



The Texas Senate

RQ-606

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FILE # ML-21966-93
I.D.# 21966

The Honorable Dan Morales
Attorney General
P.O. Box 12548
Austin, TX 78711-2548

Dear General Morales:

It has been brought to my attention that a jurisdictional disagreement has developed between the City of Odessa and Ector County over the acceptance of certain prisoners.

Under current policy, Ector County will not accept prisoners in the county jail that are arrested by the City of Odessa Police Department unless there is a commitment order. Municipal judges, however, have been reluctant to issue commitment orders for these prisoners. Because of the potential financial impact, the city and county have been unable to agree on the disposition of these prisoners.

On behalf of the City and the County, I respectfully request that you provide a legal opinion in response to the questions below to help clarify the jurisdictional responsibilities.

1. If a police officer arrests a person for violating a state criminal provision, not a municipal ordinance, and the magistrate issued a commitment order, would the county be required to incarcerate the person as the subject of the commitment order?
2. Is a municipal judge, who is a magistrate, authorized to issue a commitment order to incarcerate a county prisoner in the county jail? And, more specifically, is a municipal judge authorized to issue such commitment order when the offense is an A or B misdemeanor?
3. If a municipal judge issues a commitment order to incarcerate a county prisoner in the county jail and the county refuses to accept the prisoner, is the city or county responsible for the cost of incarcerating the prisoner?

Both the City of Odessa and Ector County are preparing briefs for your office in defense of their positions on these issues. These briefs will be forwarded to you as soon as possible.

As always, your assistance is very much appreciated. If you need any additional information regarding this request, please do not hesitate to call on me.

Yours very truly,


John T. Montford
JTM/jo