

REQUEST FOR COUNCIL ACTION



CITY COUNCIL MEETING DATE:

OCTOBER 20, 2020

TITLE:

AGREEMENT WITH UNITED STATES MARSHALS SERVICE TO PROVIDE HOUSING FOR FEDERAL INMATES IN THE SANTA ANA JAIL (GENERAL FUND)

/s/ Kristine Ridge
CITY MANAGER

CLERK OF COUNCIL USE ONLY:

APPROVED

- As Recommended
- As Amended
- Ordinance on 1st Reading
- Ordinance on 2nd Reading
- Implementing Resolution
- Set Public Hearing For _____

CONTINUED TO _____

FILE NUMBER _____

RECOMMENDED ACTION

Authorize the City Manager to execute an agreement (12-94-0006) with the United States Marshals Service for jail housing services at the per diem rate of \$115 per inmate and a transportation hourly rate of \$50 per hour, plus mileage reimbursed at the General Services Administration (GSA) Travel Regulation Mileage Rate, subject to non-substantive changes approved by the City Manager and City Attorney.

DISCUSSION

The Santa Ana Police Department has partnered with the United States Marshals Service (USMS) since the Santa Ana Jail (Jail) opened in 1997. The Jail provides housing for federal inmates who have been charged with federal offenses and who are detained while awaiting trial. The Santa Ana Jail also provides housing for federal inmates who have been sentenced and awaiting designation and transport to the Bureau of Prisons. The per diem rate for this service has been \$105 since 2014. In accordance with Jail cost recovery strategies, a new per diem rate of \$115 has been negotiated, which reflects the cost of providing these services and will generate approximately an additional \$1,460,000 million annually. The total annual housing revenue generated by this agreement (Exhibit 1) will be \$16,790,000 at the current daily population of 400 inmates (400 inmates x \$115 per day x 365 days per year).

In addition, the US Marshals Service agreed to increase the transportation hourly rate from \$36 to \$50 per staff hour, plus mileage reimbursed at the General Services Administration (GSA) Travel Regulation Mileage Rate. The total additional transportation revenue generated by this agreement is estimated to be \$98,000 annually. The total annual transportation revenue generated will be approximately \$350,000 at this new rate.

In accordance with this agreement, the Jail agrees to provide secure custody, safekeeping, housing, subsistence, and care of federal detainees in accordance with all state and local laws, standards, regulations, policies, and court orders applicable to the operation of the facility. The Jail will provide transportation for federal detainees housed at its facility to and from the U.S

Courthouse. The Santa Ana Jail will also provide VideoTeleconferencing (VTC) when the federal judiciary has restricted in-person presentation of a detainee before the court. The Jail will provide medical, dental, and mental health care, as well as over-the-counter medications in accordance with the provisions of USMS and in compliance with the Federal Performance Based Detention Standards.

The agreement is effective upon the date of signature of authorized USMS official(s) and can be terminated by either party for any reason with the written notice of thirty (30) calendar days in advance of termination.

FISCAL IMPACT

Housing revenue for this agreement will be deposited in the Jail Revenue Facility – US Marshals LA account (No. 01114002-57462), Jail Revenue Facility – US Marshals San Diego account (No. 01114002-57464), and Jail Revenue Facility – Bureau of Prisons account (No. 01114002-57463). Transportation revenue will be deposited in the Police OT Reimbursement account (No. 01114002-57400).

Fiscal Impact Verified By: Kathryn Downs, CPA, Executive Director – Finance and Management Services Agency

Submitted By: David Valentin, Chief of Police - Police Department

Exhibit: 1. US Marshals Services Intergovernmental Agreement (IGA)

U.S. Department of Justice
United States Marshals Service
Prisoner Operations Division

Detention Services
Intergovernmental Agreement

1. Agreement Number 12-94-0006	2. Effective Date	3. Facility Code(s) OFK	4. DUNS Number 083-153-247
5. Issuing Federal Agency United States Marshals Service Prisoner Operations Division Office of Detention Services CG-3, 3 rd Floor Washington, DC 20530-0001		6. Local Government Santa Ana City Jail 24 Civic Center Plaza Santa Ana, California 92702 Tax ID#: 95-6000785	
7. Appropriation Data 15-1020/X	8. Local Contact Person: E-mail: Telephone:	Jason Viramontes, Jail Administrator jviramontes@santa-ana.org (714) 245-8120	
9. Services	10. Estimated Number of Federal Beds	11. Per Diem Rate	
This agreement is for the housing, safekeeping, and subsistence of Federal detainees, in accordance with content set forth herein.	Male: 374 Female: 128 Total: 502	\$115.00	
12. Guard/Transportation Hourly Rate	13. Optional Guard/Transportation Services		
Guard/Transportation Hourly Rate: \$50.00 (VTC is encompassed in the per diem rate) Mileage shall be reimbursed by the Federal Government at the General Services Administration (GSA) Federal Travel Regulation Mileage Rate.	<input checked="" type="checkbox"/> Medical <input type="checkbox"/> Other _____ <input checked="" type="checkbox"/> U.S. Courthouse <input checked="" type="checkbox"/> JPATS <input checked="" type="checkbox"/> Encompassed <u>VTC</u> _____		
14. Department Of Labor Wage Determination			
<input type="checkbox"/> Wages Incorporated _____			
15. Local Government Certification <i>To the best of my knowledge and belief, information submitted in support of this agreement is true and correct. This document has been duly authorized by the governing authorities of their applying Department or Agency State or County Government and therefore agree to comply with all provisions set forth herein this document.</i>	16. Signature of Person Authorized to Sign (Local) _____ Signature David Valentin Print Name Chief of Police Title Date		
17. Federal Detainee Type Authorized <input checked="" type="checkbox"/> Adult Male <input checked="" type="checkbox"/> Adult Female <input type="checkbox"/> Juvenile Male <input type="checkbox"/> Juvenile Female	18. Other Authorized Agency User <input checked="" type="checkbox"/> BOP <input type="checkbox"/> ICE <input type="checkbox"/> Other _____	19. Signature of Person Authorized to Sign (Federal) _____ Signature Tiffani Eason Print Name Chief, IAB Title Date	

ATTEST:

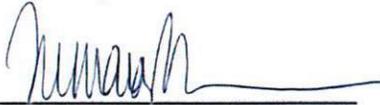
CITY OF SANTA ANA

DAISY GOMEZ
Clerk of the Council

KRISTINE RIDGE
City Manager

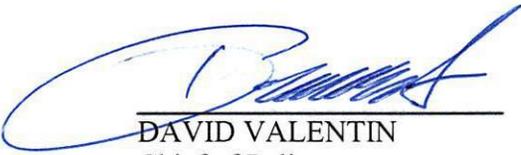
APPROVED AS TO FORM:

SONIA R. CARVALHO
City Attorney

By: 

TAMARA BOGOSIAN
Senior Assistant City Attorney

RECOMMENDED FOR APPROVAL:



DAVID VALENTIN
Chief of Police

Authority 3
Purpose of Agreement and Security Provided 3
Period of Performance and Termination..... 3
Assignment and Outsourcing of Jail Operations 4
Medical Services 4
Affordable Care Act 5
Receiving and Discharge of Federal Detainees 5
Optional Guard/Transportation Services to Medical Facility 6
Optional Guard/Transportation Services to U.S. Courthouse 6
Optional Guard Services to VideoTeleconference Hearings within Facility 7
Optional Guard/Transportation Services to Justice Prisoner & Alien Transportation System (JPATS) 7
Special Notifications 7
Restrictive Housing and Suicide Prevention 8
Prison Rape Elimination Act (PREA) 8
The First Step Act 9
Service Contract Act 9
Per-Diem Rate 9
Billing and Financial Provisions 10
Payment Procedures 11
Hold Harmless 11
Disputes 11
Inspection of Services 11
Modifications 11
Litigation 11
Rape Elimination Act Reporting Information 12

Authority

Pursuant to the authority of Section 119 of the Department of Justice Appropriations Act of 2001 (Public Law 106-553), this Agreement is entered into between the United States Marshals Service (hereinafter referred to as the "Federal Government") and **Santa Ana City** (hereinafter referred to as "Local Government"), who hereby agree as follows:

Purpose of Agreement and Security Provided

The Federal Government and the Local Government establish this Agreement that allows the United States Marshals Service (USMS) or other authorized agency user as noted in block #18 on page (1) to house Federal detainees with the Local Government at the **Santa Ana City Jail, 24 Civic Center Plaza, Santa Ana, CA 92702** (hereinafter referred to as "the Facility") designated in #6 page 1.

The population(hereinafter referred to as "Federal detainees,") will include individuals charged with Federal offenses and detained while awaiting trial, individuals who have been sentenced and are awaiting designation and transport to a Bureau of Prisons (BOP) facility, and individuals who are awaiting a hearing on their immigration status or deportation.

The Local Government shall accept and provide for the secure custody, safekeeping, housing, subsistence and care of Federal detainees in accordance with all state and local laws, standards, regulations, policies and court orders applicable to the operation of the Facility. Detainees shall also be housed in a manner that is consistent with Federal law and the Federal Performance Based Detention Standards and/or any other standards required by an authorized agency whose detainees are housed by the Local Government pursuant to this Agreement.

The USMS ensures the secure custody, care, and safekeeping of USMS detainees. Accordingly, all housing or work assignments, and recreation or other activities for USMS detainees are permitted only within secure areas of the building or within the secure external recreational/exercise areas.

At all times, the Federal Government shall have access to the Facility and to the Federal detainees housed there, and to all records pertaining to this Agreement, including financial records, for a period going back three (3) years from the date of request by the Federal Government.

Period of Performance and Termination

This Agreement is effective upon the date of on page 1 in block #2 and signature of the authorized USMS Prisoner Operations Division official, and remains in effect unless inactivated in writing by either party. Either party may terminate this Agreement for any reason with written notice at least thirty (30) calendar days in advance of termination, unless an emergency situation requires the immediate relocation of Federal detainees.

Where the Local Government has received a Cooperative Agreement Program (CAP) award, the termination provisions of the CAP prevail.

Assignment and Outsourcing of Jail Operations

The overall management and operation of the Facility housing Federal detainees may not be contracted out without the prior express written consent of the Federal Government.

Medical Services

The Local Government shall provide Federal detainees with the same level and range of care **inside** the Facility as that provided to state and local detainees. The Local Government is financially responsible for all medical care provided **inside** the Facility to Federal detainees. This includes the cost of all medical, dental, and mental health care as well as the cost of medical supplies, over-the-counter medications and, any prescription medications routinely stocked by the Facility which are provided to Federal detainees. When possible, generic medications should be prescribed. The cost of all of the above-referenced medical care is covered by the Federal per diem rate. However, for specialized medical services not routinely provided within the Facility, such as dialysis, the Federal Government will pay for the cost of that service.

The Federal Government is financially responsible for all medical care provided **outside** the Facility to Federal detainees. The Federal Government must be billed directly by outside medical care providers pursuant to arrangements made by the Local Government for outside medical care. The Local Government should utilize outside medical care providers that are covered by the USMS's National Managed Care Contract (NMCC) to reduce the costs and administrative workload associated with these medical services. The Local Government can obtain information about NMCC covered providers from the local USMS District Office. The Federal Government will be billed directly by the medical care provider **not** the Local Government. To ensure that Medicare rates are properly applied, medical claims for Federal detainees must be on Centers for Medicare and Medicaid (CMS) Forms so that they can be re-priced to Medicare rates in accordance with the provisions of Title 18 U.S.C. Section 4006. If the Local Government receives any bills for medical care provided to Federal detainees outside the Facility, the Local Government should immediately forward those bills to the Federal Government for processing.

All **outside** medical care provided to Federal detainees must be pre-approved by the Federal Government except in a medical emergency. In the event of an emergency, the Local Government shall proceed immediately with necessary medical treatment. In such an event, the Local Government shall notify the Federal Government immediately regarding the nature of the Federal detainee's illness or injury as well as the types of treatment provided.

Medical care for Federal detainees shall be provided by the Local Government in accordance with the provisions of USMS, Publication 100-Prisoner Health Care Standards (www.usmarshals.gov/prisoner/standards.htm) and in compliance with the Federal Performance Based Detention Standards or those standards which may be required by any other authorized agency user. The Local Government is responsible for all associated medical record keeping.

The Facility shall have in place an adequate infectious disease control program which includes testing of all Federal detainees for Tuberculosis (TB) within 14 days of intake.

TB testing shall be accomplished in accordance with the latest Centers for Disease Control (CDC) Guidelines and the result promptly documented in the Federal detainee's medical record. Special requests for expedited TB testing and clearance (to include time sensitive moves) will be accomplished through advance coordination by the Federal Government and Local Government.

The Local Government shall immediately notify the Federal Government of any cases of suspected or active TB or any other highly communicable diseases such as Severe Acute Respiratory Syndrome (SARS), Avian Flu, Methicillin-Resistant Staphylococcus Aureus (MRSA), Chicken Pox, etc., which might affect scheduled transports or productions so that protective measures can be taken by the Federal Government.

When a Federal detainee is being transferred and/or released from the Facility, they will be provided with seven (7) days of prescription medication which will be dispensed from the Facility. Medical records and the USM-553 must travel with the Federal detainee. If the records are maintained at a medical contractor's facility, it is the Local Government's responsibility to obtain them before a Federal detainee is moved.

Federal detainees may be charged a medical co-payment by the Local Government in accordance with the provisions of Title 18, USC Section 4013(d). The Federal Government is not responsible for medical co-payments and cannot be billed for these costs even for indigent Federal detainees.

Affordable Care Act

The Local Government shall provide Federal detainees, upon release of custody, information regarding the Affordable Care Act, The Affordable Care Act website is located at <http://www.hhs.gov/healthcare/about-the-aca/index.html> .

Receiving and Discharge of Federal Detainees

The Local Government agrees to accept Federal detainees only upon presentation by a law enforcement officer of the Federal Government or a USMS designee with proper agency credentials

The Local Government shall not relocate a Federal detainee from one facility under its control to another facility not described in this Agreement without permission of the Federal Government. Additional facilities within the same Agreement shall be identified in a modification.

The Local Government agrees to release Federal detainees only to law enforcement officers of the authorized Federal Government agency initially committing the Federal detainee (i.e., Drug Enforcement Administration (DEA), Immigration and Customs Enforcement (ICE), etc.) or to a Deputy United States Marshal (DUSM) or USMS designee with proper agency credentials. Those Federal detainees who are remanded to custody by a DUSM may only be released to a DUSM or an agent specified by the DUSM of the Judicial District.

USMS Federal detainees sought for a state or local court proceeding must be acquired through a Writ of Habeas Corpus or the Interstate Agreement on Detainers and then only with the concurrence of the jurisdictional United States Marshal (USM).

Optional Guard/Transportation Services to Medical Facility

If Medical Facility in block #13 on page one (1) of this Agreement is checked, the Local Government agrees, subject to the availability of its personnel, to provide transportation and escort guard services for Federal detainees housed at the Facility to and from a medical facility for outpatient care, and transportation and stationary guard services for Federal detainees admitted to a medical facility.

These services should be performed by at least two (2) armed qualified law enforcement or correctional officer personnel. Criteria as specified by the County Entity running the facility. In all cases these are part of a fulltime Law Enforcement Officer (LEO) or Correctional Officer (CO) that have met the minimum training requirements.

The Local Government agrees to augment this security escort if requested by the USM to enhance specific requirement for security, prisoner monitoring, visitation, and contraband control.

If an hourly rate for these services have been agreed upon to reimburse the Local Government, it will be stipulated in block #12 on page one (1) of this Agreement. After **forty-eight (48) months**, if a rate adjustment is desired, the Local Government shall submit a request. Mileage shall be reimbursed in accordance with the current GSA mileage rate.

Optional Guard/Transportation Services to U.S. Courthouse

If U.S. Courthouse in block #13 on page one (1) of this Agreement is checked, the Local Government agrees, subject to the availability of its personnel, to provide transportation and escort guard services for Federal detainees housed at its facility to and from the U.S. Courthouse.

These services should be performed by at least two (2) armed qualified law enforcement or correctional officer personnel.

The Local Government agrees to augment this security escort if requested by the USM to enhance specific requirements for security, detainee monitoring, and contraband control.

Upon arrival at the courthouse, the Local Government's transportation and escort guard will turn Federal detainees over to a DUSM only upon presentation by the deputy of proper law enforcement credentials.

The Local Government will not transport Federal detainees to any U.S. Courthouse without a specific request from the USM or their designee who will provide the detainee's name, the U.S. Courthouse, and the date the detainee is to be transported.

Each detainee will be restrained in handcuffs, waist chains, and leg irons during transportation unless otherwise authorized by the USMS.

If an hourly rate for these services have been agreed upon to reimburse the Local Government, it will be stipulated in block #12 on page one (1) of this Agreement. After **forty-eight (48) months**, if a rate adjustment is desired, the Local Government shall submit a request. Mileage shall be reimbursed in accordance with the current GSA mileage rate.

Optional Guard Services to VideoTeleconference Hearings within Facility

If Other (VideoTeleconference Hearings) in block #13 on page one (1) of this Agreement is checked, the Local Government agrees, subject to the availability of its personnel, to provide escort guard services for Federal detainees housed at its facility to monitor, on a case-by-case basis, court hearings conducted via VideoTeleconferencing (VTC) when the Federal Judiciary has restricted in-person presentation of a detainee before the court.

If an hourly rate for these services have been agreed upon to reimburse the Local Government, it will be stipulated in block #12 on page one (1) of this Agreement. After **forty-eight (48) months**, if a rate adjustment is desired, the Local Government shall submit a request.

Optional Guard/Transportation Services to Justice Prisoner & Alien Transportation System (JPATS)

If JPATS in block #13 on page one (1) of this Agreement is checked, the Local Government agrees, subject to the availability of its personnel, to provide transportation and escort guard services for Federal detainees housed at its facility to and from the JPATS.

These services should be performed by at least two (2) armed qualified law enforcement or correctional officer personnel.

The Local Government agrees to augment this security escort if requested by the USM to enhance specific requirements for security, detainee monitoring, and contraband control.

Upon arrival at JPATS, the Local Government's transportation and escort guards will turn federal detainees over to a DUSM only upon presentation by the deputy of proper law enforcement credentials.

The Local Government will not transport federal detainees to the airlift without a specific request from the USM who will provide the detainee's name, location (district), and the date the detainee is to be transported.

Each detainee will be restrained in handcuffs, waist chains, and leg irons during transportation.

If an hourly rate for these services has been agreed upon to reimburse the Local Government, it will be stipulated on in block #12 on page one (1) of this Agreement. After **forty-eight (48) months**, if a rate adjustment is desired, the Local Government shall submit a request. Mileage shall be reimbursed in accordance with the current GSA mileage rate.

Special Notifications

The Local Government shall notify the Federal Government of any activity by a Federal detainee which would likely result in litigation or alleged criminal activity.

The Local Government shall immediately notify the Federal Government of an escape of a Federal detainee. The Local Government shall use all reasonable means to apprehend the escaped Federal detainee and all reasonable costs in connection therewith shall be borne by the Local Government. The Federal Government shall have primary responsibility and authority to direct the pursuit and capture of such escaped Federal detainees. Additionally, the Local Government shall notify the Federal Government as soon as possible when a Federal detainee is involved in an attempted escape or conspiracy to escape from the Facility.

In the event of the death or assault or a medical emergency of a Federal detainee, the Local Government shall immediately notify the Federal Government.

Restrictive Housing and Suicide Prevention

The Local Government shall have written policies, procedures, and practices requiring that all detainees in restrictive housing are personally observed by a correctional officer at least twice per hour, but no more than 40 minutes apart, on an irregular schedule. Detainees who are violent or mentally ill or who demonstrate unusual or bizarre behavior receive more frequent observation; suicidal detainees are under constant observation.

The Local Government shall immediately notify the concerned Chief Deputy U.S. Marshal, or his or her designee, when a member of a vulnerable population is placed in restrictive housing or their restrictive housing status changes.

The Local Government shall also provide reports to the USMS on a monthly basis listing all USMS detainees who were detained in restrictive housing, and the reasons for their assignment to restrictive housing. The report shall be submitted to the Chief Deputy U.S. Marshal, or his or her designee, no later than the tenth day of each month in a standard format established by the USMS.

The Local Government shall have a comprehensive suicide-prevention program in place incorporating all aspects of identification, assessment, evaluation, treatment, preventive intervention, and annual training of all medical, mental health, and correctional staff.

For the purposes of this Agreement, “restrictive housing” means any type of detention that involves all of the following three basic elements:

1. Removal from the general population, whether voluntary or involuntary;
2. Placement in a locked room or cell, whether alone or with another detainee; and
3. Inability to leave the room or cell for the vast majority of the day, typically 22 hours or more.

For the purposes of this Agreement, “vulnerable population” means juveniles and individuals with serious mental illness.

Prison Rape Elimination Act (PREA)

The Facility must post the Prison Rape Elimination Act brochure/bulletin in each housing unit of the Facility. The Facility must abide by all relevant PREA regulations.

The First Step Act

This Agreement refers the local government facility operations and administrations to the following sections of the First Step Act:

1. Section 613 of [Public Law 115-391 the FIRST STEP Act of 2018](#) and [18 USC 5043](#) with respect to any USMS juveniles in custody.
2. Section 301 of [Public Law 115-391 the FIRST STEP Act of 2018](#) and that pursuant to USMS policy that these requirements have been adopted for all pregnant USMS prisoners, regardless of status.

Service Contract Act

This Agreement incorporates the following clause by reference, with the same force and effect as if it was given in full text. Upon request, the full text will be made available. The full text of this provision may be accessed electronically at this address: <https://www.dol.gov/agencies/whd/government-contracts/service-contracts>.

Federal Acquisition Regulation Clause(s):

52.222-41 Service Contract Act of 1965, as Amended (July 2005)

52.222-42 Statement of Equivalent Rates for Federal Hires (May 1989)

52.222-43 Fair Labor Standards Act and the Service Contract Act – Price Adjustment (Multiyear and Option Contracts) (May 1989)

The current Local Government wage rates shall be the prevailing wages unless notified by the Federal Government.

If the Department of Labor Wage Determination block #14 on page one (1) of this Agreement is checked, the Local Government agrees, in accordance with FAR PART 52.222.43 (f), must notify the Federal Government of any increase or decrease in applicable wages and fringe benefits claimed under this clause within 30 days after receiving a new wage determination.

Per-Diem Rate

The Federal Government will use various price analysis techniques and procedures to ensure the per-diem rate established by this Agreement is considered a fair and reasonable price. Examples of such techniques include, but are not limited to, the following:

1. Comparison of the requested per-diem rate with the independent Federal Government estimate for detention services, otherwise known as the Core Rate;
2. Comparison with per-diem rates at other state or local facilities of similar size and economic conditions;

3. Comparison of previously proposed prices and previous Federal Government and commercial contract prices with current proposed prices for the same or similar items;
4. Evaluation of the provided jail operating expense information;

The firm-fixed per-diem rate for services is stipulated in block #11 on page (1) of this agreement, and shall not be subject to adjustment on the basis of **Santa Ana City Jail's** actual cost experience in providing the service. The per-diem rate shall be fixed for a period from the effective date of this Agreement forward for **forty-eight (48) months**. The per-diem rate covers the support of one Federal detainee per "Federal detainee day", which shall include the day of arrival, but not the day of departure.

After **forty-eight (48) months**, if a per-diem rate adjustment is desired, the Local Government shall submit a request through the electronic Intergovernmental Agreements (eIGA) area of the Detention Services Network (DSNetwork). All information pertaining to the Facility on the DSNetwork will be required before a new per-diem rate will be considered.

Billing and Financial Provisions

The Local Government shall prepare and submit for certification and payment, original and separate invoices each month to each Federal Government component responsible for Federal detainees housed at the Facility.

Addresses for the components are:

**United States Marshals Service
Central District of California
350 W. 1st Street, Suite 3001
Los Angeles, California 90012
(213) 620-7676**

**Bureau of Prisons
RRM Long Beach
1299 Seaside Avenue
San Pedro, California 90731
(310) 732-5179**

To constitute a proper monthly invoice, the name and address of the Facility, the name of each Federal detainee, their specific dates of confinement, the total days to be paid, the appropriate per diem rate as approved in the Agreement, and the total amount billed (total days multiplied by the per-diem rate per day) shall be listed, along with the name, title, complete address, and telephone number of the Local Government official responsible for invoice preparation. Additional services provided, such as transportation and guard services, shall be listed separately and itemized.

Nothing contained herein shall be construed to obligate the Federal Government to any expenditure or obligation of funds in excess of, or in advance of, appropriations in accordance with the Anti-Deficiency Act, 31 U.S.C. 1341.

Payment Procedures

The Federal Government will make payments to the Local Government at the address listed in block #6 on page one (1) of this Agreement, on a monthly basis, promptly, after receipt of an appropriate invoice.

Hold Harmless

It is understood and agreed that the Local Government shall fully defend, indemnify, and hold harmless the United States of America, its officers, employees, agents, and servants, individually and officially, for any and all liability caused by any act of any member of the Local Government or anyone else arising out of the use, operation, or handling of any property (to include any vehicle, equipment, and supplies) furnished to the Local Government in which legal ownership is retained by the United States of America, and to pay all claims, damages, judgments, legal costs, adjuster fees, and attorney fees related thereto. The Local Government will be solely responsible for all maintenance, storage, and other expenses related to the care and responsibility for all property furnished to the Local Government.

Disputes

Disputes, questions, or concerns pertaining to this Agreement will be resolved between appropriate officials of each party. Both the parties agree that they will use their best efforts to resolve the dispute in an informal fashion through consultation and communication, or other forms of non-binding alternative dispute resolution mutually acceptable to the parties.

Inspection of Services

Inspection standards for detainees may differ among authorized agency users. The Local Government agrees to allow periodic inspections by Federal Government inspectors, to include approved Federal contractors, in accordance with the Federal Performance Based Detention Standards required by any or all of the Federal authorized agency users whose detainees may be housed pursuant to this Agreement. Findings of the inspections will be shared with the Facility administrator in order to promote improvements to Facility operations, conditions of confinement, and levels of services.

Modifications

For all modifications except for full or partial terminations, either party may initiate a request for modification to this Agreement in writing. All modifications negotiated will be effective only upon written approval of both parties.

Litigation

The Federal Government shall be notified, in writing, of all litigation pertaining to this Agreement and provided copies of any pleadings filed or said litigation within five (5) working days of the filing.

The Local Government shall cooperate with the Federal Government legal staff and/or the United States Attorney regarding any requests pertaining to Federal Government or Local Government litigation.

Rape Elimination Act Reporting Information

SEXUAL ASSAULT AWARENESS

This document is requested to be posted in each Housing Unit Bulletin Board at all Contract Detention Facilities. This document may be used and adapted by Intergovernmental Service Agreement Providers.

While detained by the Department of Justice, United States Marshals Service, you have a right to be safe and free from sexual harassment and sexual assaults.

Definitions

A. Detainee-on-Detainee Sexual Abuse/Assault

One or more detainees engaging in or attempting to engage in a sexual act with another detainee or the use of **threats, intimidation, inappropriate touching** or other actions and/or communications by one or more detainees aimed at **coercing and/or pressuring** another detainee to engage in a sexual act.

B. Staff-on-Detainee Sexual Abuse/Assault

Staff member engaging in, or attempting to engage in a sexual act with any detainee or the intentional touching of a detainee's genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, humiliate, harass, degrade, arouse, or gratify the sexual desires of any person. **Sexual abuse/assault of detainees by staff or other detainees is an inappropriate use of power and is prohibited by DOJ policy and the law.**

C. Staff Sexual Misconduct is:

Sexual behavior between a staff member and detainee which can include, but is not limited to indecent, profane or abusive language or gestures and inappropriate visual surveillance of detainees.

Prohibited Acts

A detainee, who engages in inappropriate sexual behavior with or directs it at others, can be charged with the following Prohibited Acts under the Detainee Disciplinary Policy.

- Using Abusive or Obscene Language
- Sexual Assault
- Making a Sexual Proposal
- Indecent Exposure
- Engaging in Sex Act

Detention as a Safe Environment

While you are detained, no one has the right to pressure you to engage in sexual acts or engage in unwanted sexual behavior regardless of your age, size, race, or ethnicity. Regardless of your sexual orientation, you have the right to be safe from unwanted sexual advances and acts.

Confidentiality

Information concerning the identity of a detainee victim reporting a sexual assault, and the facts of the report itself, shall be limited to those who have the need to know in order to make decisions concerning the detainee-victim’s welfare and for law enforcement investigative purposes.

Report All Assaults!

If you become a victim of a sexual assault, you should report it immediately to any staff person you trust, to include housing officers, chaplains, medical staff, supervisors or Deputy U.S. Marshals. Staff members keep the reported information confidential and only discuss it with the appropriate officials on a need to know basis. If you are not comfortable reporting the assault to staff, you have other options:

- Write a letter reporting the sexual misconduct to the person in charge or the United States Marshal. To ensure confidentiality, use special (Legal) mail procedures.
- File an Emergency Detainee Grievance - If you decide your complaint is too sensitive to file with the Officer in Charge, you can file your Grievance directly with the Field Office Director. You can get the forms from your housing unit officer, or a Facility supervisor.
- Write to the Office of Inspector General (OIG), which investigates allegations of staff misconduct. The address is: Office of Inspector General, U.S. Department of Justice, 950 Pennsylvania Ave. Room 4706, Washington, DC. 20530
- Call, **at no expense to you**, the Office of Inspector General (OIG). The phone number is 1-800-869-4499.

Individuals who sexually abuse or assault detainees can only be disciplined or prosecuted if the abuse is reported.

A publication of the Office of the
Federal Detention Trustee
Washington, DC

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