



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

March 10, 2026

R. Adam Kirk, Esq.
Attorney, City of Winona
J. Ryan Taylor, Esq.
Attorney, Montgomery County
Post Office Box 1069
Grenada, Mississippi 38901

Re: Municipal Inmate Expenses

Dear Mr. Kirk and Mr. Taylor:

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

Background

You have advised that Montgomery County does not have a jail. For this reason, all county and municipal prisoners are housed in other facilities for a daily fee. You have indicated that there is a question regarding whether Montgomery County (“County”) or the City of Winona (“Municipality”) is required to pay the expenses of municipal prisoners who have been bound over to a grand jury for indictment.

Questions Presented

1. Which entity is obligated to pay the expenses of municipal prisoners bound over to the grand jury for indictment?
2. If it is determined that the County is obligated to pay the expenses of a municipal prisoner bound over to the grand jury for indictment, is the County entitled to receive reimbursement from the Municipality if the prisoner is not indicted?

Brief Response

1. It is the responsibility of the County to pay for the upkeep and expenses of a municipal prisoner who has been bound over to a grand jury for indictment.

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2. No. The County is obligated to pay for the upkeep and expenses of a municipal prisoner who has been bound over to a grand jury for indictment even if the grand jury fails to indict the municipal prisoner.

Applicable Law and Discussion

This office has “previously opined that a municipal prisoner becomes a county prisoner when said prisoner is either 1) bound over to the grand jury at a preliminary hearing¹ or 2) waives said preliminary hearing.” MS AG Op., *Null* at *1 (Aug. 21, 2025) (citing MS AG Op., *Wright* (Apr. 13, 1994)). That is to say, the County becomes responsible for the prisoner’s expenses² once a preliminary hearing has either been held or waived, and the prisoner has been bound over for grand jury indictment. MS AG Op., *Null* at *1; *see also* MS AG Op., *Nowak* at *1 (Apr. 15, 2016); MS AG Op., *Birdsong* at *1 (May 7, 1992).

With regard to your second question, this office has previously opined that even where the grand jury fails to indict the prisoner, the County is responsible for the upkeep of the prisoner once he has been bound over to the grand jury or waived his right to a preliminary hearing. *See* MS AG Op., *Richardson* at *1 (Apr. 16, 1990).

You note in your request that there are conflicting opinions of this office addressing this issue. To the extent such opinions conflict, 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/ Kristi D. Kennedy*

Kristi D. Kennedy
Special Assistant Attorney General

¹ Mississippi Code Annotated Section 13-5-39 provides that the circuit court impanels grand juries “in any county or judicial district of a county.” *See also* MS AG Op., *Miller* at *1 (Feb. 20, 2009) (“[T]he Circuit Court would have jurisdiction as to matters concerning the release of the defendant after he is bound over to the grand jury.”); MS AG Op., *Mellon* at *1 (July 1, 2005) (“Once a defendant has been bound over to the grand jury, jurisdiction lies with the circuit court.”)

² We note that the Mississippi Legislature is currently considering legislation, S.B. 2432, to amend Mississippi Code Annotated Section 19-25-73 and address the expenses for housing prisoners in county jails.