



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

August 22, 1996

John R. Sullivan, Chief
Fairfax Police Department
Post Office Drawer 810
Fairfax, South Carolina 29827

Re: Informal Opinion

Dear Chief Sullivan:

You state the following situations:

Allendale County has six or more municipalities and three law enforcement agencies. Fairfax Police Dept., Allendale Police Dept. and Allendale County Sheriff's Office. The Allendale Police Dept. also has to pay a prisoner fee when someone is arrested in [their] jurisdiction to the county. Other Municipalities such as Sycamore, Ulmer and Martin, have no police dept. and come under the Sheriff's Office. When the Sheriff's Office make arrest in those municipalities ... my question here, is it proper for the county to charge a jail fee, to the towns of Fairfax and Allendale just because of having a police department?

There are no written contracts between the County and Towns as to having to pay a jail fee. Everything was done by word of mouth [a] long time ago. But should you find it proper for the county to charge a jail fee, my next question would be, it is proper for the county to charge us a jail fee for the housing of prisoners with charges that have to be tried in

Chief Sullivan
Page 2
August 22, 1996

General Sessions Court? As you know, any fines [etc.] go to the county and not back to the municipality.

Your questions are answered by previous opinions of this Office. I am enclosing copies of opinions issued January 9, 1992, March 6, 1990, July 22, 1986, March 21, 1983 and September 6, 1979. The January 9, 1992 opinion, quoting the March, 1990 opinion stated:

... a municipality is responsible for the care and maintenance of prisoners arrested and/or convicted of state or municipal violations within the jurisdiction of the municipal court if these prisoners are lodged in a county jail. However, ... a county is responsible for the care and maintenance of prisoners charged with state law violations within the jurisdiction of the court of general sessions.

And in the March 6, 1990 opinion, we stated:

[a]nother opinion of this Office dated March 21, 1983 commented that generally a municipality is responsible for the care and maintenance of prisoners arrested and/or convicted of state or municipal violations within the jurisdiction of a municipal court if these prisoners are lodged in a county jail. However, the opinion further provided that a county is responsible for the care and maintenance of prisoners charged with State law violations within the jurisdiction of the court of general sessions. See also: Op. Atty. Gen. dated September 6, 1979. One basis for an opinion dated July 23, 1980 which reached a similar conclusion was the fact that revenues generated by general sessions court offenses and municipal offenses are treated differently.

In the March 21, 1983 opinion, we concluded:

[i]t is the opinion of the Office that the Town of McCormick is responsible for the care and maintenance of prisoners arrested and/or convicted of violations of ordinances or of state criminal offenses within the jurisdiction of the Municipal Court, if those prisoners are lodged in the County

Chief Sullivan
Page 3
August 22, 1996

Jail. The county is responsible for the care and maintenance of individuals charged with a violation of State law and the case is within the jurisdiction of the Court of General Sessions.

Within these guidelines, we have also stressed the importance of resolving the question of fees for housing prisoners by means of a contract between the city and county. In the March 6, 1990 opinion, for example, we stated:

... in most jurisdictions the matter of a county jail's responsibility to accept prisoners from a municipality and which entity is financially responsible for their care has been resolved by contract. Therefore, in the absence of legislation expressly responsive to such issue, consideration should be given to resolving this matter contractually. In determining any responsibilities, consideration could be given to the manner in which income generated by fines is handled depending upon whether an offense is triable in a municipal court or court of general sessions. Also, in reviewing such responsibilities, attention may be given to other provisions, such as Sections 24-3-20 and 24-3-30 of the Code which provide for the designation of certain prisoners as being in the custody of the State Board of Corrections. You should contact your city attorney in resolving this matter with the county.

These opinions remain in effect and the opinions of this Office. Accordingly, the question of fees for housing municipal prisoners in a county facility should be resolved by specific contract typically within the general guidelines set forth above. As was stated in the 1983 opinion, the town is generally responsible for the care and maintenance of prisoners arrested and/or convicted of violations of ordinances or of state criminal offenses within the jurisdiction of the Municipal Court if these prisoners are lodged in the County Jail" and the "county is responsible for the care and maintenance of individuals charged with a violation of State law and the case is within the jurisdiction of the Court of General Sessions."

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

Chief Sullivan
Page 4
August 22, 1996

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,



Robert D. Cook
Assistant Deputy Attorney General

RDC/an