Sheriff must use profits from operation of local jail canteen within jail facility for specific purposes that benefit inmates; denotation of profits to volunteer rescue squad that provides medical assistance to inmates is not proper expenditure of funds and is not permitted under Virginia law.

The Honorable W. Edward Meeks III
Commonwealth Attorney for Amherst County
April 3, 1996

You ask whether a sheriff may donate funds from the net proceeds of the operation of a canteen at a local jail to a volunteer rescue squad.

You advise that the sheriff operates a canteen at the local jail pursuant to § 53.1-127.1 of the Code of Virginia. You also advise that the sheriff maintains a separate fund comprised of net profits from the operation of the canteen, and that the sheriff seeks to donate $2,500 from the profits to the local nonprofit volunteer rescue squad that provides medical attention to inmates at the jail. The sheriff asserts that because the rescue squad provides emergency services and medical attention to the jail inmate population, the provisions of § 53.1.127.1 allow for the donation to the rescue squad.

You conclude that § 53.1.127.1 provides the sheriff with sufficient discretion to determine the purposes for which the canteen fund will be used to benefit the inmates. You have suggested that a strict interpretation of the phrase "within the facility" in § 53.1.127.1 would require that such funds be spent or used for activities or programs within the jail facility, which is further supported by the fact that any services provided by the volunteer rescue squad are on a volunteer basis and are not contractual based on the donation.

A primary principle of statutory construction dictates that statutes are to be read in accordance with their plain meaning and intent. Statutes may be construed only where there is an ambiguity. Otherwise, the clear and unambiguous words of the statute must be accorded their plain meaning. Another principle of statutory construction dictates that when a statute creates a specific grant of authority, the authority exists only to the extent specifically granted in the statute. Moreover, the mention of one thing in such a statute implies the exclusion of another.

The language of § 53.1.127.1 is clear and unambiguous, and therefore does not require construction. Section 53.1.127.1 clearly states that a sheriff "shall" use the net profits from a store or commissary within a jail only for "educational, recreational or other purposes" that benefit the inmates. In addition, the use of the word "shall" indicates that the General Assembly does not intend for such funds to be used for any other purpose.
While the services provided by a volunteer rescue squad may at some time be beneficial to some of the jail inmates, the donation of canteen profits to a rescue squad is not a direct benefit for all of the inmates. Indeed, there may never be a need for the rescue squad to serve some of the jail inmates. In addition, a donation is not a direct payment for services, since the rescue squad would perform needed services for the jail regardless of any donation. Finally, since the sheriff specifically is empowered to spend the canteen funds only within the facility, it is my opinion that a donation to an organization outside the jail is not permitted.

Therefore, I am of the opinion that a donation to a volunteer rescue squad of the profits from the operation of a jail canteen is not a proper expenditure of such funds and is not permitted under existing Virginia law.

1Section 53.1127.1 provides: "Each sheriff who operates a correctional facility is authorized to provide for the establishment and operation of a store or commissary to deal in such articles as he deems proper. The net profits from the operation of such store shall be used within the facility for educational, recreational or other purposes for the benefit of the inmates as may be prescribed by the sheriff. The sheriff shall be the purchasing agent in all matters involving the commissary and nonappropriated funds received from inmates."

2Section 2.1118 requires that "any opinion request to the Attorney General, by an attorney for the Commonwealth shall itself be in the form of an opinion embodying a precise statement of all facts together with such attorney's legal conclusions."


