

The State of South Carolina



Office of the Attorney General

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June 5, 1991

Jerry A. Hyatt, Director
Sumter County Correctional Center
1281 North Main Street
Sumter, South Carolina 29150

Dear Mr. Hyatt:

In a letter to this Office you requested an opinion of this Office as to the following questions:

If the South Carolina Department of Corrections were able to block admissions from counties during periods of non-compliance, then could county jails refuse admission after they have reached their operating capacity, if the purpose of the refusal were to prevent endangerment and constitutional violations that are multiplied by overcrowding?

Should SCDC be liable to counties for the cost to house inmates they refuse now and in the future?

When county jails are dangerously overcrowded (without beds and space to separate felons, misdemeanants and debtors), may they lawfully refuse prisoners from cities, misdemeanants, weekenders, debtors and family court litigants?

As to your first and second questions which are premised on the refusal of the Department of Corrections to accept inmates from the various counties, enclosed is a copy of an opinion of this Office which states

... the Department of Corrections has no authority to refuse to accept prisoners whose sentences are in the categories which require that they be committed to the Department of Corrections.

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Your remaining question deals with the authority of the county jails to refuse prisoners. Section 24-5-10 of the Code states:

The sheriff shall have custody of the jail in his county and, if he appoints a jailer to keep it, ... the sheriff or jailer shall receive and safely keep in prison any person delivered or committed to either of them....1/

Section 24-3-30 of the Code provides:

... any person convicted of an offense against the State shall be in the custody of the Board of Corrections of the State, and the Board shall designate the place of confinement where the sentence shall be served. The Board may designate as a place of confinement any available, suitable and appropriate institution or facility, including but not limited to a county jail or work camp whether maintained by the State Department of Corrections or otherwise, but the consent of the officials in charge of the county institutions so designated shall be first obtained. Provided, that if imprisonment for three months or less is ordered by the court as the punishment, all persons so convicted shall be placed in the custody, supervision and control of the appropriate officials of the county wherein the sentence was pronounced, if such county has facilities suitable for confinement (emphasis added.)

This Office in an opinion dated July 22, 1986 determined that a county is responsible for the care and maintenance of pretrial detainees charged with general sessions offenses. An opinion dated March 6, 1990 commented that as to a county jail's responsibility regarding prisoners charged with municipal offenses, such responsibility is typically resolved by contract. I am enclosing a copy of that opinion for your review.

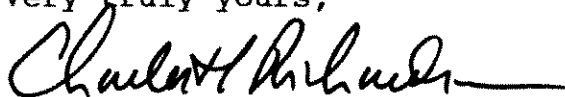
1/ Pursuant to Section 24-5-12 of the Code, a sheriff may "... devolve all of his powers and duties relating to the custody of the county jail ... on the governing body of the county...."

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Referencing the above, I am unaware of any State statutory provisions authorizing county jails to refuse admission of prisoners. As referenced, the county jail is given the responsibility pursuant to Section 24-5-10 to "receive and safely keep in prison any person delivered or committed" to the jail. Therefore I am unaware of any statutory basis for a county to refuse prisoners typically considered within their responsibility to keep. As to any concerns as to the suitability of a jail to accept prisoners, reference may be made to Sections 24-9-10 et seq. of the Code which authorizes inspections and enforcement of minimum standards by the Jail and Prison Inspection Division of the Department of Corrections.

With kind regards, I am

Very truly yours,



Charles H. Richardson
Assistant Attorney General

CHR/an
Enclosures

REVIEWED AND APPROVED BY:



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