

1983 S.C. Op. Atty. Gen. 75 (S.C.A.G.), 1983 S.C. Op. Atty. Gen. No. 83-51, 1983 WL 142722

Office of the Attorney General

State of South Carolina

Opinion No. 83-51

July 20, 1983

***1 RE: Adult/Juvenile Separation**

Mr. L. Scott Wallace
Director
Charleston County Juvenile Detention
Division of Public Safety
4350 Headquarters Road
Charleston, South Carolina

Dear Mr. Wallace:

You have inquired whether juveniles who are seventeen (17) years old and juveniles who are sixteen (16) years old, both under Family Court Jurisdiction, must be separated in the Detention Center.

Juveniles who are 17 years old and juveniles who are 16 years old, both under Family Court jurisdiction, need not be separated in the Detention Center. [Section 20-7-390, Code of Laws of South Carolina \(1976\)](#), as amended, states that a 'child' means a person less than seventeen years of age, where the child is dealt with as a juvenile delinquent. However, Section 20-7-400(B) provides as follows:

Whenever the court shall have acquired the jurisdiction of any child under seventeen years of age, jurisdiction shall continue so long as, in the judgment of the court, it may be necessary to retain jurisdiction for the correction or education of the child, but jurisdiction shall terminate when such child shall attain the age of twenty-one years.

Also, it is important to note Section 20-7-2170 which provides for commitment of juveniles to the custody of the Board of Youth Services for an indeterminate sentence not to exceed the twenty-first (21st) birthday of the child. Moreover, this section states that if the child has not been released by his nineteenth (19th) birthday, that he shall be transferred to the Youthful Offender Division.

These sections make it clear that there is no distinction between two juveniles, one who is 17 and one who is 16, both under the jurisdiction of the Family Court. The distinction requiring separation would not occur at least until the individual reached his 19th birthday, whereupon he would be transferred to the Youthful Offender Division. I can find no other statute making such a distinction. Therefore, it is my opinion that it is not necessary to separate 16 and 17 year old juveniles in the Detention Center when both juveniles are under Family Court jurisdiction.

You also inquire as to whether males and females under Family Court jurisdiction must be separated in the Detention Center and, if so, for what purposes. Although [Section 24-13-10, Code of Laws of South Carolina \(1976\)](#) provides for segregation of the sexes in prisons and chain gangs, there is no similar provision for juvenile detention facilities or facilities operated by the department of Youth Services.

The American Bar Association Standards for the Administration of Juvenile Justice 4.2113 provides that 'training schools' should be co-educational in nature. ¹ The commentary on this standard goes on to state that this is not to imply that individual housing units house both boys and girls.

Although it is clear that a detention center is a predispositional facility and a 'training school' is a postdispositional facility, the same logic would apply regarding the segregation of males and females. Therefore, it is my opinion that males and females in the detention center should be separated for housing purposes. However, separation is not required in rehabilitative programs, food service programs or transportation.

*2 Therefore, my conclusions are as follows:

(1) Juveniles who are 17 years old and juveniles who are 16 years old, both under Family Court jurisdiction, need not be separated in the Detention Center.

(2) Males and females under Family Court jurisdiction should be separated in the Detention Center for housing purposes, but it is not necessary to separate them for rehabilitative programs, food service programs or transportation.

Sincerely,

Sally M. Rentiers
Staff Attorney

Footnotes

- 1 A 'training school' is similar to the school and residential facilities of the Department of Youth Services.
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