



Office of the Attorney General

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February 12, 1990

The Honorable Joey Zorn
Sheriff, Barnwell County
Post Office Box 384
Barnwell, South Carolina 29812

Dear Sheriff Zorn:

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

1. Is a sheriff responsible for operation of a county detention center even though the county council relieved the sheriff's department of the responsibility for the operation?
2. Do the positions of chief jailer and municipal judge constitute offices for dual office holding purposes?

Pursuant to Section 24-5-10 of the Code, a sheriff is designated as custodian of the jail in his county and authorized to appoint a jailer. However, pursuant to Section 24-5-12 of the Code, notwithstanding the aforesaid provision or any other statute,

... (t)he sheriff of any county may, upon approval of the governing body of the county, devolve all of his powers and duties relating to the custody of the county jail and the appointment of a jailer on the governing body of the county....

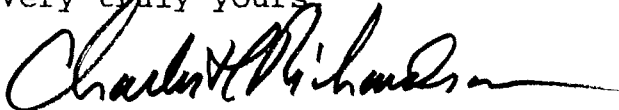
A proviso to such statute states that a sheriff defeated in an election may not devolve his duties relative to the county jail on the county governing body. Therefore, if a sheriff has properly transferred his duties in regard to the jail upon the county governing body, he presumably would no longer be responsible for its operation.

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As to your question regarding whether the positions of chief jailer and municipal judge constitute offices for dual office holding, this Office in opinions dated February 5, 1988 and January 17, 1985, a copy of which is enclosed, has indicated that a jailer or warden of a county prison would most probably be considered an officer for dual office holding purposes. This Office has similarly opined that one who serves as a municipal judge would hold an office for dual office holding purposes. See: Op. Atty. Gen. No. 84-11, a copy of which is enclosed.

With best wishes, I am

Very truly yours,



Charles H. Richardson
Assistant Attorney General

CHR:lm

Enclosures

REVIEWED AND APPROVED BY:



Robert D. Cook
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