



HENRY McMASTER  
ATTORNEY GENERAL

August 25, 2006

The Honorable Jay Hodge  
Solicitor, Fourth Judicial Circuit  
121 Market Street  
Cheraw, South Carolina 29520

Dear Solicitor Hodge:

In a letter to this office you indicated that three different municipalities in Chesterfield County have approached the Sheriff of Chesterfield County asking him to consider assuming police duties in each town. You have questioned whether in assuming such additional duties, how may the Sheriff receive additional compensation.

Prior opinions of this office have recognized that a sheriff is the chief law enforcement officer of a county. See: Ops. dated April 20, 2006 and March 8, 1989. As noted in a prior opinion of this office dated March 1, 2005, a sheriff's jurisdiction encompasses his entire county. An opinion of this office dated November 6, 1992 stated that

[t]he general law in this State presently requires a sheriff and his deputies to patrol their county and provide law enforcement services to its citizens. Such is consistent with...(his)...status as the chief law enforcement officer of a county.

Another opinion of this office dated July 9, 1998 similarly commented that "since the sheriff is a county officer, his authority extends over the entire county and includes all...(political subdivisions)...within his county." An opinion dated May 17, 2001 determined that "...the sheriff would technically have jurisdiction (concurrent with the municipal police department) over any violation of state law occurring within the municipality." See also: S.C. Code Ann. § 23-13-70 (duty of deputy sheriffs to patrol the entire county).

As to a sheriff's law enforcement obligations regarding a municipality, an opinion of this office dated May 20, 1996 indicated that a sheriff "...as a county official, is not generally considered to be obligated to provide specific service within a municipality, but is authorized to offer contract law enforcement service to a municipality." An earlier opinion of this office dated May 17, 1978 had

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similarly concluded that a sheriff's department could contract with a municipality to provide police protection stating that

[t]here are currently no state statutes which would prevent...(a)...sheriff's department from offering contract law enforcement services to municipalities within...(that same county)...The 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 by Article VIII, Section 13 of the South Carolina Constitution and Section 6-1-20...I believe reading these above sections in conjunction enables an incorporated municipality to enter into a contractual arrangement with a county to provide law enforcement services to a municipality...There are currently no state statutes which would preclude a municipality from making an appropriation in its budget for payment of law enforcement services to the county general fund with later disbursement to the sheriff's department.

With regard to the payment by a municipality for the services of the sheriff, the May 17, 1978 opinion noted that "[e]nabling legislation would be necessary in order for the municipality to pay the funds directly into the sheriff's department county budget account. It is clear that a county treasurer is to receive, maintain and disburse all county funds."

The previously referenced opinion dated November 6, 1992 quoting another prior opinion of this office dated April 11, 1985 stated that

...while a county and county officials are not as a general matter obligated to perform services within the corporate limits of a city, the General Assembly has provided by statute for municipal residents to contract for county services in certain situations. Section 4-9-40 of the Home Rule Act authorizes a county to "perform any of its functions, furnish any of its services within the corporate limits of any municipality, situated within the county, by contract with any individual, corporation or municipal governing body, subject always to the general law and the Constitution of this State regarding such matters."

That opinion concluded that

...while a sheriff, as chief law enforcement officer of a county is statutorily obligated to patrol his county, which presumably would include a municipality within that county, a sheriff, as a county official, is not generally considered to be obligated to

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provide specific services within a municipality. However, a sheriff could contract law enforcement services to a municipality.<sup>1</sup>

It is clear, therefore, that a sheriff may contract with a municipality to provide law enforcement services to that municipality. As to the matter of any additional compensation to the sheriff for performing such services, as noted in the prior opinion referenced above, any payment would be made by the municipality to the county general fund for such services. As to your question regarding additional compensation for a sheriff for increased duties, pursuant to S.C. Code Ann. §4-9-30 (7) “[t]he salary of those officials elected by the people may be increased but may not be reduced during the terms for which they are elected....” Consistent with such, in the opinion of this office, a county council would be authorized to increase the compensation to a sheriff for any increased duties brought about by his providing law enforcement services to a municipality during his term of office.

If there are any questions, please advise.

Sincerely,



Charles H. Richardson

Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook

Assistant Deputy Attorney General

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<sup>1</sup>Any assumption of police duties in a town by a sheriff would be in addition to other circumstances which provide for expanded duties of law enforcement officers outside their regular jurisdictions. See, e.g., S. C. Code Ann. § 23-1-210 (temporary transfer of law enforcement officer to work in another municipality or county); S.C. Code Ann. § 23-1-215 (county and municipal law enforcement agencies are authorized per an agreement “to exercise jurisdiction within other counties or municipalities for the purpose of criminal investigation); S.C. Code Ann. § 23-20-20 (law enforcement agencies may contract with other law enforcement providers in association with “public safety functions” over specified time periods and emergency situations); S.C. Code Ann. Section 5-7-120 (municipalities authorized to send law enforcement officer to other political subdivisions upon request in emergency situations).