

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

August 17, 2018

Chief Tyler Winter
Town of Duck Hill
Post Office Box 368
Duck Hill, Mississippi 38925

Re: Transport and Cost Responsibility between the Town of Duck Hill and the County Sheriff of Montgomery

Dear Chief Winter:

Attorney General Hood is in receipt of your request for an official opinion, and it has been assigned to me for research and reply.

Background and Issues Presented

Your request states:

The town of Duck Hill does not have a full-time court staff, i.e., judge, prosecutor, etc. It is and has been common practice for citizens of Duck Hill to file affidavits, both felony and misdemeanor, with the Montgomery County Justice Court, as Duck Hill is situated inside Montgomery County. The sheriff has now decided that, if a citizen residing in the town of Duck Hill, chooses to file an affidavit in the Justice Court as opposed to our municipal court, said Justice Court issues an arrest warrant to the Sheriff's Department, and the suspect is forthwith arrested and incarcerated by the Sheriff's Department or the County Constable, that it is the Town of Duck Hill's responsibility to transport said defendant from the jail in Vaiden or jails elsewhere in the State to the Montgomery County Justice Court for hearings and further, that the Town of Duck Hill is also responsible for the costs associated with such incarceration. We feel that if (a) we did not arrest the individual and (b) we did not issue the warrant for their arrest from our municipal court, the mere fact that a citizen of our jurisdiction filing an affidavit and subsequently creating a case in the Justice Court does not impart liability to our Town for the costs associated with said case.

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Our question is, are we responsible for the prisoner's transport from jail to the Justice court for process where we did not arrest the individual or issue the warrant for such arrest?

Also, are we responsible for the costs associated with incarceration, such as the jail bill, in these instances?

Response and Discussion

Your questions ultimately concern which authority is responsible for the care and transportation of an offender when that person is arrested upon execution of a warrant from the Justice Court. This office has previously opined:

The Justice Court assumed jurisdiction of the case when the affidavit was filed in Justice Court, and the warrant was issued by Justice Court. It is noted that Justice Court has concurrent jurisdiction with the municipality over crimes committed in the municipality. Pursuant to the Justice Court warrant, the suspect was incarcerated in the county jail and would, therefore, be a county prisoner. As a county prisoner, the municipality is not responsible for housing or medical costs of the individual.

MS AG Op., Barnett (May 20, 2016).

In keeping with the prior opinion of this office, we find that if a prisoner is arrested by a sheriff's deputy on a warrant from the Justice Court, that person is a prisoner of the county. Therefore, it is the opinion of this office that the Town of Duck Hill is not responsible for transporting a prisoner to or from the jail, or for the costs associated with incarceration when a prisoner was arrested by a sheriff's deputy on a warrant issued from the Justice Court.

The facts you provided did not list any specific crimes, so we feel it necessary to bring to your attention that this office has previously opined that sheriff's deputies cannot enforce municipal ordinances. For example, in MS AG Op., Brame, Jr. (June 24, 1992), we opined that:

Although Highway Patrolmen, Sheriffs and Constables have jurisdiction to enforce state law within the corporate limits of municipalities located within the county, they do not have the general jurisdiction to enforce municipal ordinances.

In order for sheriff's deputies to be able to enforce municipal ordinances, we have previously opined that they would have to be sworn as municipal officers. MS AG Op., Primeaux (February 26, 1992). Additionally, any violation of a municipal ordinance would fall under the jurisdiction of the municipal court, and any charges arising from the violation of a municipal ordinance should be filed accordingly. See MS AG Op., Little (June 4, 1999).

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If we can be of further assistance, do not hesitate to call us.

Very truly yours,

JIM HOOD, ATTORNEY GENERAL

By:



Emiko Hemleben
Special Assistant Attorney General

OFFICIAL OPINION