

1981 WL 158081 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 21, 1981

*1 The Honorable Norman E. Fogle
Solicitor
First Judicial Circuit
Post Office Box 1525
Orangeburg, South Carolina 29115

Dear Solicitor Fogle:

Attorney General McLeod has referred your letter of December 1, 1981, to me for reply. As I understand it, your questions concern the responsibility for running and maintaining the Orangeburg-Calhoun Regional Detention Center. You apparently feel there is a conflict in County ordinances that establish a commission to operate the Center, and [South Carolina Code Sections 24-5-10](#) and [24-5-12](#) that provide the Sheriff is custodian of the jail unless he devolves all such powers to the county's governing body.

It appears that this problem is further aided by the fact that this is a regional detention center serving both Calhoun and Orangeburg Counties as their only jail facility. However, regardless of the unique nature of this facility, it would seem [Sections 24-5-10](#) and [24-5-12](#) would still be applicable. In a recent concurring opinion, Justice Gregory states: '24-5-10 has not been repealed by either specific legislative enactment or necessary implication, and cannot be repealed by a county ordinance.' [Roton v. Sparks, 270 SC 637, 244 S.E.2d 214 \(1978\)](#).

Assuming from your letter that Sheriff Boone has not devolved his authority, and additionally, if the Sheriff in Calhoun has also not devolved his power, then in accordance with the dictates of 24-5-10, each Sheriff has responsibility for the detention of prisoners in their respective county facilities. Therefore, the County ordinances creating the Orangeburg Regional Detention Center cannot be effective until the Sheriffs devolve their powers as subscribed within [Section 24-5-12](#).

I hope this will be of some benefit to you and if I can be of any further assistance, please feel free to contact me.

Sincerely,

Mark R. Elam
Staff Attorney

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