

1975 S.C. Op. Atty. Gen. 259 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4216, 1975 WL 22513

Office of the Attorney General

State of South Carolina

Opinion No. 4216

December 15, 1975

\*1 James A. Bell, Esquire  
County Attorney  
224 Parler Avenue  
St. George, South Carolina 29477

Dear Mr. Bell:

You have requested an opinion from this Office as to whether or not the Dorchester County Council is authorized to require the Sheriff of Dorchester County to turn over to it the fees and commissions which he, as Sheriff, collects.

First, the sheriff of each county is required by general law to charge certain fees and commissions for the performance of certain functions. See, §§ 27–401 et seq., CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended. That the Sheriff of Dorchester County is entitled to retain the fees and commissions which he charges is readily ascertained by comparing the general statutes hereinabove cited with specific exceptions thereto, requiring the sheriffs of certain counties to turn their fees over either to the county treasurer specifically or to the county general fund. See, e.g., 55 STAT. Act No. 563 at 1065 (1967); 56 STAT. Act No. 1115 at 2455 (1970), as amended; 58 STAT. Act No. 785 at 1561 (1973). Cf., § 14–1811, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended, providing for an annual audit of the books and accounts of the Dorchester County Sheriff's Department.

As to whether or not the Dorchester County Council can require the Sheriff to remit his fees and commissions to it, as you know, the County Council is the governing body of a political subdivision of this State and, as such, possesses only those powers which are either expressly granted or necessarily implied. See, 81 C.J.S. States § 58 at 977–8, 1967 OPS. ATTY.GEN. No. 2213 at 7. Act No. 236 of 1969 established the Dorchester County Council; nowhere in that legislation is there any language either expressly or impliedly granting to the Dorchester County Council the authority to require the Sheriff to turn his fees over to the county general fund. In fact, Section 7, subdivision 13 of that Act provides in part that: . . . the duties and functions now provided by law for the offices of sheriff, . . . shall not be altered.

See, 56 STAT. Act No. 236 at 254 (1969), as amended.

The opinion of this Office is, therefore, that the Dorchester County Council cannot require the Sheriff of Dorchester County to deposit his fees and commissions into the county general fund.

With kind regards,

Karen LeCraft Henderson  
Assistant Attorney General

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