

1975 WL 29208 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 26, 1975

*1 W. R. Byars, Esquire
County Attorney
Kershaw County Council
Room 202
Courthouse
Camden, South Carolina 29020

Dear Mr. Byars:

You have inquired as to whether the County Council has authority to transfer responsibility for the new detention center in Kershaw County from the Sheriff to an Administrator of the Detention Center and relieve the Sheriff of any responsibility and control of prisoners after they are turned over to the detention center.

Recently, this Office issued an opinion, a copy of which I am enclosing, concerning operation of the Law Enforcement Center in Newberry County. In that opinion, we concluded that the Newberry County Council had no authority to transfer control of the County jail from the Sheriff to a Jail Administrator. This opinion was based primarily upon the fact that the Sheriff was vested by the general law of this state with custody of the jail, and the act creating the Newberry County Council and enumerating its powers expressly denied the Council power to alter or infringe upon the duties and functions provided by law for the Office of Sheriff. See Act No. 925 (Acts and Joint Resolutions—1970). Our opinion noted, however, that local exceptions to the general law providing for the responsibilities and duties of Sheriffs have been approved by the General Assembly. Thus, no generalizations about the authority of all sheriffs over the jails in their respective counties can be made. It might further be added that as the authority and responsibilities of the various governing bodies in the counties of this state are by no means uniform, no generalizations can be made about the authority of the county governing bodies over the county jails and prisons in their respective counties.

The County Council of Kershaw was created by Act No. 881 (Acts and Joint Resolutions—1966). In the enumeration of the powers of the Council, it is provided as follows:

'The County Council may legislate in reference to such matters of local concern within the county as is herein provided and, to that end, shall have the following powers:

(10) To regulate, control and provide for the construction, maintenance, operation and use of public streets, roads, bridges, sidewalks, drains, courthouses, jails, buildings, prison farms and other public improvements and facilities; [Emphasis Added]

By authorizing the Kershaw County Council to legislate in reference to the regulation, control, maintenance and operations of the county jails and prison farms, the General Assembly has given the Council power to relieve the Sheriff of his responsibility over the county jails. As 'detention center' is apparently only a euphemism for jail or prison, no significance should be attached to the fact that the facility involved is called a detention center rather than a jail or prison or that the facility serves municipalities as well as the county. Since the act creating the County Council was passed subsequent to the enactment of § 55-401 of the CODE OF LAWS OF SOUTH CAROLINA, its provisions will prevail over those of § 55-401 which establish by general law the responsibility of the Sheriff for operation of the jail in his county.

*2 In conclusion, it is the opinion of this Office that the Kershaw County Council has been vested with authority to relieve the Sheriff of his duties in regard to operation and control of the new detention center and transfer such duties to an Administrator of the Detention Center.

Sincerely,

W. Joseph Isaacs
Staff Attorney

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