

# TEXAS COMMISSION ON JAIL STANDARDS

EXECUTIVE DIRECTOR  
Adan Munoz, Jr.

**RECEIVED**

JUN 24 2008

**OPINION COMMITTEE**



P.O. Box 12985  
Austin, Texas 78711  
Voice: (512) 463-5505  
Fax: (512) 463-3185

Agency Website: <http://www.tcjs.state.tx.us>  
E-mail Address: [adan.munoz@tcjs.state.tx.us](mailto:adan.munoz@tcjs.state.tx.us)

**RQ-0722-GA**

June 24, 2008

The Honorable Greg Abbott  
Attorney General of Texas  
P.O. Box 12548  
Austin, Texas 78711-2548

FILE # ML-45745-08  
I.D. # 45745

Re: Whether bailiffs are authorized to supervise inmates detained in courthouse holding cells

Dear General Abbott:

On behalf of the Texas Commission on Jail Standards, I respectfully request your opinion on whether bailiffs have the authority to supervise inmates being held in courthouse holding cells. We have been made aware of inconsistent, varying practices across the State of Texas concerning the supervision of county jail inmates during the brief periods of time surrounding court appearances when they may be held in courthouse holding cells.

The 1983 Attorney General Opinion No. MW-559 affirmed the statutory obligation for holding cells to conform to Minimum Jail Standards, including the remote holding cells used for direct court holding, processing, or for inmates awaiting transportation. According to Minimum Jail Standards, inmates in holding cells must be observed by "facility personnel" at least every 30 minutes (§265.3) and furthermore, all inmates must be observed by a corrections officer at least once an hour (§275.1). Licensing requirements for corrections officers are established by the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) and §275.2 of Minimum Jail Standards.

As seen in Government Code Chapter 53, though some district and county courts require bailiffs to be TCLEOSE-certified peace officers, none require bailiffs to be licensed jailers. Accordingly, is it necessary for sheriffs to maintain a jailer in any courthouse holding cell at any time that an inmate may be present? At what point during an inmate's time at a courthouse does the judge, and thus the bailiff, relinquish supervisory authority to the sheriff and Minimum Jail Standards? Certain counties have implemented "custody agreements" which bailiffs sign upon taking control of an inmate, thereby accepting responsibility for the inmate's custody, health, and general welfare. Are such forms sufficient authorization for a bailiff without a jailer's license to supervise a courthouse holding cell?

Sheriff David Gutierrez, Chair  
Irene A. Armendariz, El Paso  
Albert L. Black, Austin

Stanley D. Egger, Abilene  
Sheriff Mark Gilliam, Rockport  
Larry S. May, Sweetwater

Judge Donna S. Klaeger, Burnet  
Jerry W. Lowry, New Caney  
Dr. Michael M. Seale, M.D., Houston

# TEXAS COMMISSION ON JAIL STANDARDS

EXECUTIVE DIRECTOR  
Adan Munoz, Jr.



P.O. Box 12985  
Austin, Texas 78711  
Voice: (512) 463-5505  
Fax: (512) 463-3185

Agency Website: <http://www.tcjs.state.tx.us>  
E-mail Address: [adan.munoz@tcjs.state.tx.us](mailto:adan.munoz@tcjs.state.tx.us)

In light of recent incidents involving inmates endangering themselves and others while held in courthouse holding cells, the Commission feels that this issue must be addressed, and we respectfully request your opinion on the matter.

Respectfully submitted,

  
Adan Muñoz, Jr.  
Executive Director

Sheriff David Gutierrez, Chair  
Irene A. Armendariz, El Paso  
Albert L. Black, Austin

Stanley D. Egger, Abilene  
Sheriff Mark Gilliam, Rockport  
Larry S. May, Sweetwater

Judge Donna S. Klaeger, Burnet  
Jerry W. Lowry, New Caney  
Dr. Michael M. Seale, M.D., Houston