

## The State of South Carolina



## Office of the Attorney General

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November 12, 1986

John S. Willis, Chief of Police  
Clover Police Department, Town of Clover  
P. O. Box 181  
Clover, South Carolina 29710-0181

Dear Chief Willis:

In a letter to this Office you raised several questions concerning the detention and transportation of individuals pursuant to a mental health detention order.

In your first question you asked if an officer must remain with an individual he has transported to a mental health facility until the individual has been examined or is the officer's obligation complete when the individual is delivered to mental health officials. I am enclosing a copy of a prior opinion of this Office dated March 24, 1976 which I believe is responsive to your inquiry. Such opinion basically states that a law enforcement officer has the duty to remain with an individual until some disposition is made at the mental health facility. I would further advise that inasmuch as the individual is within the custody of the officer, such officer would have full law enforcement authority with regard to such individual while he is in the officer's custody.

You next referenced the situation where it is determined that, upon examination, an individual should not remain at a mental health facility but instead should be taken to a regular hospital detoxification facility or some similar facility. You asked whether it is the responsibility of a law enforcement officer to transport the individual to such a facility. Generally, unless further ordered by a court, an officer's obligation to transport such an individual would typically end upon taking the individual to a mental health facility. I am enclosing a copy of the legislation enacted this year which deals with the commitment of chemically dependent persons. As you

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will notice, such Act establishes a procedure very similar to the procedure involving individuals alleged to be mentally ill noted above, especially with regard to orders of the probate court requiring a law enforcement officer to take a person into custody for examination by a physician.

You also questioned whether a mental health order must be executed as soon as it is received. While I am unaware of any statutory authority expressly responsive to your question, I would advise that as in a situation involving the execution of an arrest warrant, such an order should be executed as soon as possible. Factors which could influence the ability to immediately execute such an order would be those involving other law enforcement obligations, such as the need to respond to immediate criminal activity, manpower considerations, and common-sense. Of course, a key consideration is the fact that an order has been issued because of the execution of an affidavit alleging that an individual is mentally ill and because of such condition is apt to cause serious harm, if not hospitalized. For such reason alone, such an order should be executed as soon as possible. Also, of course, you would be guided by the language of the order of the judge which may reference the necessity of immediately executing the order.

If there is anything further, please advise.

Sincerely,

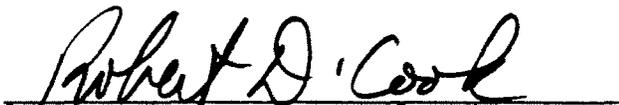


Charles H. Richardson  
Assistant Attorney General

CHR/an

Enclosures

REVIEWED AND APPROVED BY:

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Executive Assistant for Opinions