

6859 Liberty



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES M. CONDON
ATTORNEY GENERAL

March 3, 2000

Lt. Ron Taylor
Aiken County Sheriff's Office
420 Hampton Avenue
Aiken, South Carolina 29801

Dear Lt. Taylor,

Thank you for your recent letter to this Office, which has been referred to me for a response. You ask if the sheriff's office is required to serve subpoenas issued from the public defender when the public defender's office has employed full time investigators on its staff.

Under the General Powers and Duties of Sheriffs and Deputy Sheriffs, South Carolina Code Ann. Section 23-15-20 reads:

The sheriff or his regular deputy, on the delivery thereof to him, *shall serve, execute and return every process*, rule, order or notice issued by any court of record in this State or by other competent authority. If the sheriff shall make default herein he shall be subject to rule and attachment as for a contempt and he shall also be liable to the party injured in a civil suit. (emphasis added)

The statute imposes a duty on the sheriff to serve any subpoena when it is presented the sheriff's office for service. Furthermore, this Office has consistently opined that a Sheriff is the chief law enforcement officer of the county, an officer of the court, and as such is required to carry out and effectuate the Court's orders. See Op. Atty. Gen. Sept. 11, 1998. It is also generally recognized that a sheriff or his deputy must execute any order which is valid on its face. See Op. Atty. Gen. March 13, 1996. Pursuant to Rule 13 of the South Carolina Rules of Criminal Procedure, the clerk of court shall issue subpoenas upon the request of any party. Thus, assuming the public defender has presented to the sheriff a subpoena valid on its face, the sheriff must serve the document, regardless of the number of investigators employed by the public defender's office.

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This letter is an informal opinion only. It has been written by a designated Senior Assistant Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General not officially published in the manner of a formal opinion.

With kind regards, I remain

Very truly yours,

A handwritten signature in black ink, appearing to read 'R. D. Cook', written in a cursive style.

Robert D. Cook
Assistant Deputy Attorney General