



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

May 1, 1995

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

Re: Informal Opinion

Dear Jeff:

You indicated that pursuant to S.C. Code Ann. Section 44-53-530(g) (Supp. 1993) forfeited drug monies and proceeds from the sale of forfeited property associated with drug cases are deposited into a separate, special account in the name of the appropriate law enforcement agency to be utilized for drug enforcement activities. As to situations where a vehicle purchased with drug fund assets has been sold, you have questioned how the funds derived from the sale should be handled. You particularly questioned whether these funds should be placed back into the account established for the law enforcement agency pursuant to Section 44-53-530(g) to be used for drug enforcement activities.

Prior opinions of this Office have recognized that monies transferred to a law enforcement agency through forfeiture proceedings are "public monies" and therefore "should be maintained and spent in accordance with the laws and ordinances governing the custody and the use of public monies." Opin. of the Atty. Gen. dated July 31, 1991. Therefore such monies could not be expended in a manner inconsistent with the use of public funds generally. Moreover, pursuant to subsection (i) of the referenced statute, "[a]n expenditure from these accounts must be made in accordance with the established procurement procedures of the jurisdiction where the account is established."

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As you indicated, pursuant to Section 44-53-530(g), these funds may only be used for "drug enforcement activities." Moreover, pursuant to other provisions of that section, such funds

...must not be used to supplant operating funds in the current or future budgets. Expenditures from these accounts for an item that would be a recurring expense must be approved by the governing body before purchase....

That provision further states that any expenditures must be documented with such documentation available for audit purposes and subject to review pursuant to the Freedom of Information Act. The statute makes no specific reference to the matter of handling any funds generated by the sale of an item purchased with forfeiture funds.

Subject to the limitations set forth above regarding the use of forfeiture funds generally, I am in agreement with your conclusion that funds generated by the sale of a vehicle purchased with drug fund assets would be placed back into the account established for the law enforcement agency pursuant to Section 44-53-530(g).

This letter is an informal opinion only. It has been written by a designated Assistant Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I am

Very truly yours,



Charles H. Richardson
Assistant Attorney General

CHR:jca