, 542 (Tenn. App. 1995). (Private act assessing mineral severance taxes construed such that it did not conflict with general law because the tax could not be assessed under the private act when the counties in which the special school district was located levied taxes on the minerals.) As a function previously assigned by law to the health officer for Davidson County, Section 10.103(6) of the Metropolitan Charter places the responsibility for the medical care for those confined in the jails with the chief medical director of the Metropolitan Department of Health.

The Tennessee state statutes provide that the “county legislative bodies alone have the power, and it is their duty, to provide medical attendance upon all prisoners confined in the jail in their respective counties.” T.C.A. §41-4-115(a). Several Tennessee cases have recognized that it is not the duty of the sheriff to provide individual medical care.

Here, defendant Coop, as chief jailer, had a duty derived from the constitution, from Tennessee statutory law, and from Tennessee common law, to maintain reasonably safe conditions. Implicit in that duty is some responsibility to confront prisoners’ basic medical needs. Towards that end, defendant Coop ordered certain measures to minimize the heat wave’s impact on the prisoners’ health. Yet Coop’s duty did not extend to developing procedures to discover the special medical needs of individual inmates. Tennessee by statute specifically delegates to others the duty to address inmates’ specific medical problems. Further, health department employees, not Coop, had direct responsibility for providing medical care, including administering medications, to particular inmates. It was their duty to discover the medical needs of particular inmates and to advise jail administrators of those needs. Absent evidence to the contrary, defendant Coop constitutionally could operate on the assumption that those responsible for providing medical care to particular inmates were discharging that duty properly and that they would communicate to him their professional judgment about medical needs of prisoners requiring his action.

Willis v. Barksdale, 625 F.Supp. 411, 417 (W.D.Tenn. 1985) (emphasis added) (Sheriff’s jailer did not have duty to provide for the specific medical needs of inmates as that was the responsibility of the health department). *See also, Leach v. Shelby County Sheriff*, 891 F.2d 1241, 1249, (6th Cir. 1989), (Tennessee law did not require Sheriff to address unique medical needs of each prisoner; Sheriff is permitted to rely on the county’s medical personnel, but Sheriff did have a duty to know and to act in order to conform to minimal constitutional standards in providing adequate

bedding, toiletries and cleanliness); *Chattanooga-Hamilton County Hosp. Authority v. Bradley County*, 66 S.W.3d 888, 889 (Tenn.Ct.App. 2001) (County was responsible for expenses for medical treatment of defendant shot during capture even though he had not yet been “confined” to jail.)

The duties of the Board of Health and its director are extensive and support the conclusion that those duties include providing the medical care of jail inmates. Under the Metropolitan Charter, the Board of Health is authorized to “[c]ontract with other governmental agencies, or with public or private institutions, subject to confirmation by the council by resolution for such services as will further the program and policies of the board” and to “[c]ooperate with privately endowed or operated institutions, funds or foundations in all matters of public health and sanitation and accept, receive and provide for the use of federal and state grants in aid, state aid and matching funds.” Metropolitan Charter §§ 10.104(8) and (11). The Metropolitan Code gives additional authority to the Department of Health to “investigate or authorize the investigation to be made of any matter, incident, thing, person or event within its jurisdiction, utilizing all of the investigative powers granted by the Metropolitan Charter.” Metropolitan Code of Laws § 2.36.020(B). Moreover, “the Department of Health may take such action as may become necessary to assure the maintenance of public health, the prevention of disease, or the safety of the metropolitan government and its residents.” Metropolitan Code of Laws § 2.36.020(C). Finally, the Metropolitan Code expressly authorizes the Board of Health “to establish a program for providing medicine to medically indigent persons residing within the boundaries of the metropolitan government, such program to be operated within the annual budget appropriation designated for this purpose.” Metropolitan Code of Laws § 2.36.080(A)

In contrast, the powers and duties of sheriffs for the care of inmates as prescribed by the Tennessee Code are more narrowly written. A sheriff is required to “[t]ake charge and custody of the jail of the sheriff’s county, and of the prisoners therein; receive those lawfully committed, and keep them personally or by deputies or jailer until discharged by law . . .” T.C.A. § 8-8-201(3). Courts have interpreted Tennessee law as placing “direct responsibility on a sheriff for the operations of his jail.” *Madewell v. Gamon*, 484 F.Supp. 823, 824 (E.D. Tenn. 1980) (emphasis added). Under the Metropolitan Charter, the Sheriff has the duties as they are prescribed by T.C.A. § 8-8-201, with the exception that the Sheriff shall not be the principal conservator of peace. Section 16.05 of the Metropolitan Charter provides that “[t]he sheriff shall have custody and control of the metropolitan jail.” Neither the state statutes nor the provisions of the Metropolitan Charter provide that the Sheriff is responsible for the medical care of inmates.

The General Assembly has enumerated the following duties for inmate care to the sheriff:

- 1) receive and safely keep convicts en route to prison., T.C.A. § 41-4-104;
- 2) perform evaluations for purposes of classification, management, care, control, and cell assignment, T.C.A. § 41-4-103;

- 3) file and maintain mittimus or process by which a person is committed to or discharged from jail, T.C.A. § 41-4-106;
- 4) provide adequate food and bedding, T.C.A. § 41-4-109;
- 5) provide for personal hygiene including laundry and housekeeping services, T.C.A. § 41-4-111.

The only mention of medical care in relation to a sheriff in the state statutes is found in the provisions concerning a county workhouse where the sheriff has the duty to “[s]ee that when sick, they have proper medicine and medical treatment.” T.C.A. § 41-2-109. That Chapter of the Tennessee Code also provides that “[w]here any county has a health officer and jail physician, such person shall attend on all workhouse prisoners while they remain in the jail building . . . and give them such medicine and medical treatment as may be necessary . . .” The code section also permits the county to contract for the medical care where it does not have a health officer or jail physician. T.C.A. § 41-2-118. Accordingly, a sheriff’s duty is to see that medical care is provided in the workhouse and where a county has a health officer, as does the Metropolitan Government, it is the health officer who is responsible for providing the medical care.

There are no state statutes, provisions of the Metropolitan Charter or Metropolitan ordinances that provide the duty or authorization for the Sheriff of the Metropolitan Government to provide medical care to inmates in the local jails. These duties are imposed upon the Director of Health.

Conclusion

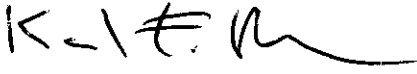
By application of the Metropolitan Charter and Code, Chapter 110 of the Tennessee Private Acts of 1943, and Tennessee state law, the Director of Health is required to provide medical care to inmates in the jails of the Metropolitan Government. The Sheriff is not authorized to provide that medical care. Therefore, it is the opinion of the Legal Department that the sole responsibility for the provision of inmate medical care rests in the Board of Health, through its Chief Medical Director.

THE DEPARTMENT OF LAW OF THE
METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY



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APPROVED BY:



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cc: The Honorable Bill Purcell, Mayor
The Honorable Howard Gentry, Jr., Vice-Mayor
Dr. Stephanie Bailey, Director of Health