



GENTNER DRUMMOND  
ATTORNEY GENERAL

ATTORNEY GENERAL OPINION  
2026-1

The Honorable Steve Bashore  
Deputy Majority Floor Leader  
Oklahoma House of Representatives, District 7  
2300 N. Lincoln Boulevard, Room 456  
Oklahoma City, OK 73105

February 13, 2026

Dear Leader Bashore:

This office has received your request for an official Attorney General Opinion in which you ask, in effect, the following questions:

- 1. May a county sheriff transport an inmate of the county jail across state lines for medical treatment in cases where the closest medical facility appropriate to treat the inmate's condition is in another state?**
- 2. Could a sheriff who transports an inmate to an in-state medical facility for treatment, despite a comparable or better out-of-state facility being closer to the county jail, be held liable for injury or death that results?**
- 3. Do any constitutional provisions prevent the enactment of a statute allowing a sheriff to transport an inmate to an out-of-state medical facility?**

I.  
SUMMARY

Under Oklahoma and federal law, county sheriffs must provide medical care to jail inmates, including emergency treatment. However, a sheriff's custodial authority over an inmate does not extend outside of Oklahoma, meaning a sheriff is not authorized to transport an inmate to another state for medical care. Because of this limitation, a sheriff is unlikely to be held liable under state or federal law for any injury or death of an inmate that results solely from transporting an inmate to an in-state medical facility instead of an out-of-state facility. Ultimately, however, any determination of liability will turn on the specific facts of the situation. Finally, while no provision of the Oklahoma Constitution prevents the Legislature from enacting a statute to allow a sheriff to transport an inmate across state lines for medical treatment, the statute will have limited effect without an agreement with any state to which the inmate is transported.

## II. BACKGROUND

Oklahoma law mandates that “[e]very county, by authority of the board of county commissioners and at the expense of the county, shall have a jail or access to a jail in another county for the safekeeping of prisoners lawfully committed.” 57 O.S.2021, § 41. The county sheriff has “the charge and custody of the jail of his county, and all the prisoners in the same[.]” 19 O.S.2021, § 513. *See also* 57 O.S.Supp.2025, § 47 (same).

Under both Oklahoma law and federal law, a county sheriff’s custodial responsibility for jail inmates includes providing for inmates’ medical care. *HCA Health Servs. of Oklahoma, Inc. v. Whetsel*, 2007 OK 101, ¶ 7, 173 P.3d 1203, 1205. For instance, by statute the sheriff must “provide bed clothing, washing, board, and medical care when required, and all necessities for the comfort and welfare of prisoners as specified by the standards promulgated pursuant to the Oklahoma Jail Standards Act[.]” 57 O.S.Supp.2025, § 52. The Oklahoma Jail Standards Act, 74 O.S.Supp.2025, §§ 192–192.9, requires adequate medical care to be provided in detention facilities, including the adoption of “written policies for emergency medical and health care services.” *Id.* § 192.8(A). The Act also provides that “[t]he movement of inmates from one location to another shall be controlled and supervised by staff” and “[s]taff shall provide twenty-four hour supervision of inmates.” *Id.* § 192.6. And finally, the Department of Health requires each jail to have a plan for providing around-the-clock emergency medical and dental care, including arrangements for the following:

- (A) The use of one (1) or more hospital emergency rooms or other appropriate health care facility;
- (B) The use of an emergency medical vehicle; and
- (C) An emergency on-call physician and dentist when the emergency health care facility is not located in a nearby community.

OKLA. ADMIN. CODE § 310:670-5-8(5). Therefore, every jail in Oklahoma should have an established plan in place to ensure inmates have appropriate access to emergency medical care.

Under federal law, governments have a constitutional duty to provide medical care to persons they incarcerate. *Estelle v. Gamble*, 429 U.S. 97, 103-04 (1976); *see also HCA Health Servs.*, 2007 OK 101, ¶ 7, 173 P.3d at 1205. If the jail facility is unable to meet the medical needs of an inmate, the sheriff is required to transport the inmate to an outside facility. This requirement arises as a matter of federal constitutional law, *see, e.g., Sealock v. Colorado*, 218 F.3d 1205, 1210-11 (10th Cir. 2000), and from various provisions of Oklahoma law. *See, e.g.,* 57 O.S.2021, § 38.3(F) (“sheriff shall be responsible for transportation and security of inmates to all outside health care appointments . . .”), 19 O.S.2021, § 746(B) (requiring that inmates “be provided with the opportunity to receive necessary medical care” and specifically including “transportation costs” as part of medical expenses).

Given the custodial responsibilities of sheriffs over inmates in the county jail, you ask the following: What if an inmate needs emergency medical attention that cannot be provided inside the jail, and the closest appropriate medical facility is across the state line?

### III. DISCUSSION

#### A. **Because a county sheriff does not have custodial authority over an inmate outside of Oklahoma, he or she cannot transport an inmate to another state for medical treatment.**

Your first question turns on the extent of a sheriff's authority outside of Oklahoma. After all, as outlined above, a sheriff's custodial authority over inmates derives from Oklahoma law, and the general rule in Oklahoma (and elsewhere)<sup>1</sup> is that a law enforcement officer has no more authority than a private citizen when outside his or her own jurisdiction. *See, e.g., Staller v. State*, 1996 OK CR 48, ¶ 5 & n.1, 932 P.2d 1136, 1138-39 & n.1. To be sure, there are exceptions to this general rule that arise out of both common law and statute. For instance, under common law, an officer's authority to arrest extends to neighboring jurisdictions when the officer is in hot pursuit of a suspect. *See Graham v. State*, 1977 OK CR 1, ¶ 14, 560 P.2d 200, 203 (citing *U.S. v. Braggs*, 189 F.2d 367 (10th Cir. 1951)). Additionally, by statute, peace officers<sup>2</sup> in Oklahoma may enforce criminal laws throughout the state (even if outside their own jurisdiction) under specific circumstances, typically at the request of another law enforcement agency, in response to emergencies, and while transporting a prisoner. *See* 21 O.S.2021, § 99a. Oklahoma law further provides that county sheriffs can enter into agreements to "assist or provide law enforcement services to any town, city, and county within this state" and exercise "law enforcement authority" in the requesting jurisdiction. 19 O.S.Supp.2024, § 547(E). And recently, the Legislature amended title 19, section 547.1 to provide that a sheriff or deputy "assigned to perform duties outside of his or her county of employment shall have the same powers and duties as though employed by the sheriff's office for which he or she is performing duties." Critically, however, none of these exceptions apply across state lines; they are exclusively intrastate and rely on the State's superintending authority over its political subdivisions. *See* 21 O.S.2021, § 99a(A); 19 O.S.Supp.2024, § 547(E).

For an Oklahoma sheriff's authority to be recognized in a neighboring state, that neighboring state must consent. This is the structure for several interstate agreements whereby states allow out-of-state officers to exercise certain powers and duties within that state. These include, for instance, the Uniform Act on Fresh Pursuit, 22 O.S.2021, §§ 221–228, the Interstate Corrections Compact, 57 O.S.2021, §§ 601–602, and the Uniform Act to Secure Rendition of Prisoners in Criminal Proceedings, 22 O.S.2021, §§ 728–737. This office has not located any similar authority that would extend jurisdiction of county sheriffs across state lines for the purpose of transporting inmates for medical care. Thus, while the county sheriff is responsible for medical care, including transport,

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<sup>1</sup> *See* 70 AM. JUR. 2D *Sheriffs, Police, and Constables* § 37 (Nov. 2025 update).

<sup>2</sup> The term "peace officer" is defined to include "any sheriff, police officer, federal law enforcement officer, tribal law enforcement officer, or any other law enforcement officer whose duty it is to enforce and preserve the public peace." 21 O.S.2021, § 99.

the sheriff cannot leave the state with an inmate because the sheriff's custodial authority over inmates stops at the border.

Based on this lack of out-of-state jurisdiction, and without an agreement already in place with the other state, a sheriff seeking to transport an inmate across state lines for medical care would likely have to follow a cumbersome process of coordinating in real time with the neighboring state's law enforcement agencies for inmate transfer. This is illustrated in a 1991 Wisconsin Attorney General Opinion that addressed the same question. *See* 80 Wis. Op. Atty. Gen. 41, 1991 WL 628376 (Apr. 10, 1991). While that opinion concluded that Wisconsin law enforcement *could* transport an inmate to Minnesota for emergency medical treatment, doing so would require (1) Minnesota officers taking custody of the inmate at the state line, and (2) formal extradition procedures to return the inmate to Wisconsin. In theory, a similar process could be utilized here, but, as the Wisconsin Attorney General acknowledged, such time-consuming formalities would present substantial practical impediments in emergency situations. Based on the foregoing, and subject to the discussion in Section III.C below, county sheriffs' jurisdiction ends at the state line. Therefore, the sheriff lacks custodial authority to transport inmates to a neighboring state for medical care.<sup>3</sup>

**B. A sheriff who transports an inmate to an in-state medical facility for treatment, despite an out-of-state facility being closer to the county jail, has numerous liability protections for injury or death of that inmate.**

You also inquired about potential liability for a sheriff who transports an inmate to an in-state facility for medical treatment despite an out-of-state facility being closer. As noted in your request, this question involves analysis of the Oklahoma Government Tort Claims Act ("GTCA"), 51 O.S.2021 & Supp.2025, §§ 151–171, for state law claims, and 42 U.S.C. § 1983 for federal claims. Analysis of either type of claim is necessarily limited in the context of an Attorney General Opinion, as findings of liability under either state or federal law will be fact-dependent. Nevertheless, the broad legal framework that applies to each is described below.

**i. State Governmental Tort Claims Act Protections.**

Through the GTCA, the State of Oklahoma has "adopt[ed] the doctrine of sovereign immunity" whereby "[t]he state, its political subdivisions, and all of their employees acting within the scope of their employment, whether performing governmental or proprietary functions, shall be immune from liability for torts." 51 O.S.2021, § 152.1(A).<sup>4</sup> This immunity is waived "only to the extent and in the manner provided in [the GTCA.]" *Id.* § 152.1(B).

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<sup>3</sup> To be fair, a 1996 opinion from the Arkansas Attorney General reached the opposite conclusion. *See* Ark. Op. Atty. Gen. No. 95-407, 1996 WL 41808 (Jan. 25, 1996). However, the opinion addresses law enforcement's jurisdictional limitations only by brief reference to *In re Maney*, 55 P. 930 (Wash. 1899), a procedurally convoluted case that relies on the full faith and credit clause of the U.S. Constitution and has not been cited by any other authority in the 127 years since it was decided.

<sup>4</sup> "Scope of employment" is defined as "performance by an employee acting in good faith within the duties of the employee's office or employment or of tasks lawfully assigned by a competent authority including the operation or use of an agency vehicle or equipment with actual or implied consent of the supervisor of the employee, but shall

With respect to counties, the GTCA provides a specific exemption from liability related to the operation and maintenance of jail facilities. 51 O.S.Supp.2022, § 155(25). While sheriffs have a duty to provide medical care to inmates in the county jail, the GTCA, through this exemption, preserves immunity against tort claims arising from that duty. This is illustrated in *Redding v. State*, 1994 OK 102, 882 P.2d 61, where the court relied on this exemption in finding the state was immune from tort liability for medical treatment provided to a prisoner after he was injured during a prison softball game. *Id.* ¶ 2, 882 P.2d at 62.<sup>5</sup>

## ii. Federal Constitutional Claims and Qualified Immunity.

While the GTCA may bar state law negligence claims, it does not preclude federal constitutional claims under 42 U.S.C. § 1983. Under federal law, a sheriff acting with “deliberate indifference” to an inmate’s serious medical needs faces potential liability for violating the Eighth Amendment (for sentenced inmates) or the Fourteenth Amendment’s Due Process Clause (for pretrial detainees). *Paugh v. Uintah County*, 47 F.4th 1139, 1153-54 (10th Cir. 2022). In broad terms, “deliberate indifference entails something more than mere negligence . . . [but] something less than acts or omissions for the very purpose of causing harm or with knowledge that harm will result.” *Farmer v. Brennan*, 511 U.S. 825, 835 (1994). The Supreme Court has equated deliberate indifference to recklessness, in which “a person disregards a risk of harm of which he is aware.” *Id.*; see also *Verdecia v. Adams*, 327 F.3d 1171, 1175 (10th Cir. 2003). Using this standard, the Tenth Circuit has stated that, depending on the circumstances, “a jail official’s delay or refusal to obtain medical care for an inmate may constitute deliberate indifference.” *Paugh*, 47 F.4th at 1154.<sup>6</sup>

As cautioned at the outset, determining whether a sheriff’s acts or omissions amount to deliberate indifference requires a fact-intensive inquiry that considers the totality of circumstances. See *Rachel v. Troutt*, 820 F.3d 390, 394 (10th Cir. 2016). As a result, this office cannot say with certainty that any particular set of circumstances rises (or does not rise) to that level. Nevertheless, Tenth Circuit precedents provide some guidance. For example, in *Sealock v. Colorado*, the court found deliberate indifference where a prison official delayed transporting an inmate complaining of potential heart attack to a hospital because “it was snowing outside and it would take time to warm up the prison van[.]” 218 F.3d at 1210. In *Paugh v. Uinta County*, the court reviewed several

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not include corruption or fraud.” 51 O.S.Supp.2025, § 152(13); see also *Tuffy’s, Inc. v. City of Oklahoma City*, 2009 OK 4, ¶ 8, 212 P.3d 1158, 1163.

<sup>5</sup> The GTCA also exempts from counties from liability for “acts or omissions done in conformance with then current recognized standards,” 51 O.S.Supp.2022, § 155(30), which is applicable to your question since the sheriff cannot be expected to transport inmates out of state for medical care when he or she lacks the legal authority to do so.

<sup>6</sup> Sheriffs sued in their individual capacity may assert qualified immunity as a defense to Section 1983 claims. Qualified immunity protects law enforcement officers from personal liability “unless they violated a clearly established constitutional right” which a reasonable officer would have known. *Paugh*, 47 F.4th at 1153. A right is clearly established when a Supreme Court or Tenth Circuit decision is directly on point, “or the clearly established weight of authority from other courts have found the law to be as the plaintiff maintains.” *Id.* at 1167. Although the Supreme Court has held that delaying or refusing medical care may constitute deliberate indifference, *Estelle v. Gamble*, 429 U.S. 97, 104–05 (1976), there is no clearly established authority addressing whether a sheriff must transport an inmate across a state line to obtain medical treatment.

of its recent cases finding that prison officials, having failed to act despite obvious signs that medical attention was necessary, exhibited deliberate indifference. 47 F.4th at 1158.

By contrast, you ask whether a single fact—a sheriff opting to transport an inmate needing medical attention to an in-state hospital instead of a closer and/or better-equipped out-of-state hospital—would result in liability. Based on this office’s review of the precedents, and assuming the sheriff acts promptly and reasonably in all other respects, it is exceedingly unlikely that the sheriff in such a situation would be held to have acted with “deliberate indifference” to the inmate’s medical needs. Indeed, in light of this office’s conclusion that a sheriff lacks the authority to transport an inmate across state lines for medical treatment, transport to the closest in-state hospital is the sheriff’s *only* option.<sup>7</sup>

**C. There is no Constitutional impediment to the Legislature enacting a statute allowing a sheriff to transport an inmate to an out-of-state medical facility.**

Generally speaking, nothing in the Oklahoma Constitution prevents the Legislature from enacting legislation to permit county sheriffs to transport inmates to adjoining states for medical care. However, this broad conclusion is subject to two important caveats. First, article II, section 29 of the Oklahoma Constitution provides, in part, that no person “shall . . . be transported out of the State for any purpose without his consent, except by due process of law[.]” OKLA. CONST. art II, § 29. Cases interpreting section 29 have not focused on this passage specifically, but its plain language suggests that a sheriff must first obtain an inmate’s consent before transporting that inmate across state lines for medical care. If the inmate were medically unable to provide such consent, the sheriff might be limited to in-state medical facilities, even if crossing state lines for medical care were statutorily permitted.<sup>8</sup>

A second caveat arises not from the Oklahoma Constitution, but from the issue discussed in Section III.A, above: Regardless of legislative action taken in Oklahoma, Oklahoma law is effective only within the state’s borders. So even if the Legislature were to enact a law allowing out-of-state transport of inmates for medical care, the sheriff’s custodial authority over that inmate ends when the sheriff leaves the state. States have solved this problem in other contexts through the adoption of uniform laws as described in Section III.A. But without this type of consent from the neighboring state, an Oklahoma law giving a sheriff authority to take inmates across state lines does not extend the sheriff’s custodial authority beyond the border.

Finally, while not specifically part of your question, an Oklahoma statute already permits public agencies, including counties, to enter into interlocal cooperation agreements with other public agencies, even those in other states, that would potentially allow sheriffs to maintain custodial

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<sup>7</sup> You also asked whether the answer would be different if a licensed medical professional advised the sheriff that opting for the in-state facility would likely result in serious physical harm or death to the inmate. As noted above, that question cannot be answered except to the extent that all factors discussed herein could be considered in determining whether the deliberate indifference standard was met.

<sup>8</sup> A possible solution to this obstacle is to get inmates’ advance consent for out-of-state medical care as they are processed into the jail.

authority of inmates in neighboring states. *See* 74 O.S.2021, § 1001. Under the Interlocal Cooperation Act:

Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state may *be exercised and enjoyed jointly with* any other public agency of this state, and jointly with *any public agency of any other state* or of the United States to the extent that laws of such other state or of the United States permit such joint exercise or enjoyment.

*Id.* § 1004(A) (emphasis added). While any interlocal agreement would have to meet statutory requirements and obtain the needed approvals, it appears that an Oklahoma county could enter into an interlocal agreement with another state, or a county within that state, which would allow for the transport of an inmate into the other state in order to seek medical treatment. However, whether any particular interlocal cooperation agreement is sufficient to achieve that goal is beyond the scope of this Opinion.

**It is, therefore, the official Opinion of the Attorney General that:**

- 1. Because a county sheriff's custodial authority over a jail inmate does not extend outside of Oklahoma, a sheriff cannot transport an inmate across state lines for medical treatment even if the closest appropriate medical facility to treat the inmate's condition is in another state.**
- 2. a. The Governmental Tort Claims Act specifically exempts sheriffs from liability arising out of the operation of jails, which includes medical care provided to inmates. *Redding v. State*, 1994 OK 102, 882 P.2d 61. While ultimate liability depends on specific facts that are beyond the scope of this Opinion, a sheriff who transports an inmate to an in-state medical facility for treatment, despite a comparably equipped out-of-state facility being closer to the county jail, without more, would be exempt from state tort liability for injury or death that results from taking the inmate to the in-state facility.**
  - b. Similarly, a sheriff's liability under 42 U.S.C. § 1983 in the same scenario is necessarily fact-dependent. However, under federal case law it is unlikely that the sheriff will meet the "deliberate indifference" standard required for liability based solely on the decision to transport an inmate to an in-state medical facility instead of a comparable but closer out-of-state facility.**
- 3. There is nothing prohibiting the Oklahoma Legislature from enacting a statute to allow a sheriff to transport jail inmates across state lines for medical care. For such a statute to be effective, however, the inmate would**

**have to consent to the transport as required by OKLA. CONST. art II, § 29,  
and there would need to be an agreement with the other state to extend the  
sheriff's custodial authority beyond the Oklahoma border.**



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