



HENRY McMASTER
ATTORNEY GENERAL

September 14, 2006

The Honorable Chuck Wright
Sheriff, Spartanburg County
P. O. Box 771
Spartanburg, South Carolina 29304

Dear Sheriff Wright:

This letter is a follow up to our telephone conversation dealing with the question raised by Mr. Chip Desjardins who had questioned the traffic enforcement actions of the Wellford, Lyman and Duncan Police Departments. It is my understanding that Mr. Desjardins is alleging that these police departments are making traffic cases outside their territorial jurisdictions.

Generally, pursuant to S.C. Code Ann. § 5-7-110, 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;...."¹ Additionally, S.C. Code Ann. § 5-7-155 states that

[i]f 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.

Typically, the jurisdiction of a municipal police officer does not extend beyond the territorial limits of the municipality. State v. Harris, 299 S.C. 157, 382 S.E.2d 925 (1989). However, exceptions to this rule allow for expanded jurisdiction in specified instances. For instance, S.C. Code Ann. § 17-13-40 authorizes a municipal officer to arrest an offender at a place within a radius of three miles

¹Such provision further states that a municipality may contract with a public utility, agency or other private business to provide police protection beyond the corporate limits.

*Respectfully,
Rembert C. Dennis*

of the municipal limits when that officer is in pursuit of that offender for a violation of a municipal ordinance or State statute committed within the corporate limits of the municipality. Such provision states that

(A) When the police authorities of a town or city are in pursuit of an offender for a violation of a municipal ordinance or statute of this State committed within the corporate limits, the authorities may arrest the offender, with or without a warrant, at a place within the corporate limits, at a place within the county in which the town or city is located, or at a place within a radius of three miles of the corporate limits....

Other statutory provisions in authorizing the joint administration of functions and the exercise of powers between counties and municipalities also allow for expanded jurisdiction for law enforcement officers outside of 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 (agreements authorized between multiple law enforcement agencies for purpose of criminal investigation); S.C. Code Ann. § 5-7-120 (municipalities authorized to send law enforcement officer to other political subdivisions upon request in emergency situations); S.C. Code Ann. § 17-13-45 (references the response of a law enforcement officer to a distress call or request for assistance in an adjacent jurisdiction). An opinion of this office dated May 17, 2001 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." This Office has previously opined that Article VIII, § 13 of the State Constitution authorizes contractual cooperative law enforcement services between jurisdictions and political subdivisions. See: Op. Atty. Gen., May 20, 1996. Such constitutional provision provides in pertinent part that:

(A) Any county, incorporated municipality, or other political subdivision may agree with the State or with any other political subdivision for the joint administration of any function and exercise of powers and the sharing of the costs thereof.

(B) Nothing in this Constitution may be construed to prohibit the State or any of its counties, incorporated municipalities, or other political subdivisions from agreeing to share the lawful cost, responsibility, and administration of functions with any one or more governments, whether within or without this State ...

In addition to the statutory provisions authorizing expanded jurisdiction in certain circumstances, S.C. Code Ann. § 5-7-30 provides in pertinent part as follows:

Each municipality... [has]... 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

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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....

As set forth, while a municipal police department's jurisdiction is generally limited to the corporate limits of the municipality, there are instances when such jurisdiction may be expanded consistent with provisions such as those set forth above. However, the issue of whether cases are being made improperly outside the territorial jurisdictions by any particular police departments is a factual issue that cannot be resolved by an opinion of this office. As stated in an opinion of this office dated April 6, 2006, investigations and determinations of facts are beyond the scope of an opinion of this Office and are better resolved by a court. Therefore, as to the situation regarding the three municipalities referenced above, if there is a dispute as to the jurisdiction of the municipal police departments in a particular situation, one way of resolving the issue would be for an individual charged with a traffic violation by any of these agencies to take the matter to court and, if necessary, appeal any decision to a higher court.

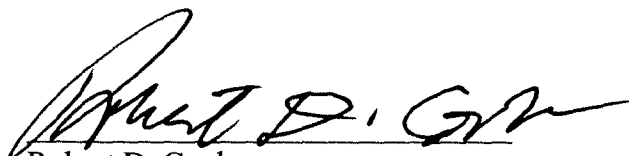
If there are any questions, please advise.

Sincerely,



Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General

cc: Mr. Chip Desjardins