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RO-197

August 28, 1991

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

RECEIVED
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Opinion Committee

Re: Request for written opinion

Dear Committee:

Recently a situation arose in our county which prompted the following question:

When a law enforcement agency other than the Sheriff's Department obtains a warrant for the arrest of a person prior to indictment, and that person is arrested in another county, whose duty is it to bring the prisoner to our county - the Sheriff's Department or the agency obtaining the warrant?

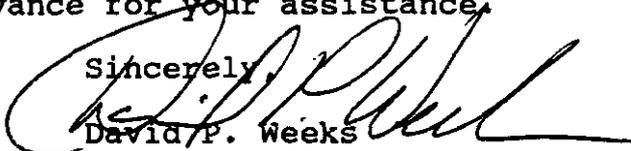
The question arose when the Huntsville Police Department obtained a warrant from a justice of the peace for the arrest of an individual for the offense of Unauthorized Use of a Motor Vehicle. That individual was arrested pursuant to the warrant in Swisher County, Texas. The Walker County Sheriff's Department felt that it was the duty of the Huntsville Police Department to go to Swisher County to retrieve the prisoner since the Police Department was the agency obtaining the warrant. Naturally, the Police Department felt that the duty rested with the Sheriff.

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Our research was inconclusive because Article 15.20 of the Texas Code of Criminal Procedure says "[t]he Sheriff receiving notice shall forthwith go or send for the prisoner..." However, Article 15.21 states that if the "proper office of the county" does not demand or take custody of prisoner within ten days of his arrest he shall be discharged. We could find no annotations on either section and were hoping you could assist with this question.

Thank you in advance for your assistance.

Sincerely,



David P. Weeks
Criminal District Attorney

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