

1979 WL 43600 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 20, 1979

\*1 Honorable Larry D. Smith  
Office of the Sheriff  
Spartanburg County  
Spartanburg, South Carolina 29301

Dear Sheriff Smith:

In a letter to this Office you raised the following questions:

1. Can a civil service commission be established under the direction of the Sheriff, without the establishment of a separate county police system not under the Sheriff's control?
2. If a civil service commission could be established, how would this affect the authority of the Sheriff as given under state law, and could later administrations abolish the system once established if they so desired?

As to the establishment of a civil service commission pertaining to deputy sheriffs generally, I am unaware of any State statutory provisions specifically authorizing such a commission. Moreover, as to the establishment of any system which would attempt to regulate the employment of deputy sheriffs, the decision of the South Carolina Supreme Court in Rhodes v. Smith, Op. No. 20919, filed March 21, 1979 which referenced [Section 23-13-10, Code of Laws of South Carolina](#), 1976, is pertinent. Such section provides:

'The sheriff may appoint one or more deputies to be approved by the judge of the circuit court . . . Such appointment shall be evidenced by a certificate thereof, signed by the sheriff, and shall continue during his pleasure.'

In Rhodes, the court held that ' . . . a deputy sheriff in South Carolina serves at the 'pleasure' of the sheriff.'

With reference to the above, it appears that while general employment guidelines pertaining to deputy sheriffs which would reference such matters as promotion, demotion, and dismissal could be provided, such a system could not infringe on a sheriff's apparent wide discretion as to employment of deputies generally. It would appear therefore that in light of such provision indicating that deputy sheriffs serve at the pleasure of the sheriff, as long as such officers are regularly appointed deputy sheriffs, any civil service commission or board however constituted regulating the employment of deputy sheriffs would be inappropriate.

As to the matter of the establishment of a county police system, presumably inasmuch as the establishment of such a system would have a direct bearing on a sheriff's department, your attention is directed to [Section 4-9-30\(5\) of the Code of Laws of South Carolina](#), 1976, which provides for a referendum prior to any such action which would result in reorganization or restructuring of the sheriff's department. However, if a county police system did come into being, presumably pursuant to [Section 4-9-30\(6\) and \(7\)](#), a commission or board could be established to oversee personnel matters affecting such a police system.

As to your question concerning the effect on a successor sheriff of any actions taken by you affecting deputy sheriffs, in keeping with Rhodes, supra., and [Section 23-13-10, supra.](#), inasmuch as a deputy sheriff 'serves at the 'pleasure' of the sheriff', apparently any actions taken by you could be ignored by a successor sheriff.

\*2 Hopefully the above is in full response to your inquiry.

With best wishes, I am

Sincerely,

Charles H. Richardson  
Assistant Attorney General

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