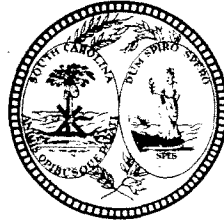


6164 February



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

February 11, 1997

Captain James F. Mills  
Operations Officer  
Bishopville Police Department  
P. O. Box 388  
Bishopville, South Carolina 29010

Re: Informal Opinion

Dear Captain Mills:

You have asked for guidance concerning a county's "furnishing assistance to a city, if the city is short of personnel." Specifically, you state that

"[a]n example would be in dispatch services where the city presently dispatches for both county and city law enforcement units and the county and city fire departments. If the city was short in the dispatch unit, would the county be required to furnish the city a dispatcher?"

Such services are typically provided by contract. In Op. Atty. Gen. Op. No. 92-67 (November 6, 1992), we referenced the various provisions of law in this regard. Quoting from an earlier opinion dated April 11, 1985, we stated:

... 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." ... Such services cannot be provided, however where the service "is being provided by the municipality or has been budgeted or funds have been applied for" unless permission is given by the municipal governing body. See also, Sec. 23-27-10 et seq. and Sec. 4-9-30(5) [authorizes county to create special districts for police protection] ....

In the 1992 Opinion, we also recognized an opinion dated May 17, 1978 where we stated:

[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) ... Both counties and incorporated municipalities have the ability to contract, a power given them by Sections 4-9-30(3) and 5-7-60 of the Code ... 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 Sec. 6-1-20, Code....

The opinion concluded that such statutes enable an incorporated municipality to contract with a county to provide law enforcement services to the municipality. ... The opinion further stated

[t]here 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 ... (However) ... (e)nabling legislation would be necessary in order for the municipality to pay the same funds directly into the Sheriff's Department County budget account.

Therefore, your situation would be one to be resolved by contract between the city and county pursuant to the foregoing authorities.

Captain Mills  
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This letter is an informal opinion only. It has been written by a designated Assistant Deputy Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I am

Very truly yours,



Robert D. Cook  
Assistant Deputy Attorney General

RDC/ph