

The State of South Carolina



Office of the Attorney General

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August 19, 1991

The Honorable Ray Isgett
Sheriff, Berkeley County
300 California Avenue
Moncks Corner, South Carolina 29461

Dear Sheriff Isgett:

In a letter to this Office you requested clarification regarding the expenditure of monies from drug forfeiture accounts. You questioned whether handguns for deputies in your Department may be purchased from funds derived from drug forfeitures and seizures. In your letter you stated "(i)n regard to the comparison of the small number of employees in our law enforcement agency to other larger law enforcement agencies, it must be considered that each and every sworn deputy is and will be involved in drug arrests, eradication, and/or deterrent activities."

Section (3)(B) of Act No. 604 of 1990 1/ provides in part (6):

The first one thousand dollars of any cash seized and forfeited pursuant to this article remains with and is the property of the law enforcement agency which effected the seizure unless otherwise agreed to by the law enforcement agency and prosecuting agency.

1/ Section 3 of Act No. 604 states in subsection (A)

For the purpose of the disposition of property, including cash, seized and forfeited pursuant to the provisions of Sections 44-53-520 and 44-53-530 of the 1976 Code, from July 1, 1990 through June 30, 1992, Section 44-53-530 of the 1976 Code does not apply and subsection (B) of this section applies.

Such provision is set forth in the Editor's Note following Section 44-53-520.

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Pursuant to part (7) of such provision:

All forfeited monies and proceeds from the sale of forfeited property ... must be retained by the governing body of the local law enforcement agency or prosecution agency and deposited in a separate, special account in the name of each appropriate agency. These accounts may be drawn on and used only by the law enforcement agency or prosecution agency for which the account was established. For law enforcement agencies, the accounts must be used for drug enforcement activities.... (emphasis added)

Supreme Court Chief Justice Gregory also issued an Order dated November 14, 1990 which similarly states that the first one thousand (\$1000.00) dollars forfeited is the property of the law enforcement agency making the seizure "unless otherwise agreed" while the other funds transferred to the established account for the law enforcement agency "... may only be drawn on and used by the Sheriff's Department for drug enforcement activities."

As referenced above, you indicated that each deputy in the Sheriff's Department is involved in drug arrests and enforcement. Based upon such involvement, it is the opinion of this Office that funds derived from drug forfeitures and seizures could be used to purchase handguns for these deputies inasmuch as such handguns will be used for drug enforcement activities.

If there is anything further, please do not hesitate to contact me.

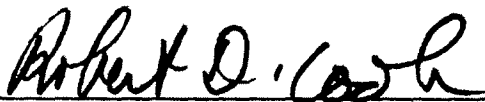
Sincerely,



Charles H. Richardson
Assistant Attorney General

CHR/an

REVIEWED AND APPROVED BY:



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