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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

December 15, 2003

Jeffrey B. Moore, Executive Director
South Carolina Sheriffs' Association
P. O. Box 21428
Columbia, South Carolina 29221-1428

Dear Jeff:

In a letter to this office you referenced the provisions of S.C. Code Ann. Section 44-1-100 (Supp. 2002) which state:

All sheriffs and constables in the several counties of this State and police officers and health officers of cities and towns must aid and assist the Director of the Department of Health and Environmental Control and must carry out and obey his orders, or those of the Department of Health and Environmental Control, to enforce and carry out any and all restrictive measures and quarantine regulations that may be prescribed. During a state of public health emergency, as defined in Section 44-4-130, the director may request assistance in enforcing orders issued pursuant to this chapter, and pursuant to Chapter 4, Title 44, from the public safety authority, as defined in Section 44-4-130, other state law enforcement authorities, and local law enforcement. The public safety authority may request assistance from the South Carolina National Guard in enforcing orders made pursuant to this chapter or pursuant to Chapter 4, Title 44.

You questioned whether Section 44-1-100 conflicts with the State Constitution by placing an elected sheriff under the control of the Director of the Department of Health and Environmental Control by requiring the sheriff to "carry out and obey his orders".

Admittedly, the sheriff is a constitutional officer in that his office is established pursuant to Article V, Section 24 of the State Constitution. Such provision states:

There shall be elected in each county by the electors thereof a clerk of the circuit court, a sheriff, and a coroner...All of these officers shall serve for terms of four years and until their successors are elected and qualify.

Mr. Moore
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Such provision, however, further states that “(t)he General Assembly shall provide by law for their duties and compensation. (emphasis added). Therefore, by such provision, the duties of a sheriff are to be provided by the General Assembly.

The General Assembly has specifically provided by Section 44-1-100 that the sheriffs aid and assist the Director of the Department of Health and Environmental Control and carry out and obey his orders, or those of the Department of Health and Environmental Control. Such legislatively mandated duties are consistent with a prior opinion of this office dated December 4, 1987 which indicated that “the sheriff is a constitutional officer whose powers may be abridged, varied, or modified by the General Assembly.” See also: Op. Atty. Gen. dated April 3, 1967 and Privette v. Grinnell, 191 S.C. 376, 4 S.E.2d 305 (1939).

With best wishes, I am,

Very truly yours,

A handwritten signature in cursive script, appearing to read "Charles H. Richardson".

Charles H. Richardson
Senior Assistant Attorney General