

1973 WL 27046 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 15, 1973

\*1 Mr. William D. Leeke  
Director  
South Carolina Department of Corrections  
Post Office Box 766  
Columbia, South Carolina 29202

Dear Mr. Leeke:

This office is in receipt of your letter of April 24, 1973, addressed to the Attorney General and he has referred the matter to me for reply. You have inquired whether the Department of Corrections may, under existing legislation, authorize and implement conjugal visitation between inmates and their lawful spouses.

As you are aware Section 55-302, Code of Laws of South Carolina, (1962) vests in the Board and Director the exclusive management and control of the prison system and the responsibility for the proper care, treatment, feeding, clothing and management of the prisoners confined therein. By virtue of Section 55-303 of the South Carolina Code you, as Director and with consent of the Board, have the power to prescribe reasonable rules and regulations governing the humane treatment, training and discipline of prisoners.

This delegated authority to manage the prison system and to prescribe reasonable rules and regulations therein must, of course, be exercised consistent with any declared legislative policy relating to corrections. Section 55-291 of the South Carolina Code provides:

It shall be the policy of this State in the operation and management of the Department of Corrections to manage and conduct the Department in such a manner as will be consistent with the operation of a modern prison system, . . . and that those convicted of violating the law and sentenced to a term in the State Penitentiary shall have humane treatment, and be given opportunity, encouragement and training in the matter of reformation.

It is recognized that pursuant to the above stated policy and authority institutional visiting regulations have been promulgated which delineate the times, frequency, conditions and persons authorized for inmate visitation. If the implementation of conjugal visitation is deemed desirable by yourself and the Board in furtherance of rehabilitation and enlightened penology, then such could be accomplished under existing legislation.

I trust the foregoing will provide the advice and guidance desired, but if I may be of further assistance, do not hesitate to call upon me.

With warm regards,  
Yours very truly,

John P. Wilson  
Senior Assistant Attorney General

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