

County Responsibility for Death Calls

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Several counties have reported receiving invoices from local funeral homes for transport of a body from the place of death to the funeral home. These "first call" events generally occur in response to a telephone call from a county law enforcement officer or justice of the peace. The legal status of these claims is determined by the circumstances of the request and the applicable statutes.

Paupers

First, under Section 694.002, Health and Safety Code, "The commissioners court of each county shall provide for the disposition of the body of a deceased pauper." The commissioners court may adopt rules to implement this section. If the deceased is determined to be a pauper, the commissioners court is responsible for disposition of the body. The commissioners court may adopt rules to provide for the method of disposition. The rules may provide for payment for various individual services such as transport, embalming, cremation, burial, etc., or a flat payment for all services. The commissioners court may contract with one or more funeral homes to perform these services. For the disposition of paupers, the commissioners court is only liable for payment for services as provided in its rules or contract.

Autopsy

Under the Code of Criminal Procedure, a justice of the peace is required to order an autopsy performed on a body if "(1) the justice determines that an autopsy is necessary to determine or confirm the nature and cause of death; (2) the deceased was a child younger than six years of age and the death is determined under Section 264.514, Family Code, to be unexpected or the result of abuse or neglect; or (3) directed to do so by the district attorney, criminal district attorney, or, if there is no district or criminal district attorney, the county attorney."

In these cases, Article 49.10, Code of Criminal Procedure, provides that, "The commissioners court shall pay a reasonable fee for the transportation of a body to a place where an autopsy can be performed under this article if a justice of the peace orders the body to be transported to the place."

Therefore, the county has a mandatory responsibility to pay a reasonable fee for transport for an autopsy. The commissioners court may contract for this service with one or more entities or pay on receipt of invoices for such services.

Other "First Calls"

When the deceased is not a pauper and an autopsy has not been ordered, the funeral home usually responds to a death call and transports the deceased to its facility. Traditionally, the funeral home includes the charges for this service on the bill to the family for funeral services. However, if the family did not request the transport, there is no contractual relationship between the family and the funeral home for this service. In these circumstances, the Texas Funeral Services Commission has prohibited the funeral home from adding this "first call" transport fee to its bill for services. Therefore, the funeral home is not paid for this service by the family or the estate of the deceased.

In these cases, many funeral homes have begun submitting an invoice for this transport service to the county, usually when the request for transport has been received from a county law enforcement officer or justice of the peace. Unless the commissioners court has authorized its officers or J.P.s to contact the funeral home and obligate the county, there is no statutory requirement that the county pay for this service. The county may decline to pay these invoices.

However, the county may recognize the health and safety need to provide for the proper transport of a deceased from a place of death to a proper facility. Providing no means to remove a body, particularly from a public place, could create a hazardous situation. Since the funeral home is under no legal obligation to respond to these death calls, a reasonable solution may be to execute contracts with one or more funeral homes to perform this service for a stated fee. Alternatively, the county could purchase equipment and train its own officers to provide this service. In any event, the county may submit a claim and seek reimbursement from the estate of the deceased.

For more information, please call me at 1-800-733-0699.
Jim Allison

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#6

Central Texas Funeral Transport
 512-260-7464
 located in Cedar Park, TX

\$ 240.00 from house
 \$ 90.00 over weight
 \$2.20 per mile

Tranquil Mortuary Services

located in Georgetown
 512-947-3110
 Richard Avela
 99% of transports for Williamson County and 10% Caldwell

\$ 325.00 Pct #1,3 & 4 South of !
 \$ 425.00 Pct #1 & 2 North of SH

Clements/Wilcox

\$ 595.00 Removal
 \$ 92.50 to ME
 Not Allowed from ME
 \$ 95.00 body bag
\$ 782.50

Jenkins

\$ 595.00 Removal, body bag and

Putnam

\$ 950.00

Snead in Lampasas

Family Request Funeral Home - no autopsy
 Transport to ME - Georgetown
 Transport to ME - Austin