



**Request for City Council Committee Action
From the City Attorney's Office**

Date: October 12, 2004
To: Public Safety & Regulatory Services Committee
Referral to: Ways & Means/Budget Committee

Subject: Hennepin County Jail Booking Fees

Recommendation: That the City Council: direct the appropriate City representatives to continue review and discussions with Hennepin County representatives with respect to the jail fees issues, so that an agreement can be reached on jail fees by the City and County and reduced to writing at the earliest possible time.

Previous Directives: Authorize the appropriate City officials to give notice to Hennepin County of the City's intention to rescind the 1968 City resolution related to the City-County consolidation of jail facilities, and enter into a new agreement by December 31, 2004. Further, direct the appropriate representatives of the City Attorney's Office, Finance Department, and the Minneapolis Police Department to meet and review the booking fee, fingerprinting, jailing and other related issues and report back to the City Council in September 2004 with recommendations on respective responsibilities associated with the booking and jailing of individuals within Hennepin County and associated costs.

Prepared by: Dana Banwer, Deputy City Attorney

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Approved by: _____
Jay M. Heffern
City Attorney

Presenters in Committee: Dana Banwer, Deputy City Attorney – Criminal
Deputy Chief Tim Dolan – Central Services Bureau

Financial Impact (Check those that apply)

- No financial impact - or - Action is within current department budget.
(If checked, go directly to Background/Supporting Information)
- Action requires an appropriation increase to the Capital Budget
- Action requires an appropriation increase to the Operating Budget
- Action provides increased revenue for appropriation increase
- Action requires use of contingency or reserves
- Other financial impact (Explain): Unknown at this time, however, this action may result in booking fees savings to City.
- Request provided to the Budget Office when provided to the Committee Coordinator

Community Impact:

City Goals: Build communities where all people feel safe and trust the City's public safety professionals and systems; Deliver consistently high quality City services at a good value to our taxpayers

Background/Supporting Information

Since 1968, Hennepin County has been billing the City of Minneapolis for the care and housing of prisoners charged with misdemeanors and ordinance violations. This resulted from the reorganization of the municipal courts into a single county municipal court and the consolidation of the City and County jails under the County Sheriff. In August of 1968, the City and County each passed substantially identical resolutions describing their agreement. The respective resolutions required the Sheriff to staff and maintain the booking function and to provide for all staffing of the consolidated jail. The resolutions further provided that "prisoners accused of misdemeanors and ordinance violations whose cases will finally be disposed of in Hennepin County Municipal Court shall be costed back to the community where the alleged violation occurred." The resolutions contained the formula for calculating a per diem rate for prisoner care based upon the operating expenses of the Hennepin County Jail. The operating expenses were defined as follows:

"Operating expenses shall mean total salaries and wages plus employer contributions for retirement and insurance related thereto; one-fifth of the expenditures for items costing more than \$25.00 with a useful life in excess of one year; the MBC maintenance cost for space occupied by the jail; the total expenditures for all items of current expenses of the jail, that is, all items of food, cleaning, drugs, travel, etc., that are purchased and consumed or used on a current basis. Prisoner days shall be computed on the basis of a daily 1:30 p.m. prisoner count."

There was no reference in the 1968 resolutions to any charges for booking.

In 1980, the County unilaterally passed Resolution No. 80-9-719, which modified the billing procedures for prisoners charged with misdemeanors and ordinance violations. The resolution recited the need to decrease the number of prisoners booked and housed in the County's Adult Detention Center. It established a booking fee of \$58.00 and established the residential custody charge to be based on a quarter day. The quarter day basis for the residential custody charge was a revision of the 1968 resolution's provision that called for the prisoner count to be conducted at 1:30 p.m. each day. There was no corresponding City resolution agreeing to the 1980 County resolution.

In recent years, the County has constructed a new Adult Detention Center at the Public Safety Facility. As a result, the charges to the City have reflected the operating costs of the new facility rather than the City Hall/Courthouse jail specified in the 1968 resolutions. Currently, the booking fee charged by the County to the City is \$251 per person booked on new charges, but not on arrest warrants. The City pays approximately \$1.8 million to the County in booking fees annually.

In September, 2004, the Hennepin County Board adopted a resolution related to jail fees, which essentially has two components; "processing" and "per diem" fees. This County's new jail fees proposal, as outlined in Attachment "A", provides for the replacement of "booking" fees with processing and per diem fees. Under this proposal, the County will charge the municipality a \$75 processing for the Sheriff's Office to process, i.e., book and fingerprint an individual arrested on a "targeted" misdemeanor (DWI, order for protection violation, 5th degree assault, domestic assault, interference with privacy, harassment or restraining order violation, or indecent exposure), gross misdemeanor, felony, or fugitive from justice offense.

In addition, the County will charge the municipality for whom it houses a detainee \$115.27 per day as the per diem rate. This is the per diem rate currently in effect and is not expected to change. The per diem fee is based on the detainee's length of stay and begins immediately upon booking. According to the County's estimates, the new fee structure may result in a saving to the City of Minneapolis of approximately between \$300,000 and \$400,000, depending on the number of individuals booked.

The City Attorney's Office has analyzed the City and County resolutions with respect to whether the City continues to be bound by the resolutions for the booking and housing of prisoners arrested by the Minneapolis Police Department and charged with misdemeanor violations. We have concluded that the City has the right, upon giving reasonable notice to the County, to terminate its agreement with the County with respect to the future care of prisoners held in the County's jail facility. We have further concluded that under the applicable statutes as interpreted by the Attorney General and expressed in Minnesota case law, the City is responsible for all costs of processing, boarding and care of prisoners charged under City ordinances, and the County is responsible for the costs of those charged under state statutes.

Finally, we have concluded that since fingerprinting of prisoners would be considered an element of "processing", the County is responsible for fingerprinting of prisoners. It is our understanding that the County may not agree with these conclusions and that the County Attorney's Office has written an opinion related to these issues. We have been unable to obtain a copy of the County Attorney's opinion despite several requests to the County. Our previous opinions have been expressed in Attachments "B" and "C".

Accordingly, we recommend that the City Council direct the appropriate City agencies to continue to review and discuss the jail fees issues with Hennepin County, to reach a mutually acceptable agreement that will be reduced to writing at the earliest possible date.