



ALAN WILSON
ATTORNEY GENERAL

October 4, 2021

Scott Stoller
Chief of Police
Town of West Pelzer
30 Main Street
West Pelzer, SC 29669

Dear Chief Stoller:

We received your request for an opinion of this Office concerning law enforcement jurisdiction on property leased by the Town of West Pelzer (the "Town"), but not within its municipal limits. You state:

The Town of West Pelzer has executed a long-term lease of property along the Saluda River, approximately 0.75 miles outside of our town limits, still in Anderson County. This property is under development by the Town as a nature and riverfront recreation area. This property is under the control and maintenance of the Town.

With this information, you ask the following three questions:

1. As we, the Town, are leasing the property and responsible for its upkeep, does the West Pelzer Police Department have jurisdiction on this property? If so, what about the adjacent roadway and to what extent?
2. If not, since the property does not fall within any Town or City jurisdiction, and should we desire to execute jurisdiction on that property, would the proper method be a memorandum of agreement or mutual aid agreement with Anderson County Sheriff's Office, or the actual landlord/owner of the property?
3. If question one is in the affirmative, would enforcement actions be tried in our municipal court or through the Anderson County Magistrate, unless they rose to the level of General Sessions Court?

Law/Analysis

A. West Pelzer Police Department Jurisdiction

We begin with the premise, “[t]he jurisdiction of a municipal police officer, absent statutory authority, generally does not extend beyond the territorial limits of the municipality.” State v. Harris, 299 S.C. 157, 159, 382 S.E.2d 925, 926 (1989) (citing 62 C.J.S. Municipal Corporations § 574, p. 1108 (1949 & Supp.1988)). Several statutes give municipal police officers jurisdiction beyond their territorial limits. Section 5-7-110 of the South Carolina Code (2004) states municipal 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; provided, that the municipality may contract with any public utility, agency or with any private business to provide police protection beyond the corporate limits.” (emphasis added). In a 1989 opinion issued by this Office, we considered whether municipal law enforcement has jurisdiction over property leased by a municipality, but located outside of the municipality’s corporate boundaries. Op. Att’y Gen., 1989 WL 406195 (S.C.A.G. Oct. 2, 1989). We cited to section 5-7-110 and determined such property “could be considered as being within the ‘control’ of the municipality so as to bring it within the provisions of Section 5-7-110.” Id. (quoting S.C. Code Ann. § 5-7-110). As such, we opined “municipal police officers would be empowered to exercise law enforcement authority over property leased by their municipality.” Id.

Per your letter, the leased property is under control of the Town. Accordingly, we believe the West Pelzer Police Department (the “Department”) would have jurisdiction in the leased property even though it is located outside of the Town’s corporate limits.

You also ask about jurisdiction in the adjacent roadways to such property. Again, absent some express authority, municipal law enforcement does not have jurisdiction outside the municipal limits. Section 5-7-155 of the South Carolina Code (2004) gives police jurisdiction over certain streets and highways that run along municipal boundaries.

If any portion of a street or highway is within the boundary of a municipality, the right of way of the street or highway not within the municipal boundary but touching the boundary is nevertheless considered to be within the boundary of that municipality for purposes of its police jurisdiction.

A street or highway which serves as the boundary between municipalities is under the police jurisdiction of both municipalities regardless of the municipality in which the street or highway is located.

S.C. Code Ann. § 5-7-155. However, this provision is limited to streets and highways that run along municipal boundaries. As we stated in a 1996 opinion, “The necessary inference of §5-7-155 is that the police jurisdiction over streets or highways would be those streets or highways located in the municipality and those streets or highways touching the municipal boundary, but not

those streets otherwise beyond the municipal boundary.” Op. Att’y Gen., 1996 WL 679468 (S.C.A.G. Oct. 15, 1996).

Your letter ask about property completely outside of the Town’s municipal boundaries. While we believe the area leased by the Town is within the Police Department’s jurisdiction, we do not believe section 5-7-155 allows for that jurisdiction to extend to the adjacent roadways.

B. Mutual Aid Agreements

We believe section 5-7-110 allows gives the Police Department jurisdiction over property leased by the Town. But, we also recognize the Town may also enter into agreements with Anderson County, as well as private business owners, to provide police protection for areas outside of its corporate boundaries. Section 5-7-110 allows a municipality to contract with “any public utility, agency or with any private business to provide police protection beyond the corporate limits,” but requires “the legal description of the area to be served shall be filed with the State Law Enforcement Division, the office of the county sheriff and the Department of Public Safety.” S.C. Code Ann. § 5-7-110. In 2000, this Office opined “an express provision of S.C. Code Ann. § 5-7-110 allows a municipality to enter into an arrangement with a private business or public agency to provide police protection outside the city limits, assuming all the filing requirements have been met.” Op. Att’y Gen., 2000 WL 1205934 (S.C.A.G. Aug. 1, 2000).

In addition to section 5-7-110, section 13 of article VIII of the South Carolina Constitution (2009) allows for counties, municipalities, and other political subdivisions to enter into agreements for “the joint administration of any function and exercise of powers and the sharing of costs thereof.” Moreover, section 6-1-20 of the South Carolina Code (2004) provides:

Local governments, including counties, municipalities and special service districts, may enter into contractual agreements with each other to provide joint public facilities and services when considered mutually desirable.

The governing body of each local government entering into such agreements for joint public facilities and services shall approve the contractual agreement and be parties thereto.

The provisions of this section shall not be construed to restrict the powers of the participating local governments nor permit the levy of taxes not otherwise authorized by law.

In prior opinions, we interpreted this provision as allowing law enforcement officers to act outside of their jurisdiction, but clarified “it is clear that implicit in any such authorization is the requirement that there be agreement between the two affected jurisdictions.” Op. Att’y Gen., 1987 WL 342752 (S.C.A.G. Apr. 9, 1987).

In addition, section 5-7-30 of the South Carolina Code (Supp. 2020), gives municipalities

the authority to provide police protection in contiguous municipalities and in unincorporated areas located not more than three miles from the municipal limits upon the request and agreement of the governing body of such contiguous municipality or the county, including agreement as to the boundaries of such police jurisdictional areas, in which case the municipal law enforcement officers shall have the full jurisdiction, authority, rights, privileges, and immunities, including coverage under the workers' compensation law, which they have in the municipality, including the authority to make arrests, and to execute criminal process within the extended jurisdictional area; provided, however, that this shall not extend the effect of the laws of the municipality beyond its corporate boundaries;

S.C. Code Ann. § 5-7-30. Based on these provisions, the Town also has the authority to enter into agreements with both public and private business entities to provide police protection so long as an agreement is made to provide such services beyond its corporate boundaries.

C. Court Jurisdiction

Lastly, you ask if the Department has jurisdiction over the leased property, which court would have jurisdiction over the offenses committed on such property, assuming they are not general sessions offenses. As we concluded above, we believe the Department has jurisdiction over the leased property based on its control over such property. As such, we now consider whether the municipal court or the Anderson County Magistrate would preside over any enforcement actions that arise out of incidents on the leased property.

We addressed a similar issue in a 2002 opinion. Op. Att'y Gen., 2002 WL 735349 (S.C.A.G. Apr. 3, 2002). In that opinion, a town and a county agreed to give the town's police department jurisdiction up to three miles outside of the town's limits based on sections 5-7-30 and 5-7-110 of the South Carolina Code. Id. We noted section 5-7-30, in addition to giving the municipality authority to provide police protection outside of its boundaries upon agreement with the county, also states "'this shall not extend the effect of the laws of the municipality beyond its corporate limits.'" Id. (quoting S.C. Code Ann. § 5-7-30). Additionally, we stated while section 5-7-110 allows municipalities to provide police protection outside their corporate boundaries,

this Office has consistently opined that ". . . the jurisdiction of the municipal court consists of offenses committed within the corporate limits of the municipality . . . [and] . . . the corporate limits of a municipality are considered as the limits of the territorial jurisdiction of municipality courts." See OP. ATTY. GEN. (Dated May 14, 1996). Further, we opined that "the three mile limit of authority to make arrests granted an officer . . . does not affect the territorial jurisdiction of a municipal court." Id.

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Accordingly, as neither the authority to arrest nor Section 5-7-30 can extend the territorial jurisdiction of the municipal court, it is my opinion that the magistrate's court "would have jurisdiction in the 3-mile limit" referenced in your request.

Id. Similarly, we believe that an incident occurring on property leased by the Town would come before the Anderson County Magistrate as opposed to the municipal court.

Conclusion

Generally, jurisdiction of a municipal police officer does not extend beyond the corporate boundaries of the municipality unless specifically provided for statute. Harris, 299 S.C. at 159, 382 S.E.2d at 926. However, section 5-7-110 allows municipal police to exercise their powers "on all property owned or controlled by the municipality wheresoever situated" In your letter, you informed us that property leased by the Town is under its control. As such, we believe section 5-7-110 allows the Department to have jurisdiction over the leased property. But, we do not find a statutory provision allowing this jurisdiction to extend beyond the leased property to its adjacent roadways.

While we believe section 5-7-110 allows the Department to have jurisdiction over the leased property due to its control over such property, we also recognize section 5-7-110 gives the Town authority to enter into agreements with both private business and public agencies to provide police protection outside of its corporate boundaries. In addition, section 13 of article VIII of the South Carolina Constitution, section 6-1-20 of the South Carolina Code, and section 5-7-30 of the South Carolina Code allow municipalities to enter into agreements with adjacent municipalities and counties to provide police protection outside of their corporate boundaries.

Finding the Department has jurisdiction under section 5-7-110 of the South Carolina Code, consistent with prior opinions of this Office, we do not find that the extension of municipal police jurisdiction also allows for an extension of the municipal court's jurisdiction. Municipal court jurisdiction consists of only offenses committed within the corporate boundaries. As such, we believe offenses, which do not rise to the level of a general sessions offense, committed on the leased property would be tried by the Anderson County Magistrate.

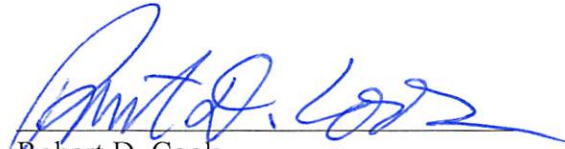
Sincerely,



Cydney Milling
Assistant Attorney General

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REVIEWED AND APPROVED BY:

A handwritten signature in blue ink, appearing to read "Robert D. Cook", is written over a horizontal line.

Robert D. Cook
Solicitor General