



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

August 14, 1995

*(Informal Opinion)*

Mr. Donald B. Grooms  
Jail Administrator, Saluda County  
205 E. Church Street  
Saluda, South Carolina 29138

Dear Mr. Grooms:

You have asked our advice as to "what is legal or proper in handling funds generated from a canteen and telephone within our jail facility." Apparently, the jail has a fund the proceeds of which originate through use of a canteen as well as the telephone. The question thus is whether such funds are "public funds" and thus are to be used only for public purposes in the same way which other funds appropriated by County Council to the Sheriff's office are used.

This Office addressed this precise question in an opinion dated June 1, 1992. There, the manner of handling jail canteen profits was discussed. The issue was "whether such funds should go to the general fund or is there discretion as to how such should be handled."

We referenced therein a previous opinion dated November 15, 1985 which had determined that athletic, bookstore or canteen funds generated by State colleges or universities were "public funds" and, thus, must be expended in a manner consistent with State law. That opinion determined that while these funds were not necessarily "State funds", thereby requiring transfer to the State Treasurer, they were subject to such Legislative directives and restrictions "as the General Assembly may provide." We have also previously concluded that "...there is no Constitutional or statutory power for state agency to give public funds to a private foundation or other corporation or individual except in payment for goods and services."

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Specifically, with respect to jail canteen funds, the June 1, 1992 opinion further stated:

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 [referenced herein], 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.

I am enclosing copies of these referenced opinions for your review and guidance.

This letter is an informal opinion only. It has been written by a designated Assistant Deputy 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.

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With kind regards, I am

Very truly yours,



Robert D. Cook  
Assistant Deputy Attorney General

RDC/ph  
Enclosures