

#15,332

**OFFICE OF THE COUNTY ATTORNEY**

**HUNT COUNTY, TEXAS**

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FILED FOR RECORD  
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JENNIFER LINDENZWEIG  
County Clerk Hunt County, TX  
By *J. Lindenzweig*

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County Attorney  
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**Trevor Melvin**  
**Truitt Rosane**  
**Brian Durst**  
**Lindsay Willeford**  
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**Brandon Bobbitt**  
**Marco Robles**  
Criminal Investigators

October 17, 2018

*(Auditor)*  
*discretion Program*  
*(Request) diversion Fund*  
**Via hand delivery**

Mr. Jim Latham  
County Judge Pro Tem  
Hunt County Courthouse

**RE: Pretrial Intervention Program**

Dear Judge Latham:

I am requesting that the following item be added to the agenda for the next Commissioners Court Agenda:

*Two \$3,000 stipends for the Administrators of the Pretrial Intervention Program for the Hunt County Attorney's Office. Stipends shall be reimbursed by fees collected under Article 102.021 of the Code of Criminal Procedure.*

It is my understanding that sufficient Pretrial Intervention Program fees have been collected and are currently deposited in the special fund with the County Treasurer to fully reimburse the county for the stipends.

If you have any questions, please feel free to call me.

Sincerely,

*(Handwritten signature of Joel D. Littlefield)*

Joel D. Littlefield  
Hunt County Attorney

JDL/ah  
c: Mr. Eric Evans, Hunt County Commissioner Pct. 1  
Mr. Todd McMahan, Hunt County Commissioner Pct. 2  
Mr. Phillip Martin, Hunt County Commissioner Pct. 3  
Ms. Tammi Byrd, Hunt County Auditor  
Mr. Daniel Ray

in an amount not more than \$60 per month as a condition of participating in the program.

(b) In addition to or in lieu of the supervision fee authorized by Subsection (a), the court may order the defendant to pay or reimburse a community supervision and corrections department for any other expense that is:

(1) incurred as a result of the defendant's participation in the pretrial intervention program, other than an expense described by Article 102.0121; or

(2) necessary to the defendant's successful completion of the program.

Added by Acts 1990, 71st Leg., 6th C.S., ch. 25, Sec. 20, eff. June 18, 1990. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 7.16, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 91 (S.B. 1006), Sec. 2, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1226 (H.B. 2385), Sec. 1, eff. September 1, 2007.

Art. 102.0121. FEES FOR CERTAIN EXPENSES RELATED TO PRETRIAL INTERVENTION PROGRAMS. (a) A district attorney, criminal district attorney, or county attorney may collect a fee in an amount not to exceed \$500 to be used to reimburse a county for expenses, including expenses of the district attorney's, criminal district attorney's, or county attorney's office, related to a defendant's participation in a pretrial intervention program offered in that county.

(b) The district attorney, criminal district attorney, or county attorney may collect the fee from any defendant who participates in a pretrial intervention program administered in any part by the attorney's office.

(c) Fees collected under this article shall be deposited in the county treasury in a special fund to be used solely to administer the pretrial intervention program. An expenditure from the fund may be made only in accordance with a budget approved by the commissioners court.

Added by Acts 2007, 80th Leg., R.S., Ch. 1226 (H.B. 2385), Sec. 2, eff. September 1, 2007.

Tex. Atty. Gen. Op. GA-1039 (Tex.A.G.), 2014 WL 3866630

Office of the Attorney General

State of Texas  
Opinion No. GA-1039  
January 27, 2014

\*1 Re: The proper expenditure of pretrial intervention program funds accumulated in accordance with Code of Criminal Procedure article 102.0121 (RQ-1141-GA)

The Honorable Lucinda A. Vickers  
Atascosa County Attorney  
#1 Courthouse Circle Drive #3-B  
Jourdanton, Texas 78026

Dear Ms. Vickers:

You ask whether pretrial intervention program funds collected pursuant to Code of Criminal Procedure article 102.0121 may be used “to refurbish a courtroom, to train new county court at law staff, to purchase office supplies for the county court at law staff, and/or to purchase office supplies for the county attorney’s office.” Article 102.0121 authorizes a district attorney, criminal district attorney, or county attorney to collect a fee “from any defendant who participates in a pretrial intervention program administered in any part by the attorney’s office.” TEX. CODE CRIM. PROC. ANN. art. 102.0121(b) (West Supp. 2013). The express purpose of the fee, which may not exceed \$500, is “to reimburse a county for expenses, including expenses of the district attorney’s, criminal district attorney’s, or county attorney’s office, related to a defendant’s participation in a pretrial intervention program offered in that county.” *Id.* art. 102.0121(a). Once collected, the fees must be deposited into a special fund in the county treasury, “to be used solely to administer the pretrial intervention program.” *Id.* art. 102.0121(c). Lastly, “[a]n expenditure from the fund may be made only in accordance with a budget approved by the commissioners court.” *Id.*

Pursuant to subsection (a), a fee may be used for a particular purpose only if that purpose constitutes an expense of the county or one of the listed attorney’s offices, and only if it relates to a defendant’s participation in a pretrial intervention program. *Id.* art. 102.0121(a). Furthermore, after a fee has been collected and deposited in the special fund of the county treasury as required by subsection (c), any subsequent use of the fund must be in accordance with a budget approved by the commissioners court. *Id.* art. 102.0121(c); *see generally* TEX. LOC. GOV’T CODE ANN. §§ 111.001-014 (West 2008 & Supp. 2013) (providing that the commissioners court shall prepare an annual budget and establishing the procedures for doing so). The commissioners court is limited by subsection (c) to expend pretrial intervention program funds only to administer the county’s pretrial intervention program. TEX. CODE CRIM. PROC. ANN. art. 102.0121(c) (West Supp. 2013). Article 102.0121 does not permit any other use. Therefore, pretrial intervention program funds may be used for refurbishing courthouse facilities, training staff, and purchasing office supplies only to the extent that such expenditures reimburse a county for expenses related to a defendant’s participation in a pretrial intervention program and are used for the administration of the program. *Id.* art. 102.0121(a), (c). That determination is for the commissioners court to make in the first instance, subject to judicial review. *Id.*; *see* Tex. Att’y Gen. Op. No. GA-0118 (2003) at 7 (whether a particular expenditure may be funded by certain fees is a fact question beyond the scope of an attorney general opinion); *Comm’rs Ct. of Titus Cnty. v. Agan*, 940 S.W.2d 77, 80 (Tex. 1997) (holding that a commissioners court abuses its discretion by acting “illegally, unreasonably, or arbitrarily”).

#### SUMMARY

\*2 Under Code of Criminal Procedure article 102.0121, pretrial intervention program funds may be used to refurbish courthouse facilities, train staff, and purchase office supplies only to the extent that such expenditures reimburse a county for expenses related to a defendant’s participation in a pretrial intervention program and are used for the administration of the program.

Very truly yours,

Greg Abbott



The Honorable Lucinda A. Vickers, Tex. Atty. Gen. Op. GA-1039 (2014)

Attorney General of Texas  
Daniel T. Hodge  
First Assistant Attorney General  
James D. Blacklock  
Deputy Attorney General for Legal Counsel  
Virginia K. Hoelscher  
Chair  
Opinion Committee  
Stephen L. Tatum, Jr.  
Assistant Attorney General  
Opinion Committee

Footnotes

<sup>1</sup> Letter from Honorable Lucinda A. Vickers, Atascosa Cnty. Att’y, to Honorable Greg Abbott, Tex. Att’y Gen. at 1 (July 23, 2013), [http:// www.texasattorneygeneral.gov/opin](http://www.texasattorneygeneral.gov/opin) (“Request Letter”).

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Tex. Atty. Gen. Op. GA-1039 (Tex.A.G.), 2014 WL 3866630

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