

**KERR COUNTY ATTORNEY****HEATHER STEBBINS**

COUNTY COURTHOUSE, SUITE BA-103 • 700 MAIN STREET • KERRVILLE, TEXAS 78028

March 10, 2023

Office of the Attorney General
Attention Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548

Background

1. Government Code § 493.009(l) requires the Texas Department of Criminal Justice (TDCJ) to provide transportation from county jails for those inmates who require transfer to the institutional division of Substance Abuse Felony Punishment Facilities.
2. 37 Administrative Code § 152.3 gives TDCJ 45 days from the date commitment papers are sent to accept offenders sentenced to prison.
3. Gov. Code § 508.281(c) provides that in parole revocations, after a hearing, a warrant may issue detaining the offender in the county jail until their transfer to an intermediate sanction facility or return to their originating institution.
4. Gov. Code § 507.024 permits, but does not require, a county sheriff to transfer defendants from county jails to state jail facilities. This section further states the state jail division is responsible for the cost of transportation to the division.
5. The Kerr County Sheriff's Office (KCSO) has historically transported offenders to the state jail division, and TDCJ has historically honored invoices for reimbursement. However, TDCJ has recently taken the position that it is not required to do so. (See Exhibit A attached.)
6. The Kerr County Attorney's Office (KCAO) reached out to TDCJ, who eventually clarified the denial letter was sent in error, as Kerr County's invoice was directed to the wrong office. However, to date, KCSO has received no additional information related to the referenced transport. Therefore, KCAO requests an advisory opinion as to KCSO and TDCJ's respective responsibilities regarding the detention and transportation of offenders to state jail facilities, including parole revocations.

Request for Opinion

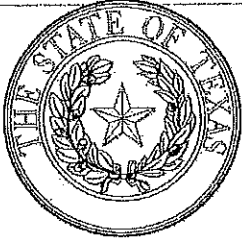
7. Can TDCJ require a county sheriff to transport inmates to a SAF-P or ISF?

8. Can TDCJ refuse to reimburse a county for transporting an inmate to the state jail division?
9. Upon a refusal by TDCJ to lawfully reimburse a county for a transport, what sanctions or remedies does a county have with regard to TDCJ?
10. If TDCJ fails to pick up an inmate for transfer after 45 days as required, what remedies or sanctions are available to the county?
11. Is there another governing rule or statute that would authorize a longer period of detention in a county facility for state prisoners awaiting transport? If so, is TDCJ required to reimburse the local government for the costs of that prisoner's detention?

Sincerely,



Heather Stebbins
Kerr County Attorney
700 Main St BA103
Kerrville, TX 78028



Texas Department of Criminal Justice

Bryan Collier
Executive Director

December 22, 2022

L.L. Leith, Jr., Sheriff
Kerr County Sheriff's Office
Warrant Division
400 Clearwater Paseo
Kerrville, TX 78028

RE: Christopher Marsh
SID #: 07541134

To whom it may concern:

The Texas Department of Criminal Justice -- Parole Division received the bill, postmarked 12/14/2022 for the fees assessed for transport for Mr. Marsh.

At this time, the Texas State Legislature does not require reimbursement to county jails for their services, therefore TDCJ is unable to pay this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Lela Smith".

Lela Smith
Section Director, Warrants
TDCJ-Parole Division
512-406-5398

The mission of the Parole Division is to promote public safety and positive offender change through effective supervision, programs, and services.

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