

1980 WL 120784 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 23, 1980

*1 Ms. Betty M. Fialkowski
Clerk Treasurer
Town of Hardeeville
Hardeeville, South Carolina 29927

Dear Betty:

You have requested an Opinion from this Office with respect to the following particulars:

1. Must a Town or municipality bear the dieting expenses of prisoners placed within the county jail when such prisoners are so placed by Town or Municipal law enforcement officers pending trial in the Circuit Court of General Sessions?
2. Is a Town entitled to a portion of the fines collected in the Circuit Court of General Sessions for those cases in which the Town law enforcement officers made the arrest and developed the case for prosecution?

An Opinion issued by this Office on February 27, 1979, is responsive to the first issue you have posed. Sheriffs, their deputies, and patrolmen and officers of the South Carolina Highway Patrol are authorized to make arrests for violations of State, County, and municipal law. [Sections 23-15-50, 23-13-20, 23-5-40, Code of Laws of South Carolina \(1976\)](#).

The sheriff has custody of the county jail and shall receive and safely keep in prison any person delivered or committed to him. [Section 24-5-10, Code of Laws of South Carolina \(1976\)](#). Convicted persons are in the custody of the Board of Corrections of South Carolina. [Section 24-3-20, Code of Laws of South Carolina \(1976\)](#). Therefore, it appears that the county jail is the general jail for the incarceration of pre-trial detainees and that the county authorities are responsible for the custody and safe keeping of the prisoners.

[Section 14-17-720, Code of Laws of South Carolina \(1976\)](#) is responsive to the final issue:

All fines and penalties imposed and collected by the circuit court of general sessions in criminal cases shall be forthwith turned over by the clerk of such court to the county treasurer of the county wherein the same are imposed; provided that when, by law; any person is entitled as informer to any portion of the fine or penalty imposed and collected the same shall be immediately paid over to him. They shall also pay, monthly, to the county treasurers of their respective counties, for the use of the State, all such moneys as may have come into their hands as taxes from persons representing, publicly, plays and shows within the limits of their counties.

Under the aforementioned statutory provision, it is clear that Towns or Municipalities are not entitled to share in any of the fines imposed by the Circuit Court of General Sessions.

It is therefore the Opinion of this Office that the custody and safe keeping of prisoners placed within the county jail are the responsibility of county authorities, unless Town or Municipal authorities have entered into an agreement to the contrary.

It is also the Opinion of this Office that the Town of Hardee-ville is not entitled to a portion of the fines imposed by the Circuit Court of General Sessions. [§ 14-17-720, Code of Laws of South Carolina \(1976\)](#).

Sincerely,

*2 Wayne G. Carter, Jr.
Staff Attorney

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