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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

November 15, 2004

Investigator Amy S. Prock
Myrtle Beach Police Department
Narcotics & Vice Unit, Supervisor
1101 Oak Street
Myrtle Beach, South Carolina 29577

Dear Investigator Prock:

In a letter to this office you indicated that your agency is seeking to utilize state seized drug funds that have been awarded to your agency for a law enforcement team that would focus their efforts on saturating identified drug problems in the City of Myrtle Beach. You referenced that:

The officers would work with the community to provide enforcement for drug offenses and deter the criminal element from continuing their enterprise. The detail would be independent from the officer's normal duties, and above and beyond what we could normally offer the community during the normal course of business. The assignments would focus solely on operations geared towards drug interdiction and investigation.

S.C. Code Ann. § 44-53-530 (2002) states:

(g) All forfeited monies and proceeds from the sale of forfeited property as defined in Section 44-53-520 must be retained by the governing body of the local law enforcement agency or prosecution agency and deposited in a separate, special account in the name of each appropriate agency. These accounts may be drawn on and used only by the law enforcement agency or prosecution agency for which the account was established. For law enforcement agencies, the accounts must be used for drug enforcement activities and for prosecution agencies, the accounts must be used in matters relating to the prosecution of drug offenses and litigation of drug-related matters. (emphasis added).

Prior opinions of this office have addressed the use of drug forfeiture funds in various scenarios. An opinion of this office dated July 10, 1997 referenced several other prior opinions of this office in indicating that:

In Op. Atty. Gen., Op. No. 92-74 (December 3, 1992), we commented...(that)... any examination of the use of drug forfeiture funds obviously involves a case by case analysis. For instance, an opinion of this Office dated August 1, 1991 determined that to the extent a law enforcement training center is not used directly or indirectly for drug enforcement activities, drug forfeiture funds could not be used for the center. Another opinion of this Office dated August 19, 1991 dealt with the question of whether handguns for deputies could be purchased from funds derived from drug forfeitures and seizures. The inquiry stated that as to the small law enforcement agency involved, each and every law enforcement officer was involved in drug arrests, eradication and/or deterrent activities. The opinion, referencing the involvement in drug arrests and enforcement, determined that drug forfeiture funds could be used to purchase handguns for the deputies. That same opinion concluded that the purchase of automobiles for a traffic safety program to be funded by a federal grant, was not a use for drug enforcement activities. While one of the purposes of the program was to "decrease the use of rural roads for drug trafficking activities" there was no doubt that the principal and overriding objective of such program was traffic safety. We thus stated:

[a]s referenced above, it appears that while a purpose of the program at issue does include decreasing drug trafficking on rural roads, the primary intent of the program is traffic safety. As a result, it does not appear that funds which "may be drawn on and used only ... for drug enforcement activities" could be utilized to purchase vehicles which would be used in the program.

And in an Informal Opinion dated December 9, 1996...(this office)...concluded that a radar unit could be purchased with drug forfeiture funds because of the strong connection between the use of radar and the interception of drugs being transported on the highways....(The opinion)...recognized that a traffic control device such as radar also serves an important purpose in narcotics interdiction.....

The December 3, 1992 opinion referenced above concluded that as to the utilization of such funds for the purchase of automobiles,

...it appears that while a purpose of the program at issue does include decreasing drug trafficking on rural roads, the primary intent of the program is traffic safety. As a result, it does not appear that funds which may be drawn on and used only for drug enforcement activities could be utilized to purchase vehicles which would be used in the program.

Therefore, these opinions indicate that, consistent with Section 44-53-530(g), funds generated from drug forfeitures may be used by law enforcement agencies only for activities centered around drug enforcement but may not be used for other extraneous purposes not specifically tied to drug

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enforcement. Consistent with such, in my opinion the drug forfeiture funds referenced by you could be utilized for the program you are proposing that would be focused on saturating identified drug problems in the City of Myrtle Beach.

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