Sheriff, transporting prisoners, costs

Number: INFORMAL

Date: January 10, 2008

The Honorable Joseph Nugent
Gulf County Sheriff
Post Office Box 970
Port St. Joe, Florida 32457

Dear Sheriff Nugent:

You have asked for assistance in determining the responsibility for the costs incurred by the Sheriff's Office in transporting prisoners, pursuant to a court's order, who are witnesses in judicial proceedings. The circumstances under which the prisoners have been called as witnesses vary from being a witness for the defense in a state prosecution where the defendant is represented by a public defender to a party whose interests are affected by a child custody case brought by the Department of Children and Families.

Generally, a sheriff's powers and duties are set forth in Chapter 30, Florida Statutes. Section 30.24, Florida Statutes, refers to the transportation and return of prisoners by the Sheriff, providing:

"(1) The sheriff of any county of the state, when required to go beyond the limits of this state to bring back a prisoner charged with any offense or who has been convicted of any crime in this state and has escaped, shall receive the actual and necessary expense on account of returning the prisoner to the state. Travel under this subsection is exempt from the provisions of s. 112.061.
(2)(a) The sheriff of each county of the state is authorized to contract with private transport companies for the transportation of prisoners both within and beyond the limits of this state. Each prisoner shall be delivered to the transport company by a sheriff or other proper law enforcement official for transportation and then delivered by the same transport company to the proper sheriff or other law enforcement official upon arriving at the point of destination.
(b) Any company transporting a prisoner pursuant to this section shall be considered an independent contractor and shall be solely liable for the prisoner while the prisoner is in the custody of the company. Any transport company contracting with a sheriff for the transportation of prisoners as provided for in this section shall be insured and shall provide no less than $100,000 in liability insurance with respect to the transporting of the prisoners.
(c) Personnel employed by any transport company for the transportation of prisoners as provided for in this section are specifically exempted from:
1. Any requirements of being appointed as deputy sheriffs.
2. Providing bond.
3. Meeting requirements and training as provided by the Criminal Justice Standards and Training Commission for law enforcement and correctional officers."

While this statute recognizes the authority of the sheriff to contract with a private transport company for the transportation of a prisoner within the state, it does not address the responsibility for payment of such transportation. Section 901.35, Florida Statutes, speaks to financial responsibility for medical expenses and any attendant transportation of a prisoner, primarily making the person seeking such care responsible for the costs.[1] However, no other statute has been found or brought to this office's attention that clearly makes the sheriff responsible for the cost of transporting a prisoner in the situations you have posed.

In each of the situations you have set forth, the transportation of the prisoner has been ordered by a court. It would be advisable, therefore, to seek direction from the court in each case to determine who is responsible for the cost of such transportation.[2] You may also wish to contact your local legislative delegation to seek legislative clarification of this matter.

I trust these informal comments will be of assistance to you.

Sincerely,

Lagran Saunders
Assistant Attorney General

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[1] Section 901.35(2), Fla. Stat., provides that when it is shown that reimbursement from the sources set forth in subsection (1) are unavailable, the cost is to be paid from (a) the general fund of the county in which the person was arrested for violation of a state law or county ordinance; or (b) from the municipal general fund if the arrest was for a violation of a municipal ordinance.

[2] *Cf., Florida Department of Health and Rehabilitative Services v. Myers*, 675 So. 2d 700 (Fla. 4th DCA 1996) (absent statutory authority, quashing order for HRS to pay the cost of transporting a detainee to another facility).