

## Department of Justice

## §97.11

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- 97.19 Immediate notification of local law enforcement in the event of an escape.
- 97.20 Standards to ensure the safety of violent prisoners during transport.
- 97.22 No pre-emption of federal, State, or local laws or regulations.
- 97.24 No civil defense created.
- 97.30 Enforcement.

AUTHORITY: Pub. L. 106-560, 114 Stat. 2784 (42 U.S.C. 13726b).

SOURCE: Order No. 2640-2002, 67 FR 78710, Dec. 26, 2002, unless otherwise noted.

### §97.1 Purpose.

This part implements the provisions of The Interstate Transportation of Dangerous Criminals Act of 2000, Public Law 106-560, 114 Stat. 2784 (42 U.S.C. 13726b) (enacted December 21, 2000) (“the Act”), to provide minimum security and safety standards for private companies that transport violent prisoners on behalf of State and local jurisdictions.

### §97.2 Definitions.

(a) *Crime of violence.* The term “crime of violence” has the same meaning as in section 924(c)(3) of title 18, United States Code. Section 924(c)(3) states that the term crime of violence means an offense that is a felony and has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(b) *Private prisoner transport company.* The term “private prisoner transport company” (“company”) means any entity, other than the United States, a State, or an inferior political subdivision of a State, that engages in the business of transporting for compensation individuals committed to the custody of any State or of an inferior po-

litical subdivision of a State, or any attempt thereof.

(c) *Violent prisoner.* The term “violent prisoner” means any individual in the custody of a State or an inferior political subdivision of a State who has previously been convicted of or is currently charged with a crime of violence or any similar statute of a State or the inferior political subdivisions of a State, or any attempt thereof.

### §97.11 Pre-employment screening.

Private prisoner transport companies must adopt pre-employment screening measures for all potential employees. The pre-employment screening measures must include a background check and a test for use of controlled substances. The failure of a potential employee to pass either screening measure will act as a bar to employment.

(a) *Background checks must include:*

(1) A fingerprint-based criminal background check that disqualifies persons with either a prior felony conviction or a State or Federal conviction for a misdemeanor crime of domestic violence as defined in 18 U.S.C. 921;

(2) A Credit Report check;

(3) A physical examination; and

(4) A personal interview.

(b) *Testing for controlled substances.* (1) Pre-employment testing for controlled substances must be in accordance with applicable State law.

(2) In the event that there is no applicable State law, pre-employment testing for controlled substances must be in accordance with the provisions of Department of Transportation regulations at 49 CFR 382.301 which will apply regardless of whether a private prisoner transport company is covered by Department of Transportation regulations.

(c) The criminal background check references in paragraph (a)(1) of this section may not be submitted directly to the FBI or any other Federal agency. The private prisoner transport companies must arrange the procedures for accomplishing the criminal background checks with their contracting governmental agencies. In the event that the private prisoner transport company is contracting with a privately run incarceration facility, and

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not directly with a governmental entity, the private prisoner transport company will have to make arrangements through the private incarceration facility to have the checks completed by the governmental entity ultimately requesting the transport.

### § 97.12 Employee training.

Private prisoner transport companies must require the completion of a minimum of 100 hours of employee training before an employee may transport violent prisoners. Training must include instruction in each of these six areas:

- (a) Use of restraints;
- (b) Searches of prisoners;
- (c) Use of force, including use of appropriate weapons and firearms;
- (d) Cardiopulmonary resuscitation (CPR);
- (e) Map reading; and
- (f) Defensive driving.

### § 97.13 Maximum driving time.

Companies covered under this part must adhere to the maximum driving time provisions applicable to commercial motor vehicle operators, as set forth in Department of Transportation regulations at 49 CFR 395.3 which will apply regardless of whether a private prisoner transport company is covered by Department of Transportation regulations.

### § 97.14 Guard-to-prisoner ratio.

Companies covered under this part must adhere to certain minimum standards with respect to the number of employees required to monitor violent prisoners during transportation. Private prisoner transport companies must ensure that at least one guard be on duty for every six violent prisoners transported. This requirement does not preclude a contracting entity from establishing more stringent guard-to-prisoner ratios.

### § 97.15 Employee uniforms and identification.

(a) *Employee uniforms.* Uniforms used by private prisoner transport companies must meet the following requirements:

- (1) Uniforms must be readily distinguishable in style and color from official uniforms worn by United States

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(2) Uniforms must prominently feature a badge or insignia that identifies the employee as a prisoner transportation employee; and

(3) Uniforms must be worn at all times while the employee is engaged in the transportation of violent prisoners.

(b) *Employee identification.* Identification utilized by private prisoner transport companies must meet the following requirements:

(1) The identification credentials must clearly identify the employee as a transportation employee. The credentials must have a photograph of the employee that is at least one inch square, a printed personal description of the employee including the employee's name, the signature of the employee, and date of issuance; and

(2) The employee must display proper identification credentials on his or her uniform and ensure that the identification is visible at all times during the transportation of violent prisoners.

### § 97.16 Clothing requirements for transported violent prisoners.

Companies covered under this part must ensure that all violent prisoners they transport are clothed in brightly colored clothing that clearly identifies them as violent prisoners, unless security or other specific considerations make such a requirement inappropriate.

### § 97.17 Mandatory restraints to be used while transporting violent prisoners.

Companies covered under this part must, at a minimum, require that violent prisoners be transported wearing handcuffs, leg irons, and waist chains unless the use of all three restraints would create a serious health risk to the prisoner, or extenuating circumstances (such as pregnancy or physical disability) make the use of all three restraints impracticable.

### § 97.18 Notification of local law enforcement prior to scheduled stops.

When transporting violent prisoners, private prisoner transport companies are required to notify local law enforcement officials 24 hours in advance