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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

February 4, 2004

Thomas M. Boulware, Esquire
Attorney for the City of Barnwell
and the Town of Williston
Post Office Box 248
Barnwell, South Carolina 29812

Dear Mr. Boulware:

In a letter to this office you raised several questions regarding S.C. Code Ann. Section 17-13-45 (2003) which states

When a law enforcement officer responds to a distress call or a request for assistance in an adjacent jurisdiction, the authority, rights, privileges, and immunities, including coverage under the workers' compensation laws, and tort liability coverage obtained pursuant to the provisions of Chapter 78, Title 15, that are applicable to an officer within the jurisdiction in which he is employed are extended to and include the adjacent jurisdiction.

In responding to your question, several principles of statutory construction are relevant. First is the fundamental rule of construction that requires that legislative intent must be ascertained and given effect. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). Such legislative intent must prevail if it can reasonably be discovered from the language used. The legislative wording is construed in light of the General Assembly's intended purpose. State ex re. McLeod v. Montgomery, 244 S.C. 308, 136 S.E.2d 778 (1964). The statute as a whole must receive a reasonable, practical and fair interpretation consistent with the purpose, design and policy of the lawmakers. Caughman v. Columbia Y.M.C.A., 212 S.C. 337, 47 S.E.2d 788 (1948). In determining the meaning of a statute, it is proper to consider other statutory provisions relating to the same subject matter. Southern Railway Company v. S.C. State Highway Department, 237 S.C. 75, 115 S.E.2d 685 (1960).

Several state statutes allow for expanded jurisdiction for law enforcement officers outside of their regular jurisdictions. See: S. C. Code Ann. Section 23-1-210 (1989) (temporary transfer of law enforcement officer to work in another municipality or county); S.C. Code Ann. Section 23-1-215 (1989) (agreements authorized between multiple law enforcement agencies for purpose of criminal investigation); S.C. Code Ann. Section 17-13-40 (2003) (expanded law enforcement jurisdiction when in pursuit of offender); S.C. Code Ann. Section 5-7-120 (Supp. 2003)

(municipalities authorized to send law enforcement officer to other political subdivisions upon request in emergency situations). In an opinion of this office dated January 19, 1998, it was determined that Section 17-13-45 was "...another statute which extends police jurisdiction to respond to distress calls from an adjacent jurisdiction." In an opinion of this office dated May 17, 2001 it was determined that pursuant to Section 17-13-45, a municipal officer would be authorized to respond to a distress call from a highway patrolman. The opinion commented that "(a)s the language of Section 17-13-45 places no limitation on the source of the distress call, a municipal officer would be authorized to respond to such a call from a highway patrolman." Therefore, these opinions indicate that Section 17-13-45 serves as a basis for expanded territorial jurisdiction of a law enforcement officer.

You first asked whether or not there are any jurisdictional limitations placed upon a municipal police officer to respond to a "distress call" from an adjacent jurisdiction or a "call for assistance". You indicated that the only adjacent jurisdiction to the City of Barnwell would be Barnwell County since no municipality joins the City of Barnwell. You asked whether Section 17-13-45 allows a municipal police officer from the City of Barnwell to go into the county to answer a distress call or call for assistance but not to enter the incorporated town limits of any other county municipality. As provided by Section 17-13-45, a law enforcement officer is authorized to respond to a distress call or a request for assistance in an adjacent jurisdiction. The term "adjacent" was defined in an opinion of this office dated April 6, 1995 as "near to or neighboring." Black's Law Dictionary defines the term "adjacent" as "lying near or close to; sometimes, contiguous; neighboring...Adjacent implies that the two objects are not widely separated, though they may not actually touch." Consistent with such, it appears that the County of Barnwell could be considered an "adjacent jurisdiction" to the City of Barnwell. If no other municipalities are considered close by or neighboring, it appears that such municipalities would not come within the definition of an "adjacent jurisdiction". Therefore, consistent with the above, a Barnwell city police officer would be authorized to go into the county to answer a distress call but would not be authorized to respond to such calls from other incorporated towns within Barnwell County. Of course, the other statutory provisions such as those cited previously may be an appropriate basis to allow for expanded police jurisdiction in such circumstances.

As to your question regarding whether a municipal police officer could respond to a distress call or call for assistance from a central dispatch, Section 17-13-45 is silent as to how such distress calls are generated. However, it appears that distress calls would not necessarily be limited to calls from an officer but may be generated by a central dispatch in order to be effective. As noted previously, this office has issued an opinion that a municipal police officer would be authorized to respond to a distress call from a highway patrolman. As to your question regarding whether Section 17-13-45 allows an off-duty municipal police officer to respond to a distress call, I am unaware of any restriction in such provision limiting its applicability to officers on duty. Therefore, it is my opinion that an off-duty municipal police officer could respond to a distress call. As to whether a response to an assistance call is discretionary or mandatory, absent some understanding between the affected jurisdictions that a response would be mandatory, I am unaware of any basis to indicate that

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a response is mandatory. Instead, it appears that a response to such a call would be discretionary with the individual officer.

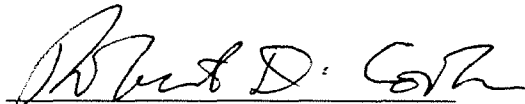
With kind regards, I am,

Very truly yours,



Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General