

5009 February

# The State of South Carolina



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January 26, 1993

Larry W. Powers, Director  
Spartanburg County Detention Facility  
180 Magnolia Street  
Spartanburg, South Carolina 29301

Dear Mr. Powers:

In a letter to this Office you requested clarification regarding a prior opinion of this Office dated January 28, 1992 which commented in part on a jail's obligation to accept a prisoner for detention where the prisoner is injured. The opinion dealt with several issues regarding a jail's obligation to accept a prisoner for detention where the prisoner was arrested with an arrest warrant issued by a probation agent. The arrest authority for probation agents is set forth in S.C. Code Ann. Section 24-21-450.

As to circumstances involving an injured prisoner the January, 1992 opinion referenced a prior opinion dated March 6, 1990 which stated:

It should be emphasized at the outset, however, that ...(no statute can be found)... which expressly mandates that the county ultimately bear all costs of medical treatment for all prisoners housed in county detention facilities. It can only be said that existing in South Carolina are provisions of law which express a general intent by the Legislature that medical services be provided to all prisoners in county operated facilities. Nevertheless it is evident when this statutory intent is examined in conjunction with the constitutional requirements that all prisoners be afforded adequate medical treatment and in the context of the non-existence of any statute imposing the financial obligations of this treatment upon the prisoner or his family, such would strongly suggest that it is

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the county which is ultimately responsible for payment of the medical costs of all prisoners.

The opinion also cited an opinion dated January 20, 1983 which commented on the responsibility of medical care for prisoners as being dependent on the prisoner's status, whether the prisoner is a prisoner of the Department of Corrections or a county. The opinion also commented on contractual agreements between a county and the State Department of Corrections which may influence the determination as to which entity is responsible for costs. Referencing such prior opinions, the January 28, 1992 opinion stated:

... I am in agreement with your attorney's opinion that if a prisoner is taken to a detention facility and has an injury requiring medical attention, the facility would be required to accept the prisoner and provide medical attention. Again, the ultimate responsibility for the costs of treatment may be dependent on the status of the prisoner as to whether the prisoner should be considered a prisoner of the Department of Corrections or of a county.

The opinion did not specifically address your question regarding who or what agency, whether the arresting officer or the jail, has the initial responsibility regarding an injured prisoner.

Consistent with the prior opinions, and as you have pointed out, case law has emphasized the general rule that due process mandates that pretrial detainees are entitled to medical care. See: Estelle v. Gamble, 429 U.S. 97 (1976); Martin v. Gentile, 849 F.2d 863 (4th Cir. 1988); City of Revere v. Massachusetts General Hospital, 463 U.S. 239 (1983). As stated in City of Revere,

The Due Process Clause ... does require the responsible government or governmental agency to provide medical care to persons ... who have been injured while being apprehended by the police. In fact, the due process rights ... are at least as great as the Eighth Amendments protections available to a convicted prisoner.

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In Martin v. Gentile, *supra*, the Fourth Circuit Court of Appeals, in noting the due process requirement that officials provide medical care to detainees injured during an arrest, stated

While the precise scope of this obligation is unclear, we have held that a pretrial detainee makes out a due process violation if he shows "deliberate indifference to serious medical needs"

....

849 F.2d at 871. See also: Belcher v. Oliver, 898 F.2d 32 (4th Cir. 1990).

The Tenth Circuit Court of Appeals in Garcia v. Salt Lake County, 768 F.2d 303 at 308 (1985) determined that "deliberate indifference to serious medical needs" can be shown by "... proving there are such gross deficiencies in staffing, facilities, equipment, or procedures that the inmate is effectively denied access to adequate medical care." The First Circuit Court of Appeals in Gaudreault v. Municipality of Salem, Mass., 923 F.2d 203 at 208 in referencing the Eighth Amendment requirement to attend to a prisoner's "serious medical needs" determined

A medical need is "serious" if it is one that has been diagnosed by a physician as mandating treatment, or one that is so obvious that even a lay person would easily recognize the necessity for a doctor's attention ... The "seriousness" of an inmate's needs may also be determined by reference to the effect of the delay of treatment.

See also: Meade v. Grubbs, 841 F.2d 1512 (10th Cir. 1988).

In your letter you included portions of the Jail Officer's Training Manual published by the State Criminal Justice Academy which states:

South Carolina State law dictates the health aspect of the booking procedure. Any prisoner who, upon admission, appears acutely ill, injured, or who is in a stupor or coma, even though the apparent cause may be intoxication, shall be examined by a physician to rule out the possibility of serious injury or disease. Thus, the booking officer should not admit anyone who appears to be or claims to be injured or ill prior to having him/her examined by a physician.

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You also included portions of the N.I.C. Jail Resource Manual which states:

Ideally, the booking officer should not accept any inmate into the jail who appears to be sick or injured, or who reports any kind of illness or physical problem until the arresting officer has taken the inmate to receive proper treatment and presents a signed release certificate from the attending physician.

Once you admit an inmate to the jail, you are responsible for providing adequate medical and health care to him/her. Legally, the jail is then responsible for the inmate's well-being. It is, therefore, in your best interest to carefully screen inmates before they are admitted to be sure that any problems which they bring with them to the jail are the responsibility of the arresting or transporting agency.

I am unaware of any case which comments directly on responsibilities of arresting officers vis-a-vis jailers regarding sick or injured inmates with regard to primary responsibility. However, as referenced, pretrial detainees are entitled to medical care. A due process violation occurs if there is "deliberate indifference to serious medical needs." Indeed, as stated by the Fourth Circuit Court of Appeals in Cooper v. Dyke, 814 F.2d 941 at 945 "... governmental officials who ignore indications that a prisoner's or pretrial detainee's initial medical treatment was inadequate can be liable for deliberate indifference to medical needs." Therefore, an arresting officer's obligation to provide such treatment in the appropriate case is readily apparent.

If there is anything further, please advise.

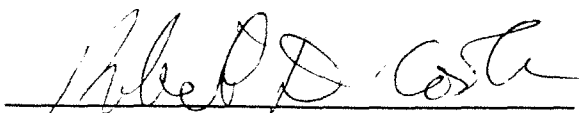
Sincerely,



Charles H. Richardson  
Assistant Attorney General

CHR/an

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