

5142 Lohmeyer

# The State of South Carolina



## Office of the Attorney General

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June 8, 1993

Perry R. Eichor, Director  
Criminal Justice Support Department  
County of Greenville  
Law Enforcement Center  
4 McGee Street  
Greenville, South Carolina 29601

Dear Mr. Eichor:

In a letter to this Office you questioned whether contracts can be made with a local private security firm to employ guards to fill staffing needs at a detention center in Greenville County.

Pursuant to S.C. Code Section 24-5-10 a sheriff is granted custody over the jail in his county and is authorized to appoint a jailer. The provision further states that the sheriff or jailer "... shall receive and safely keep in prison any person delivered or committed ...." S.C. Code Section 24-5-12 provides that the sheriff may transfer his duties regarding the jail to the county governing body.

S.C. Code Section 23-1-145 states that employees of a county jail have the status of peace officers "in any matter relating to the custody, control, transportation or recapture of such inmate or prisoner."

Prior opinions of this Office have concluded that a municipality could not contract with a private security firm so as to provide the personnel of that agency with arrest powers on public streets and public property. See: Opinions dated March 6, 1980, April 2, 1980 and March 1, 1989. In particular, the March, 1980 opinion stated:

Law enforcement is a proper exercise of this State's police power. The power of a municipality to establish a law enforcement agency is found in Section 5-7-1010 ... Thus, the

*Dearest Letter*



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State has delegated certain of its police powers to the municipality and that delegation ... limits the municipality to the employment or election of police officers. The system envisioned by the legislation demands that the municipality stand in the position of employer to that of its officers charged with the responsibility of law enforcement with direct control over each of them. It may not be inferred from the language of the legislation that this delegation of the State's police power be performed by a private entity such as a private security agency.

Consistent with such opinions, it does not appear that a county could contract with a private security firm to serve as guards at a county detention facility.

With kind regards, I am

Very truly yours,



Charles H. Richardson  
Assistant Attorney General

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REVIEWED AND APPROVED BY:



Robert D. Cook  
Executive Assistant for Opinions