

1980 WL 121056 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 13, 1980

***1 Re: Opinion Request**

Sheriff Frank Powell
Office of the Sheriff
Post Office Box 143
Columbia, South Carolina 29201

Dear Sheriff Powell:

You have asked whether Richland County Council, empowered to manage and supervise the County Jail, has the authority to transfer the supervision and management of the County Jail to the Sheriff of Richland County. It appears that the County would not have that authority.

Generally, the Sheriff is empowered to manage and supervise the County Jail. [Section 24-5-10, South Carolina Code of Laws](#) (1976). However, in the case of Richland County, the Legislature has seen fit to remove the management of the County Jail from the Sheriff and place it within the scope of the power of the county governing body. Act No. 187, Acts and Joint Resolutions, South Carolina (1951); Act. No. 282, Acts and Joint Resolutions, South Carolina (1965). Should the County Council attempt to reorganize or restructure the Richland County Sheriff's Department, any appropriation relative to that reorganization or restructuring shall not be effective until the electors of Richland County first approve the appropriation by referendum. Section 4-9-30; [Roton v. Sparks](#), 270 S.C. 637, 244 S.E. 2d 214.

However, it is the opinion of this office that no such restructuring or reorganization is permissible if violative of state Statute. § 4-9-30; [Roton v. Sparks](#), *supra*; see also 1970 Opinion of the Attorney General No. 2911, page 156. The office of sheriff is a constitutional office and can be regulated only in a manner prescribed by the [State Constitution, Article V, Section 20](#), South Carolina Constitution. That section provides that the General Assembly shall provide by law for the duties and compensation of the county sheriff. Therefore, it must be said that the duties and powers of the sheriff may be varied, abridged or increased only at the pleasure of the Legislature. 1967 Opinion of the Attorney General No. 2252, page 59.

Here, the General Assembly has seen fit to make the management and supervision of the County Jail the responsibility of the governing body of Richland County. Since the duties of the Richland County Sheriff have been varied by the General Assembly in that the Sheriff is no longer responsible for the management and supervision of the County Jail, then only may the General Assembly act to alter his responsibility by replacing the management and supervision of the County Jail from the County Council in the Sheriff. See [Article V, Section 20](#); Opinion of the Attorney General No. 2252, *supra*.

Therefore, since the authority to manage and supervise the County Jail has been placed by statute in the Richland County Council, they may not, by ordinance, divest themselves of that power that but must defer to the legislative enactment.

Sincerely,

Scott Elliott
State Attorney

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