

1978 WL 34870 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 24, 1978

*1 Honorable W. D. Grimsley

Honorable Billy E. Taylor
Members
Richland County Council
Route 1, Box 516
Columbia, South Carolina 29203

Gentlemen:

You have requested an opinion from this Office as to whether or not the letter attached to your request violates [Section 4-9-660, CODE OF LAWS OF SOUTH CAROLINA](#), 1976. In my opinion, it does as hereinafter discussed.

[Section 4-9-660 of the 1976 Code](#) of Laws provides as follows:

Except for the purposes of inquiries and investigations, the council shall deal with county officers and employees who are subject to the direction and supervision of the county administrator solely through the administrator, and neither the council nor its members shall give orders or instructions to any such officers or employees.

The letter attached to your request is a notification to 'All Department Heads and Magistrates' to the effect that the department heads and magistrates are advised to write to either of you if their employees did not receive at least a five (5%) per cent pay raise or if they 'feel that [they] have been discriminated against,' and that you will then bring the matter before the Richland County Council (Council) in their behalf.

To the extent that 'department heads' include elected officials, I think that the Council is not restricted by the provisions of [Section 4-9-660](#) from dealing with them directly because that Section is expressly limited to those officers and employees 'who are subject to the direction and supervision of the county administrator.' Elected officials are not so subject according to [Section 4-9-650 of the Code](#):

With the exception of organizational policies established by the governing body, the county administrator shall exercise no authority over any elected officials of the county whose offices were created either by the Constitution or by the general law of the State.

Those elected officials include, *inter alia*, the sheriff, the coroner, the solicitor, the auditor, the treasurer, the clerk of court and, most probably, magistrates. Moreover, to the extent that 'department heads' include appointed county officials, the Council is not prohibited by the provisions of [Section 4-9-660](#) from dealing with them directly for the purpose of 'inquiries.'

While the letter which you propose to send may be characterized as an inquiry, it also appears to do more than merely inquire in that it advises that both of you will take action if certain information is obtained. Be that as it may, however, the reason that the letter is not, at least, in my opinion, an authorized one is that it comes not from the Council but, instead, from only two members thereof. [Section 4-9-660](#) speaks of 'the council' with reference to the exception as to inquiries and investigations. The term 'council' does not include the individual members thereof insofar as it defines

who is authorized to conduct inquiries and investigations. Especially is this intent clear when the succeeding language of [Section 4-9-660](#) is compared to wit: While the 'council' can conduct inquiries and investigations, neither the council 'nor its members' [emphasis added] is to give orders or instructions to county officials and employees who are subject to the direction and supervision of the county administrator. If the intent had been to allow the council or its members to conduct inquiries and investigations, the General Assembly would have used the same language that it used with respect to the giving of orders or instructions. Since it did not, its intent had to be to authorize the council as a whole to conduct inquiries and investigations. Inasmuch as the letter attached to your request does not represent an inquiry from the Richland County Council as a whole, I think that it is not authorized by the provisions of [Section 4-9-660 of the 1976 Code](#).

With kind regards,

*2 Karen LeCraft Henderson
Senior Assistant Attorney General

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