

THE PRACTICAL IMPACT OF THE CULLEN ACT AND PEGGY'S LAW



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PART 3 – LEGAL ISSUES

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THE CULLEN ACT

EMPLOYER IMMUNITY FROM LIABILITY

- Immunity applies as long as your actions are done in good faith
- Make sure that all internal policies and procedures pertaining to disciplinary proceedings are followed
- Be mindful of potential allegations that the employee was scapegoated or that the discipline was retaliatory or improper
- Maintain consistency in the types of incidents that you report

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THE CULLEN ACT **VICARIOUS LIABILITY**

- An employer is responsible for tortious conduct as long as it occurred in the course of employment
 - Will be held liable for negligent actions that are reported under the Cullen Act
 - Evidence submitted as part of the reporting obligations will be used against you in a civil liability case

- When outside the course of employment:
 - Different in kind from what is authorized
 - Too little actuated by a purpose to serve the employer
 - Can be a defense in civil liability case

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PEGGY'S LAW **DEALING WITH LAW ENFORCEMENT**

- **GETTING AN ATTORNEY INVOLVED EARLY**
 - Staff can get anxious and nervous dealing with law enforcement
 - Having an attorney involved can diffuse tension and reassure staff
- **LAW ENFORCEMENT REACTION**
 - Are not well versed on clinical issues
 - Usually are reluctant to be aggressive and just looking to perform required tasks
 - Very likely to work cooperatively with an attorney

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BACKGROUND CHECKS

- Cullen Act should help perform more thorough background checks
- Typically will not be held liable for criminal actions of employees unless there was a pattern of similar behavior we should have been aware of