

# Liability Considerations When Housing City Inmates in County Jails

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# Alabama County Jails: Various Duties Imposed by Alabama Law

To begin, it is important to understand the clear responsibilities prescribed by Alabama law:

- County Commission
  - Responsible for building, maintaining and funding the county jail.

# Alabama County Jails: Various Duties Imposed by Alabama Law

- Sheriff of a County
  - State Official responsible for operating the county jail.
  - The county sheriff is NOT obligated to accept persons who have violated municipal law (“municipal inmates”) into the jail.

# Alabama County Jails:

## Various Duties Imposed by Alabama Law

- Municipalities
  - A municipality is legally responsible to pay for the care of its inmates who are housed in the county jail.



# Alabama County Jails:

## Various Duties Imposed by Alabama Law

- Although a county sheriff is not obligated to accept a municipal inmate, if a sheriff chooses to do so...
  - the municipal inmate is entitled to the same standard of care owed to all other inmates.

# Alabama County Jails:

## Various Duties Imposed by Alabama Law

- Although the municipality is financially responsible for the inmate, the Sheriff is still charged with ensuring that inmate has:
  - Basic food, clothing, shelter, bedding
  - Basic medical care
  - Basic cleanliness
  - Safety of inmates

# Alabama County Jails:

## Various Duties Imposed by Alabama Law

- Similarly, the county commission is also responsible for the following with regard to municipal inmates accepted by a county sheriff...
  - Duty to maintain: the county is expected to exercise its right to inspect the jail in order to discover problems that need to be fixed.
  - Feeding: the county is expected supervise the feeding of all prisoners in the county jails over which it has jurisdiction.
  - Provide funding for the jail's operations, medical care, and inmate meals.

# Housing Municipal Inmates

## *Areas of Concern*

- Contracts between counties and municipalities regarding the housing of city inmates in county jails must be carefully considered.
- The specific areas of concern that must be addressed in these agreements are:
  - Structure of Municipal Inmate Medical Care & Municipality's Payment for Medical Care
  - Municipality's Payment for Inmate Meals
  - Indemnification and Hold Harmless Provisions



# Housing Municipal Inmates: Area of Concern #1

## *Medical Care Contracts*

- A contract providing for housing municipal inmates in a county jail should provide that the municipality bear the costs associated with medical care.
- Example:
  - The Parties hereby agree that it is their intention that the Municipality bear the full and complete costs associated with housing its inmates at the Jail, including, but not limited to, the costs of providing all medical, dental, vision or mental health services to Municipal Inmates.

# Housing Municipal Inmates: Area of Concern #1

## *Medical Care Contracts*

- The agreement should also cover which entity is in control of decision-making with regard to medical care.
  - Option 1: Municipality Control
  - Option 2: Sheriff Control

# Housing Municipal Inmates: Area of Concern #1

## *Medical Care Contracts*

### Option 1 – Municipality Control:

- The Parties agree that the **Municipality shall be wholly responsible for all costs associated with providing medical, dental, vision or mental health services to its Inmates.** Except in those cases wherein it is apparent to a layman that a Municipal Inmate is presented with an emergency situation, **the Sheriff or his designee shall be required to contact the representative of the Municipality for preauthorization** of all medical, dental, vision or mental health treatment provided to a Municipal Inmate. If the representative of the Municipality is not available for any reason, the Sheriff or his designee shall use their best judgment in making a decision as to the provision of said services, and shall notify the Municipality as soon as is practicable of their decision. For the purposes of this Paragraph, the Municipality shall be represented by [Contact Person from City].

# Housing Municipal Inmates: Area of Concern #1

## *Medical Care Contracts*

### Option 1-Municipality Control, continued:

- By preauthorizing treatment, the Municipality agrees to pay for the full costs of any and all such treatments including, but not limited to, diagnostic testing, physician charges, medications, and therapeutic aids. When possible, the charges for all such treatment shall be billed directly to the Municipality. If an immediate payment is required by the provider, the Municipality shall reimburse the Commission as set out in [Applicable Paragraph in Specific Agreement].



# Housing Municipal Inmates: Area of Concern #1

## *Medical Care Contracts*

### Option 2 – Sheriff Control:

- The Parties agree that the Sheriff and his designees shall make all decisions regarding the provision of medical, dental, vision, and mental health services to Municipal Inmates. The Municipality shall bear the cost of all such services provided to its inmates, and payment of said costs shall be made in accordance with [Applicable Paragraph in Specific Agreement]. Any refusal by the Municipality to pay a bill for the provision of medical, dental, vision, and mental health services to a Municipal Inmate presented to them pursuant to [Applicable Paragraph in Specific Agreement]. shall be considered a breach of this Agreement, and the Parties agree that the Agreement will become immediately voidable at the discretion of The Commission and the Sheriff.

## Housing Municipal Inmates: Area of Concern #2

### *Structure of Payment for Housing and Meals*

- It is important that any agreement with a municipality address the payment of housing and feeding municipal inmate:
  - The agreement should charge the municipality with bearing the cost of housing and feeding city inmates.
  - Typically, the agreement provide an amount to be paid by the municipality to the county per inmate/per day.

## Housing Municipal Inmates: Area of Concern #3

### *Indemnity & Hold Harmless Provisions*

- Any agreement between a city and county for the housing of municipal inmate should include indemnity and hold harmless provisions.
- It is well established under Alabama law that:
  - Each entity can only be responsible for its own actions. Turquitt v. Jefferson County, Ala., 137 F.3d 1285 (11th Cir. 1998).
  - All agreements should reflect this well-established principal under Alabama law.



# Housing Municipal Inmates: Area of Concern #3

## *Indemnity & Hold Harmless Provisions*

### General Indemnity Provision:

- The Municipality hereby agrees to defend, indemnify, and hold harmless the Commission, the Sheriff, and all of their officials, employees, and agents (hereinafter collectively referred to as the "Releasees") from and against any and all actions, appeals, causes of actions, suits, debts, charges, allegations, assertions, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, and expenses (including attorneys' fees and costs actually incurred in bringing any and all actions necessary to enforce this Agreement), of any nature whatsoever, in law or equity, resulting from an allegation that a Municipal Inmate suffered damages because of the actions of the Municipality or any of its officers, agents, or employees, regardless of whether it is alleged or proven that Releasees were also negligent, wanton or acted with deliberate indifference towards said Municipal Inmate. By way of example, such claims include, but are not limited to, claims brought pursuant to 42 U.S.C. § 1983 for false arrest, malicious prosecution, or excessive force. Any refusal by the Municipality to defend, indemnify, and hold harmless the Releasees from and against all such claims shall be considered a breach of this Agreement, and the Parties agree that the Agreement will become immediately voidable at the discretion of the Commission and the Sheriff.



## Indemnity for Municipality Controlled Health Care:

- The Municipality hereby agrees to defend, indemnify, and hold harmless the Commission, the Sheriff, and all of their officials, employees, and agents (hereinafter collectively referred to as the "Releasees") from and against any and all actions, appeals, causes of actions, suits, debts, charges, allegations, assertions, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, and expenses (including attorneys' fees and costs actually incurred in bringing any and all actions necessary to enforce this Agreement), of any nature whatsoever, in law or equity, resulting from an allegation that a Municipal Inmate was somehow damaged as a result of any medical, dental, vision or mental health services provided or not provided to him or her while incarcerated at the Jail, regardless of whether it is alleged or proven that Releasees were negligent, wanton or acted with deliberate indifference towards said Municipal Inmate. Any refusal by the Municipality to defend, indemnify, and hold harmless the Releasees from and against all such claims shall be considered a breach of this Agreement, and the Parties agree that the Agreement will become immediately voidable at the discretion of the Commission and the Sheriff.

## *Important to Remember:*

- Because both the county commission and the sheriff have some duties towards a jail, both should sign all contracts dealing with the county jail.
- However, the contract should specify the limited nature of the commission's duties with regard to the jail and make it clear that the Sheriff is responsible for the daily operation of the jail.

Questions???