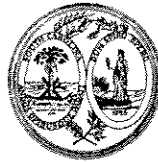


3939 Library

# The State of South Carolina



## Office of the Attorney General

**T. TRAVIS MEDLOCK**  
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING  
POST OFFICE BOX 11549  
COLUMBIA, S.C. 29211  
TELEPHONE: 803-734-3970  
FACSIMILE: 803-253-6283

March 6, 1990

O'Dell Corbett, Jr., Chief of Police  
City of Bishopville  
112 E. Council Street  
Bishopville, South Carolina 29010

Dear Chief Corbett:

In a letter to this Office you raised the following questions:

1. Under what authority does a county sheriff, county council or county administrator charge a municipality a fee for housing prisoners charged with municipal offenses. If the municipal prisoners are charged with general sessions offenses and are imprisoned in the county jail, who is responsible for costs of housing?
2. Who is responsible for transporting individuals charged with general sessions or municipal offenses from a county jail to a medical facility for treatment while incarcerated by the municipality and who is responsible for any costs associated with such treatment?
3. Who is responsible for the transportation of individuals to state mental facilities who are committed from within the municipal limits?

In a telephone call, the further question as to whether a county can refuse to take a prisoner from a municipality was raised.

As to your questions concerning the authority of a county to charge a municipality for housing municipal prisoners and whether a county can refuse to take a municipal prisoner, I am unaware of any statutes directly responsive to such questions. Prior opinions of this Office have noted that pursuant to Section 24-5-10 of the Code, a sheriff, as custodian of the county jail "...shall receive and safely keep in prison any person delivered or committed to...(the

Chief Corbett  
Page 2  
March 6, 1990

jail)... ." One former code provision, Section 14-25-100, which has been repealed, commented that if a defendant arrested by a municipal law enforcement officer was committed to jail "...it shall be done at the expense of the city or town." This language was previously interpreted by the State Supreme Court in Greenville v. Pridmore, 162 S.C. 52, 160 S.E.2d 144 (1931) as requiring a county jailer to receive defendants accused of violating municipal ordinances into a county jail but requiring municipal authorities to pay any expenses for their case and confinement. An opinion of this Office dated December 18, 1979 commented that in accordance with such ruling, a county must accept prisoners who were sentenced for violating municipal ordinances but the municipality must pay the costs of incarceration. However, again, the opinion cited a statute which has now been repealed.

Another 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. Pursuant to Section 20-7-1510 of the Code, three-fourths of the revenue generated by the circuit court is payable to the county where the proceeding were instituted; one-fourth of the revenue is payable to the State. Such statute further states that its provisions are inapplicable to municipal court revenues. Section 14-25-85 of the Code provides that all fines generated in the municipal courts are payable to the municipality where the court is held.

I have been informed that 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.

Chief Corbett  
Page 3  
March 6, 1990

You also asked who is responsible for transporting prisoners charged with general sessions or municipal offenses to a medical facility for treatment and which entity is responsible for any costs of such treatment. As referenced in a prior opinion of this Office dated October 27, 1982, a copy of which is enclosed,

(i)t should be emphasized at the outset, however, that ...(no statute can be found)... which expressly mandates that the county ultimately bear all costs of medical treatment for all prisoners housed in county detention facilities. It can only be said that existing in South Carolina are provisions of law which express a general intent by the Legislature that medical services be provided to all prisoners in county operated facilities. Nevertheless it is evident when this statutory intent is examined in conjunction with the constitutional requirements that all prisoners be afforded adequate medical treatment and in the context of the non-existence of any statute imposing the financial obligations of this treatment upon the prisoner or his family, such would strongly suggest that it is the county which is ultimately responsible for payment of the medical costs of all prisoners.

However, that opinion did not examine the issue from the standpoint of municipal prisoners who are incarcerated in the county jail and the specific liability of the county as to those prisoners. I would also refer you to another opinion of this Office dated January 20, 1983 which comments on the responsibility of medical care for a prisoner being dependent on his status, whether the prisoner is a prisoner of the Department of Corrections or the county. The opinion also commented that contractual agreements between the county and the State Department of Corrections may influence the determination of which entity is responsible for any costs. Ultimately, it appears that the issue of responsibility for medical costs of prisoners and the transportation of prisoners for medical treatment would also be an issue for any contractual negotiations concerning housing municipal prisoners which may be had with the county.

You also asked who is responsible for the transportation of municipal offenders to state mental facilities. A prior opinion of this Office dated October 15, 1986 stated as to the question of who is responsible for transporting inmates to the Department of Mental Health for court ordered evaluation that "(t)here is no specific state statute that resolves this inquiry." The opinion further commented

...(p)ursuant to §24-5-10, the jailer "shall receive and safely keep in prison any person

Chief Corbett  
Page 4  
March 6, 1990

delivered or committed to either of them, according to the law." It further appears that employees of county correctional facilities have the status of peace officers "while performing their officially assigned duties relating to custody, control, transportation, or recapture of any inmate or prisoner in this state... ." S.C. CODE ANN. §23-1-145 (1985 Supp.). As stated previously, the Code is silent on the issue of transportation of prisoners to the Department of Mental Health for court-ordered evaluation.

It is clear, however, that the employees have the statutory authority as peace officers concerning the "transportation ... of any ... prisoner ... anywhere in the state in any matter relating to the ... transportation ... of such prisoner." §23-1-145. Once placed properly in their custody, we submit that the legal responsibility for transportation (a form of custody) rests solely upon the custodian, unless the law speaks otherwise. While agreements may be entered into to delegate the actual responsibility for delivery to the arresting agency or county sheriff, the legal responsibility will still rest upon the lawful custodian of the prisoner--the county correctional center--to ensure safe transportation to the Department of Mental Health, where custody will be temporarily transferred under court order according to law. See: §44-23-410, §44-11-20. (emphasis added.)

Again, the matters addressed in your letter should be discussed with your city attorney. Ultimately, resolution may depend upon contractual negotiations with the county.

With best wishes, I am

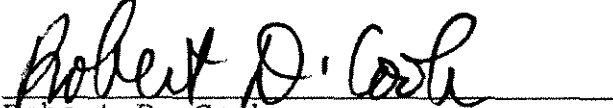
Very truly yours,



Charles H. Richardson  
Assistant Attorney General

CHR/nnw

REVIEWED AND APPROVED BY:



Robert D. Cook  
Executive Assistant for Opinions