

**Opinion No. 58-244**

December 31, 1958

**BY:** OPINION OF FRED M. STANDLEY, Attorney General Howard M Rosenthal,  
Assistant Attorney General

**TO:** Mr. Drew Cloud, State Representative, Eddy County, Carlsbad, New Mexico

**QUESTION**

QUESTION

Can a county commission force a county sheriff to use a county car to transport a person, charged with a crime or with escaping from confinement, from another state back to New Mexico?

CONCLUSION

Yes, the county commission is in a position to approve or disapprove the sheriff's expense account. See analysis.

**OPINION**

This office has taken your question verbatim as the basis for this inquiry. However, we think that your inquiry concerns the statutes pertinent to the expenses of the sheriff rather than a manner of coercion as is indicated by the use of the word "force".

It appears to us that the expenses of the sheriff for transportation of prisoners, whether within or without the state, is covered by Section 15-43-11, N.M.S.A., 1953. A partial citation of this statute reads:

"All traveling expenses actually and necessarily incurred by sheriffs . . . including the employment and necessary traveling expenses of guards . . . and the necessary traveling expenses of prisoners, shall be paid by the respective counties . . . Such expenses shall be paid only upon the rendition of itemized, sworn accounts filed in the county clerk's office, approved by the county commissioners and district judge. . . . Upon the approval of all such expense accounts warrants covering same shall be drawn by the county commissioners . . ."

The deleted portion of the section, while pertinent to the matters concerned in your question, does not change the sense of the above excerpt.

Hence, it is the opinion of this office that the sheriff will accept suggestions in this matter made to him by the county commissioners inasmuch as their approval is required on his expense accounts. If a car is furnished, the sheriff may be compelled to use it.