



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

March 18, 2025

Pope S. Mallette, Esq.
Attorney, City of Oxford
2094 Old Taylor Road, Suite 200
Oxford, Mississippi 38655

Re: Contract for Jail Services

Dear Mr. Mallette:

The Office of the Attorney General has received your request for an official opinion.

Background

According to your request, Oxford (“City”) has asked that you seek an official opinion regarding the maximum amount that a municipality may pay to the county if it decides to enter a contract for jail services for municipal detainees held in the county jail. Your question arises because of changes in the laws authorizing a municipality or other political subdivision to enter a contract for jail services.

Question Presented

Is the City allowed to increase the amount it pays to counties for holding a City pretrial detainee or prisoner in the county jail up to as much as \$32.71 for days thirty-one and greater, as provided by Mississippi Code Annotated Section 47-5-909?

Brief Response

The City is authorized to pay a county up to \$25 per day for days one through thirty and \$32.71 for days thirty-one or greater for holding a municipal pretrial detainee or prisoner in the county jail in accordance with Sections 19-25-73(3), 47-5-901(2) and (3), and 47-5-909.

Applicable Law and Discussion

Municipalities have the authority to contract with the county board of supervisors “for the use of the county jail by the municipality.” Miss. Code Ann. § 47-1-39. Pursuant to Section 19-25-73(3):

In the event that prisoners are housed in the county jail by any political subdivision of the state, the county may charge the political subdivision for housing, feeding and otherwise caring for such prisoners an amount not to exceed the payments provided under state law for the keeping in the county jail of persons committed, sentenced or otherwise placed under the custody of the Department of Corrections.

With respect to how much the Department of Corrections is authorized to pay a county for housing state prisoners, Section 47-5-901 provides:

(2) If state prisoners are housed in county jails due to a lack of capacity at state correctional institutions, the Department of Corrections shall determine the cost for food and medical attention for such prisoners. The cost of feeding and housing offenders confined in such county jails shall be based on actual costs or contract price per prisoner. In order to maximize the potential use of county jail space, the Department of Corrections is encouraged to negotiate a reasonable per day cost per prisoner, which in no event may exceed Twenty-five Dollars (\$25.00) per day per offender, except as authorized in Section 47-5-909(2).

(3)(a) Upon vouchers submitted by the board of supervisors of any county housing persons due to lack of space at state institutions, the Department of Corrections shall pay to such county, out of any available funds, the actual cost of food, or contract price per prisoner, not to exceed Twenty-five Dollars (\$25.00) per day per offender, except as authorized in Section 47-5-909(2)

We next turn to Section 47-5-909(2), which provides:

(2) Notwithstanding any other provision of law, to expedite the removal of inmates from county jails as early as practicable, absent a contract negotiated between the Department of Corrections and the county jail, the Department of Corrections shall pay county jails for housing state offenders out of any available funds as follows:

(a) Twenty-five Dollars (\$25.00) per day per offender for days one (1) through thirty (30);

(b) Thirty-two Dollars and Seventy-one Cents (\$32.71) per day per offender for days thirty-one (31) or greater

Accordingly, it is the opinion of this office that for holding a municipal pretrial detainee or prisoner in the county jail, a municipality is authorized to pay a county up to \$25 per day for days one through thirty and up to \$32.71 for days thirty-one or greater.

Your request cites several previous Attorney General's opinions, noting that the referenced statutes have been amended since these previous opinions were issued. *See* MS AG Ops., *Cossar* (Dec. 6, 1991), and *Cossar* (March 8, 1995). We recognize that while these prior opinions were correct interpretations of the law at the time, later statutory amendments may have rendered portions of

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these prior opinions obsolete. Additionally, to the extent that any prior opinions conflict with this one, this opinion is controlling on the issues presented in your request.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Beebe Garrard*

Beebe Garrard
Special Assistant Attorney General

OFFICIAL OPINION