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Opinion No 86-79
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July 11, 1986

William K. Charles, III, Esquire
Greenwood City Attorney
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Dear Mr. Charles:

In a letter to this Office you requested an opinion regarding the authority of Greenwood police officers to assist in the investigation of accidents and the control of traffic instant to a traffic accident at an intersection which is located just outside the city limits of Greenwood.

Generally, pursuant to Section 17-13-40 of the Code:

(t)he police authorities of all towns and cities of this State may make arrests of all offenders against the municipal ordinances and statutes of this State committed within the corporate limits or at any place within a radius of three miles of the corporate limits, with or without a warrant, when such police authorities are in pursuit of such offender.

Such provision is consistent with Section 5-7-110 of the Code which provides for the appointment of municipal police officers generally. Such statute further states:

... (a)ny such police officers shall exercise their powers on all private and public property within the corporate limits of the municipality and on all property owned or controlled by the municipality wheresoever situated;

However, such statute also states that a municipality may provide by contract police protection beyond its corporate limits. A municipality may enter into such a contract with any public utility, agency or other private business outside the corporate limits of the municipality.

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Several other statutes also authorize law enforcement activity by municipal police officers outside their regular jurisdiction in certain instances. Pursuant to Section 23-1-210 of the Code, the intra-state transfer of municipal law enforcement officers on a temporary basis is authorized. Such statute specifically provides that:

any municipal ... law enforcement officer may be transferred on a temporary basis to work in law enforcement in any other municipality or county in this State under the conditions set forth in this section, and when so transferred shall have all powers and authority of a law enforcement officer employed by the jurisdiction to which he is transferred.

Such provision states that prior to such a transfer, a written agreement must be entered into by the affected jurisdictions. Section 5-7-120 of the Code authorizes law enforcement officers to respond in cases of emergency to another municipality upon request. Such provision states:

(w)hen law enforcement officers are sent to another municipality pursuant to this section, the jurisdiction, authority, rights, privileges and immunities, including coverage under the workmen's compensation laws, which they have in the sending municipality shall be extended to and include the area in which like benefits and authorities are or could be afforded to the law enforcement officers of the requesting political subdivision.

Such section further provides that such officers who respond to requests for assistance have the same law enforcement authority as possessed by the law enforcement officers in the political subdivision which requests assistance.^{1/} In an opinion dated

^{1/} As to what circumstances would constitute an "emergency" as used in Section 5-7-120, an opinion of this Office dated December 5, 1983 referenced the following definitions:

(t)he term 'emergency' is 'an unusual or abnormal condition beyond the control of the [requesting municipality] and a condition

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February 15, 1985 this Office determined that in such circumstances such officers would have the law enforcement authority established by Section 17-13-40 referenced above when responding to requests for assistance. This Office also recognized in a June 20, 1984 opinion that Sections 8-12-10 et seq. of the Code "... would permit the interchange of local governmental employees, such as sheriffs' deputies, between the counties." Consistent with such, Section 8-21-10 et seq. would also permit the interchange of city police officers.

In an opinion dated May 17, 1978, this Office referencing Section 6-1-20, Code of Laws of South Carolina, 1976, and Article VIII, Section 13 of the South Carolina Constitution determined that:

(t)he ability of political subdivisions to enter into an agreement for the joint administration, responsibility and sharing of the costs of services with other political subdivisions is granted ... (R)eadng these ... sections in conjunction enables an incorporated municipality to enter into a contractual arrangement with a county to provide law enforcement services to the municipality.

Referencing the above, it is clear that there is specific authority for a law enforcement officer to act outside his jurisdiction in certain circumstances. However, it is clear that implicit in any such authorization is the requirement that there be agreement between the two affected jurisdictions.

In an opinion dated October 10, 1978 this Office dealt with the question of whether a municipal police officer would be within legal limits if he was dispatched by a civilian dispatcher

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beyond [its] reasonable power to remove or overcome. It may arise from causes other than casualty or unavoidable accident or act of God ... Our Supreme Court has used the definition from Websters' New International Dictionary to define 'emergency' as 'an unforeseen occurrence or combination of circumstances which calls for immediate action or remedy; pressing necessity; exigency

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to go outside his municipal jurisdiction to answer a call prior to the arrival of other agencies having jurisdiction. The opinion noted the provisions of Section 17-13-40 which, as referenced, authorize a police officer to act beyond the limits of his municipality. The opinion noted that this section is specific in its requirement that the officer be in "pursuit" of a person who has violated a municipal ordinance, and that the officer's jurisdiction extends within only a three (3) mile radius of the corporate limits. Therefore, the opinion concluded that if a municipal police officer should answer a call outside his municipal jurisdiction, exclusive of the above situation, he would have no authority to make an arrest or to take any action in the matter, other than action of a non-legal nature such as to call in an officer who does have jurisdiction in the matter. It was advised that the municipal police officer would be best advised not to answer a call outside his jurisdiction, and instead to notify immediately the law enforcement agency having jurisdiction over the matter.

The October 10, 1978 opinion also dealt with the question that if a municipal police officer is called out of his jurisdiction by a deputy sheriff or highway patrolman to assist on a call, is his legal jurisdiction extended and in case of liability, would it be imposed on his surety or the requesting agency's surety. The opinion concluded that:

... (b)ecause of the express limitations of Section 17-13-40 ... the jurisdiction of the municipal officer could not be extended simply by virtue of a call from another officer outside the municipality. Unless some other express authority exists which would allow such a practice, ... the municipal officer would be beyond his authority. As such, the surety of the municipal officer would be liable for any damages resulting from actions taken by the officer, even though the officer's assistance was requested by another law enforcement agency....

Referencing the above, whether or not a Greenwood city police officer could exercise law enforcement authority outside the city limits and assist in the investigation of accidents and the control of traffic instant to a traffic accident at an intersection located just outside the city limits would depend on whether the officer was in pursuit of an offender or whether an agreement between jurisdictions pursuant to one of the referenced statutory provisions existed by which an officer was specifically authorized to act outside his jurisdiction. As

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indicated above, unless such a basis existed, a law enforcement officer's actions outside his jurisdiction would be limited to those of a non-legal nature. Any actions beyond such could subject a municipality to liability and, thus, should be avoided.

If there are any questions, please advise.

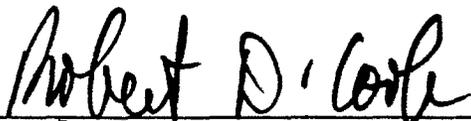
Sincerely,



Charles H. Richardson
Assistant Attorney General

CHR/an

REVIEWED AND APPROVED BY:



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