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The State of South Carolina



Office of the Attorney General

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June 1, 1992

Mr. Jerry A. Hyatt, Director
Sumter County Correctional Center
1281 North Main Street
Sumter, South Carolina 29153

Dear Mr. Hyatt:

In a letter to this Office you questioned the manner of handling jail canteen profits. You questioned whether such funds should go to the county general fund or is there discretion as to how such funds should be handled. You particularly questioned whether the funds should go back to the inmates and whether it is improper for a reasonable amount of profits to go to a Christmas party for the detention facility personnel.

A prior opinion of this Office dated November 15, 1985 stated that

"public funds" are those monies belonging to a government, be it state, county, municipal or other political subdivision in the hands of a public official...Such funds are not necessarily limited to tax moneys....

That opinion determined that athletic, bookstore or canteen funds generated by State colleges or universities should be considered "public funds" and must be expended in a manner consistent with State law. An earlier opinion of this Office dated August 10, 1973 also addressed funds which were derived from athletic contests, student organizations and the operation of canteens and bookstores of State colleges and universities. That opinion similarly determined that while these funds were not "State funds" in that they must necessarily be transferred to the State Treasurer, they were "public funds" and "are subject to such legislative directives as the General Assembly may provide." Another opinion

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of this Office dated April 26, 1983 stated that "...there is no Constitutional or statutory power for a State agency to give public funds to a private foundation or other corporation or individual except in payment for goods and services."

I am unaware of any State statute or regulation which provides for the manner of use of jail canteen profits. Consistent with the prior opinions cited above, it appears that such profits could be considered "public funds" and accordingly should not be used for individual inmates. Inasmuch as such profits may be considered "public funds", utilization of such profits for the entire inmate population could probably be authorized. A program benefiting the welfare of the general inmate population could be construed as meeting a public purpose test. Of course, in evaluating the use of such profits, consideration must be given to relevant county ordinances or policies which may control. Therefore you should also refer your question to your county attorney.

As to your further question of whether canteen profits could be used for a facility Christmas party, a prior opinion of this Office dated May 27, 1989 stated that expenditures of public funds for picnics and social events for county employees and members of the governing body were improper. Therefore, canteen profits could similarly not be used for a facility party.

With kind regards, I am

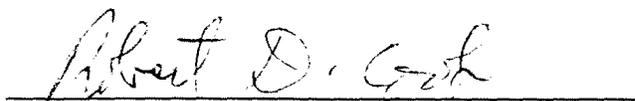
Very truly yours,



Charles H. Richardson
Assistant Attorney General

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REVIEWED AND APPROVED BY:



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