



ALAN WILSON  
ATTORNEY GENERAL

November 6, 2012

William R. Byars, Director  
South Carolina Department of Corrections  
P.O. Box 21787  
Columbia, SC 29221-1787

Dear Director Byars:

We received your letter on behalf of the South Carolina Department of Corrections ("SCDOC") asking whether wardens of SCDOC correctional institutions, who are also certified as Class 2 law enforcement officers, may carry their SCDOC-issued firearms at all times.

The South Carolina Code of Laws restricts the right of a citizen to carry a firearm on his person. S.C. Code Ann. §16-23-20 makes it unlawful for anyone to carry about the person, whether concealed or not, any pistol, unless one of twelve listed exceptions is present. If a person is carrying a pistol in South Carolina and one of the twelve exceptions do not apply, then that person may be criminally charged with a violation of §16-23-20.

One of the notable exceptions is for prison guards while engaged in their official duties. See §16-23-20(11). By way of illustration, we note an opinion of this Office dated May 29, 1990 (1990 WL 599198), where we addressed whether detention officers were required to surrender their firearms while transporting inmates in an ambulance to local hospitals for treatment, or upon demand by hospital personnel before an inmate could be treated. Referencing the status of detention officers as peace officers as to any matters dealing with the custody, control or transportation of inmates, see §24-1-280,<sup>1</sup> we found

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<sup>1</sup>Section 24-1-280 provides that:

[a]n employee of the South Carolina Department of Corrections, the South Carolina Department of Juvenile Justice, or the Department of Mental Health whose assigned work location is one of the correctional facilities of the Department of Corrections or the Department of Juvenile Justice, while performing his officially assigned duty relating to the custody, control, transportation, or recapture of an inmate within the jurisdiction of his department, or an inmate of any jail, penitentiary, prison, public work, chain gang, or overnight lockup of the State or any political subdivision of it not within the jurisdiction of his department, has the status of a peace officer anywhere in the State in any matter relating to the custody, control, transportation, or recapture of the inmate.

no basis for any individuals, including medical personnel, to demand that detention officers relinquish their firearms while engaged in their official duties.

The primary rule of statutory construction is to ascertain and give effect to the intent of the Legislature. Hodges v. Rainey, 341 S.C. 79, 533 S.E.2d 578 (2000); Mid-State Auto Auction of Lexington, Inc. v. Altman, 324 S.C. 65, 476 S.E.2d 690 (1996). The best evidence of intent is in the statute itself. Unless there is something in the statute requiring a different interpretation, the words used in a statute must be given their plain and ordinary meaning. Id. What the Legislature says in the text of a statute is considered the best evidence of the legislative intent or will. Therefore, the courts are bound to give effect to the expressed intent of the Legislature. Media General Communications, Inc. v. South Carolina Dept. of Revenue, 388 S.C. 138, 694 S.E.2d 525 (2010); Wade v. State, 348 S.C. 255, 559 S.E.2d 843 (2002); see also Jones v. South Carolina State Highway Department, 247 S.C. 132, 146 S.E. 2d 166, 168 (1966) ["There is no safer nor better rule of interpretation then when language is clear and unambiguous it must be held to mean what it plainly states"].

By providing for prison guards to carry firearms, the Legislature recognized the necessity for prison guards to carry firearms during the course of their duties to preserve order within the prisons, to protect themselves and others within the prison walls, and to prevent escapes and protect the surrounding community.

In the particular situation you describe, SCDOC wardens are also certified as Class 2 law enforcement officers (jailers).<sup>2</sup> Their job includes the planning, organization, direction, coordination, and managing of administrative, security, safety, welfare, and program missions and activities of SCDOC institutions. Accordingly, SCDOC wardens would be entitled to carry firearms about their person while engaged in these official duties, pursuant to §16-23-20(11). It is clear to us, however, that unlike other

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<sup>2</sup>23A S.C. Code Ann. Regs. 38-007 provides for the training requirements of Class 2 law enforcement officers as follows:

B. Class 2 Certifications

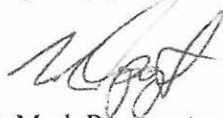
1. Candidates for basic certification as local detention facility officers (jailers) shall successfully complete a training program as approved by the Department and will be certified as Class 2-LCO.
2. Candidates for basic certification as correctional officers with the Department of Corrections shall successfully complete a training program as approved by the Department and will be certified as Class 2-SCO.
3. Candidates for basic certification as juvenile correction officers with the Department of Juvenile Justice shall successfully complete a training program as approved by the Department and will be certified as Class 2-JCO.

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SCDOC employees having regular hours or assigned duties, SCDOC wardens have no fixed hourly work schedule or regular schedules. Instead, they are on call 24 hours a day, seven days a week, and they must respond to any situation at their correctional institutions. Upon information and belief, that in addition to SCDOC-issued firearms, SCDOC wardens are provided with emergency vehicles so they may respond to and coordinate efforts relating to disturbances and/or emergencies which may occur at their correctional institutions, whenever they occur, day or night. It is the opinion of this Office that, since SCDOC wardens are engaged in their "official duties" 24 hours a day, seven days a week, they would be authorized as Class 2 law enforcement officers (jailers) to carry SCDOC-issued firearms at all times.


If you have any further questions, please advise.

Very truly yours,



N. Mark Rapoport  
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Deputy Attorney General