KEN PAXTON
ATTORNEY GENERAL of TEXAS

CUSTODIAL DEATH REPORT

Agency Information

CDR Number:	20-619-CJ	Version Type:	ORIGINAL VERSION
Report Date:	7/10/2020 11:25 PM	Status:	Submitted

Agency/Facility Information

Agency Name:	Nolan County Sheriff's Office	Agency Address:	211 Avenger Field Road
Agency City:	Sweetwater	Agency State:	TX
Agency Zip:	79556		

Director Information

Director Salutation:	Sheriff	Director First Name:	David
Director Middle Name:	A		
Director Last Name:	Warren		
Reporter Name:	David Warren	Reporter Email:	dwarren@nolanso.com

Decedent Information

Identity of Deceased

First Name: Michael

Middle Name: Lavelle

Last Name: Marks

Suffix:

Date of Birth: 9/22/1969 Sex: Male

Race: Anglo or White

Age At Time Of Death: 50

Date/Time of Custody (arrest, incarceration) (mm/dd/yyyy hh:mm AM/PM):

Date/Time of Custody or Incident: 5/22/2020 10:35 PM

Date/Time of Death (mm/dd/yyyy hh:mm AM/PM):

Death Date and Time: 6/3/2020 6:48 PM

Manner / Cause of Death

Has a medical examiner or coroner conducted an evaluation to determine a cause of death?

Medical Examiner/Coroner Evaluation?: No, evaluation not planned

What was the manner of death? (select only one)

Manner of Death: Natural

Medical Cause of Death:

Medical Cause of Death:

The medical cause of death is listed as:
(a) pulseless electrical activity
(b) acute respiratory failure with hypoxemia
(c) metabolic encephalopathy due to embolic cerebral infarction with hemorrhagic conversion
(d) sepsis due to recurrent endocarditis due to intravenous drug use.
The significant conditions contributing to the death were listed as “Methamphetamine Abuse, Recurrent Endocarditis.”

Had the decedent been receiving treatment for the medical condition that caused the death after admission to your jail's jurisdiction?

Medical Treatment:	Yes

If death was an accident, homicide or suicide, who caused the death?

Who caused the death?:	Not applicable

If a weapon caused the death, what type of weapon caused the death? (Hold CTRL to select all that apply)

Type of weapon that caused death?:	Not Applicable

Was the cause of death the result of a pre-existing medical condition or did the decedent develop the condition after admission?

Pre existing medical condition?:	Pre-existing medical condition

If death was an accident, homicide or suicide, what was the means of death?

Means of Death:	Not applicable, cause of death was illness/natural cause

Location / Custody Information

Where did the event causing the death occur?

Street Address:	1900 Pine Street	City:	Abilene
County:	Taylor	Zip:	79601

What location category best describes where the event causing the death occurred?

Location Category: Other, specify

Other Location Category:

Hospital while undergoing medical treatment. Hendrick Medical Center, 1900 Pine Street, Abilene, TX 79601

What type of custody/facility was the Decedent in at the time of death:

Type of Custody: County Jail

Specific type of custody/facility:

Specific Type of Custody/Facility:

Hospital/Infirmary

What was the time and date of the deceased's entry into the law enforcement facility where the death occurred (mm/dd/yyyy hh:mm AM/PM):

Entry Date Time: 5/22/2020 10:35 PM

Where did the death occur?

Death Location: Medical facility

General Information

Did any other law enforcement agencies respond to calls for service related to this incident?

Other Agencies Respond?: Yes

What were the most serious offense(s) with which the deceased was (or would have been) charged with at the time of death?

Offense 1:

Texas Penal Code - Section 38.04 (a)(b)(2)(A) Evading Arrest or Detention w/vehicle & previous conviction (Felony 3rd Degree)

Offense 2:

Texas Penal Code - Section 38.03 (a)(c) Resisting Arrest, Search or Transportation (Class A Misdemeanor)

Offense 3:

Were the Charges:: Filed

What were the types of charges or reason for contact? (Hold CTRL to select all that apply)

Type of Offense: Other, specify

Type of Offense, Other:

Subject was speeding excessively through town and had a vehicle accident. Subject fled on foot from the scene and was pursued by a municipal police officer. Subject evaded arrest and then resisted arrest when the officer tried to perform apprehension.

At any time during the incident and/or entry into the law enforcement facility, did the decedent display or use a weapon?

Decedent display/use of weapons: No

At any time during the incident and/or entry into the law enforcement facility, did the decedent:

Attempt to Injure Others?:	No

At any time during the incident and/or entry into the law enforcement facility, did the decedent:

Appear intoxicated (alcohol or drugs):	Yes	Make suicidal statements?:	No
Exhibit any mental health problems?:	No	Exhibit any medical problems?:	Yes

At any time during the incident and/or entry into the law enforcement facility, did the decedent:

Barricade self or initiate standoff?:	No	Resist being handcuffed or arrested?:	Yes
Physically attempt/assault officer(s):	No	Gain possession of officer's weapon:	No
Verbally threaten other(s) including law:	No	Escape or attempt to escape/flee custody:	Yes
Attempt gain possession officer's weapon:	No		

Was the deceased under restraint in the time leading up to the death or the events causing the death?

Under Restraint:	No

Summary of Incident

Summary of How the Death Occurred: (max. 30,000 characters)

Summary:

On, Friday, 5/22/2020, at approximately 8:10PM, Michael Lavelle Marks was arrested by the Sweetwater Police Department near the scene of an automobile accident in Sweetwater. Mr. Marks fled on foot from the scene of the accident and was subsequently chased on foot, by Sweetwater PD Officer Taylor Patillo, into a nearby Dollar General Store where he was Tased at the scene of arrest by Officer Patillo. Michael Marks was transported to the Rolling Plains Memorial Hospital - Emergency Room by Sweetwater Police Department Officer Taylor Pattillo. Marks was examined by a doctor in the RPMH-ER and cleared for incarceration before being transported to the Nolan County Jail. Mr. Marks was tested, while at the hospital, and found to have amphetamine in his urine. Marks was still medically cleared for incarceration. We have all the paperwork that the hospital sent with Marks and the SWPD officer when he (Marks) was delivered to our custody at the Nolan County Jail. We also have all of the booking/intake paper work that Marks signed and answered upon his admission to the jail. At approximately 10:35PM, Friday night, 05-22-2020, Michael Lavelle Marks was

booked into the Nolan County Jail. During Mr. Marks' booking process, he was discovered to have a prescription for Cyclobenzaprine 10 MG. Jailer Robert Kasper contacted our on-call jail medical provider, Southern Health Partners (SHP), and asked about administering the prescription. Jailer Kasper was advised that the regular SHP on-site nurse would need to first evaluate, inspect and approve the medication the next morning before it could be given to Marks.

On, Saturday, 05/23/2020, Mr. Marks was magistrated by Justice of the Peace Angie Collier. These documents are provided. On Sunday, 5/24/2020, Mr. Marks filled out a medical request form stating that he had a blood clot in his leg. On Monday, 5/25/2020, at approximately 3:20AM, Jailer Gage Patrick was notified, by the Master Control officer, that an inmate in the cell with Marks had called in on the intercom and stated Mr. Marks was crying out in pain. Jailer Patrick responded and checked on Marks, took his information, and moved him to a separation cell and then immediately made contact with the on call medical provider about Mr. Marks' condition. The jail staff were advised to keep watch over Marks' leg for swelling, and for him to see the on-site nurse within two weeks. This weekend was Memorial Day weekend and the on-site nurse was not physically at the facility on Saturday 05/23/2020 through Monday, 05/25/2020..

On, Tuesday, 5/26/2020, at approximately, 11:00AM, SHP Nurse Connie Hamilton, our on-site facility nurse, read the reports from the weekend and went to see Mr. Marks in his cell. Nurse Hamilton was unable to get a good blood pressure reading on Marks and subsequently had the Sweetwater Fire Department EMT's to respond to the jail and help assess Mr. Marks and see if he needed possible transport to hospital. We have Nurse Hamilton's notes as well and the run sheet from the Sweetwater FD - EMT's that responded. The Sweetwater FD – EMT's evaluated Marks along with Nurse Hamilton and decided that he did not need to be transported to the hospital and the consensus was that Marks was in the detoxification process from illegal drugs. The EMT's left the jail at about 11:35AM without transporting Marks.

Later Tuesday, 05/26/2020, the night shift Jailers began passing out medications around 6:00PM. Jailer Jordan Adkins observed Mr. Marks to be in distress. Jailers Jordan Adkins and Devonte Rolle entered the cell and attended to Marks. The on-call medical provider (SHP) was contacted and given the information that the Jailers had gathered regarding their observations of Marks. An ambulance from Sweetwater FD was called to the jail at the direction of jail supervisors and upon advice from on-call medical staff from Southern Health Partners. The Sweetwater FD – EMT's found Marks to be awake and alert in the booking area of the jail, but non-verbal and unable to follow commands for medical assessment. Marks had an oxygen concentration of 86% and rapid respirations. Mr. Marks was transported to Rolling Plains Memorial Hospital in Sweetwater via ambulance. Marks was evaluated at Rolling Plains Memorial Hospital and then later transferred to Hendrick Medical Center in Abilene, TX. Marks was accompanied and kept under guard by a Nolan County Sheriff's Office (NCSO) staff member.

Initial treatment at Hendrick Medical Center revealed serious long-term health problems. Marks was found to be septic and had staph infection in his blood. Marks also had a very serious "vegetative" artificial heart valve from a previous open-heart surgery. Medical personnel at Hendrick Medical Center conveyed information to our NCSO staff member that Marks would likely need to be transferred to a hospital in Dallas where he would undergo at least six to eight weeks of aggressive IV antibiotic therapy in a hospital skilled nursing environment. Then Marks would likely need to have a heart valve transplant once the infection in his blood was controlled.

On Friday, 05/29/2020, Jailer Devonte Rolle called Jail Administrator Brenda Watts and informed her that Hendrick Medical Center said they were going to likely transfer Mr. Marks to a hospital in Dallas for care and rehab that could possibly last as long as six months. After receiving this information, Jail Administrator Watts took the information to the 32nd Judicial District Attorney's Office and spoke with Samantha Morrow, the Assistant District Attorney. After JA Watts spoke with the Assistant District Attorney, she (Morrow) in turn spoke with District Attorney Richard Thompson and 32nd Judicial District Judge Glen Harrison about the situation. At about 12:00PM on Friday, May 29, 2020, the District Judge sent a message to release Mr. Marks on a "personal recognizance" bond, or PR bond as it is commonly referred to. Justice of the Peace Angie Collier also prepared a personal recognizance bond for the misdemeanor charge that Marks was also charged with. Sgt. Jerry Watts and Jail Administrator Brenda Watts personally took the information and bonds to Hendrick Medical Center in order to release Mr. Marks from custody so he could get the lengthy treatment required. NCSO Jail Administrative staff spoke to the appropriate personnel at Hendrick Medical Center and explained that Marks would no longer be in our custody and was free to be released to whatever medical facility needed to provide him the necessary treatment he needed. Jailer Rolle was relieved of his guard over Michael Marks. While the PR bonds were valid and directed by two separate Nolan County Judges, Mr. Marks was non-communicative and therefore was not able to actually sign the PR bonds as would be the customary procedure for a jail prisoner being released on a personal recognizance bond.

When the two Nolan County Judges PR bonded Mr. Marks out of custody, we had received very limited information from the hospital treating Mr. Marks other than the information detailed above gained mainly from NCSO Jail staff guarding Marks at the hospital. The on-site nurse for the Nolan County Jail called and spoke with some nurses on the floor at Hendrick Medical Center. Mr. Marks was taken to the COVID wing first upon arrival at Hendrick Medical Center. We have Nurse Connie Hamilton's notes that she took when speaking with one of the nurses on Mr. Marks floor at Hendrick Medical Center, Nurse Tim Bussey II. Within a couple

days Mr. Marks was moved out of the COVID wing and to a regular room, we were advised that he had a vegetated heart valve, and staph infection in his blood. As of our last contact with Hendrick Medical Center staff, Michael Marks was alive and undergoing treatment to stabilize him to the point he could be transferred to the Dallas hospital for the extended treatment with intravenous antibiotics that was estimated to take 6-8 weeks. Jail Administrator Brenda Watts was able to make contact with a close relative of Michael Marks, a sister named Donna O'Reilly, and inform her where her brother was located and explain the situation in general to her.

During the week of 6/22/2020, Jail Administrator Brenda Watts was reviewing a medical bill from a neurosurgeon, Dr. James Trammell, dated 06/01/2020. Dr. Trammell sent his insurance claim form that included his dictated consultation notes from 06/01/2020. The consultation notes were from testing and subsequent consultation between Dr. Trammell and family members during Marks' treatment at Hendrick Medical Center on June 1st, 2020. While at Hendrick Medical Center in Abilene, several things happened and other things were learned about previous existing very serious health problems that Marks was suffering from. CT and MRI testing confirmed that Marks had suffered "multiple embolic strokes" while he was hospitalized in Hendrick Medical Center and that on 06/01/2020, Marks "coded" or went into full cardiac arrest, but was "brought back" and intubated. Dr. James Trammell did several tests on Marks and found that he had a "vegetative" artificial heart valve from a previous reconstructive heart surgery with "severe end-stage infection with sepsis." Marks was found to have a "left hemorrhagic infarct with intraventricular extension" and a "massive hydrocephalus."

It was clear in the consultation notes from Dr. Trammell that he had a long consultation with Mr. Marks' sister (Donna O'Reilly) and her daughter (Marks' niece), both of which are professional nurses themselves. It was noted that after careful consultation, it was the decision of the family to discontinue treatment for Michael Marks. Jail Administrator Brenda Watts started searching for a possible obituary on Michael Marks as it sounded like, from Dr. Trammell's notes, that Marks may have very likely passed away after the family decided to end treatment. On Monday, 06-29-2020, Jail Administrator Watts did finally locate an obituary for Michael Marks showing he died on June 3rd, 2020. The obituary was from North's Funeral Home in Abilene, Texas.

On Monday, 06/29/2020, Jail Administrator Brenda Watts placed a call to Wendy Wisneski, Critical Incident Inspector, with the Texas Commission on Jail Standards (TCJS). Mrs. Watts informed Inspector Wisneski of the entire situation with Michael Marks and that she (Watts) had just learned of the death of Marks. Initially, TCJS Inspector Wisneski said there was nothing else that needed to be done other than our NCSO documentation and notification of the affected courts so they could clear the criminal cases pending against Marks.

Jail Administrator Brenda Watts was contacted by TCJS Inspector Wisneski on Tuesday afternoon, 06/30/2020, and told that after consultation with her superiors at the Texas Commission on Jail Standards, that the situation would need to be handled as a "Custodial Death" since Michael Marks was unable to actually sign his PR bonds due to him (Marks) being non-communicative or responsive at the time of his release from custody on Friday, 05/29/2020, at Hendrick Medical Center. Inspector Wisneski directed Jail Administrator Brenda Watts to complete an "Inmate Death Reporting Form" for the Texas Commission on Jail Standards, but stated that an investigation by the Texas Rangers was not necessary due to the circumstances of Marks dying of natural causes several days after release from custody.

On Thursday, 07/02/2020, TCJS Inspector Wisneski again contacted Jail Administrator Brenda Watts and stated that a Texas Ranger would need to be notified and conduct an investigation as a "Custodial Death" involving the situation with Michael Marks. On Monday afternoon, 07/06/2020, I (Sheriff David Warren) called Shannon Herklotz, Deputy Director with the Texas Commission on Jail Standards. I verified with Deputy Director Herklotz that we would in-fact need to contact the Texas Rangers in this situation where Marks died of natural causes several days after release from our custody. Deputy Director Herklotz advised that the need for the full custodial death investigation stemmed simply from the fact that Marks was unable to physically sign the PR bonds that were approved by the two Nolan County Judges, thus not ever actually acknowledging any requirements or conditions of those bonds and the requirement for reappearance at some point to answer for the criminal charges pending.

Pursuant to the instructions from the Texas Commission on Jail Standards, I (Sheriff David Warren) called Texas Ranger Philip Vandygriff on Monday afternoon, 07/06/2020, at 4:58PM, and briefed Ranger Vandygriff on the Michael Marks situation. Initially Ranger Vandygriff said to simply forward to him the TCJS "Inmate Death Reporting Form", including the synopsis by Jail Administrator Watts, along with all supporting documentation such as medical notes and treatment information. Ranger Vandygriff and I discussed whether there would be a need to complete the Custodial Death Report (CDR) with the Texas Attorney General's Office. Initially Ranger Vandygriff said to just send him all of the requested information and he would conduct the investigation and he didn't feel that there would be a need to submit a CDR to the Attorney General's Office.

At 5:54PM, on Monday evening, 07/06/2020, Ranger Vandygiff texted me and said that he had consulted with Texas Ranger Lieutenant Scott Stevenson and that Lt. Stevenson advised that I needed to go ahead and

complete the Custodial Death Report on the Texas Attorney General's reporting portal. Ranger Vandygriff emphasized that we needed to clearly document that we (Nolan County Sheriff's Office & Jail) were not made aware of the death of Michael Marks until Monday, June 29th and likely may not have known about his death, but for Jail Administrator Watts reading the consultation notes on Dr. Trammell's billing and deciding to search the internet for an obituary.

On Friday, 07/10/2020, we received a faxed copy of the death certificate on Michael Lavelle Marks as filed with the Texas Department of State Health Services. The death certificate shows the exact date and time of death as 06/03/2020 at 6:48PM. The cause of death is listed as "(a) Pulseless Electrical Activity, (b) Acute Respiratory Failure with Hypoxemia, (c) Metabolic Encephalopathy Due Embolic Cerebral Infarction with Hemorrhagic Conversion, and (d) Sepsis Due Recurrent Endocarditis Due Intravenous Drug Use." The significant conditions contributing to the death were listed as "Methamphetamine Abuse, Recurrent Endocarditis." The manner of death was listed as "Natural." An autopsy was not ordered due to Marks being an inpatient undergoing medical treatment and under a doctor's care at the time he died in Hendrick Medical Center in Taylor County (Abilene), Texas. A copy of the death certificate will be placed in the booking file of Michael Marks and one will be sent to Texas Ranger Philip Vandygriff.

This Custodial Death Report is filed electronically on Friday night, July 10, 2020.

Signed,
Sheriff David Warren
Nolan County