

The State of South Carolina



Office of the Attorney General

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October 26, 1994

Jeffrey B. Moore, Executive Director
South Carolina Sheriffs' Association
P. O. Box 21428
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Dear Mr. Moore:

Attorney General Medlock has referred to me your letter of inquiry of October 14, 1994.

Your questions concerned S.C. Code Ann. §56-5-765, enacted by the General Assembly last year, dealing with accident investigations when law enforcement vehicles are involved. You presented three questions, which I will address in the order presented.

Your first questions referred to Subsection (A) of the statute, and you asked whether a motor vehicle of a law enforcement agency included those vehicles used to transport inmates by jail personnel. Subsection (A) seems quite specific, in that it requires an investigation by the State Highway Patrol when a motor vehicle or motorcycle of a law enforcement agency (except one operated by the Department of Public Safety) is involved in a traffic collision, regardless of whether another motor vehicle or motorcycle was involved. We have sent a previous advisory letter

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to Henry Wengrow, Legal Counsel at the Criminal Justice Academy, on March 19, 1986, setting forth the status of employees of a jail as law enforcement officers, found at S.C. Code Ann. §23-1-145. Their legal status is qualified as follows in that section: "while performing their officially assigned duties relating to the custody, control, transportation or recapture of any inmate or prisoner of this State. . ." (emphasis added). From the above statute and the qualification therein, jail personnel (and I would certainly exclude trustees) are given the same status as any other law enforcement officer when they are transporting prisoners. My advice to you would be that such authority extends to the motor vehicle being used, and Subsection (A) would apply to vehicles used by jail personnel to transport inmates.

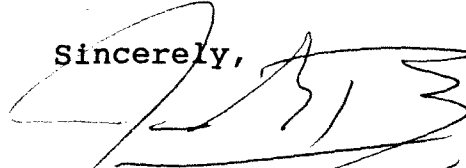
In your second question you addressed Subsection (B), and asked whether a "motor vehicle" of the Department of Public Safety included motor pool vehicles not used for policing purposes or emergency vehicles. Subsection (B) addresses situations where motor vehicles or motorcycles of the Department of Public Safety are involved in traffic collisions, and directs that the sheriff of the county in which the collision occurred investigate, and not the State Highway Patrol. Giving the statute what appears to be its plain meaning, and noting that it does not set any qualifications on motor vehicle or motorcycle of the Department of Public Safety, I believe the logical intent is that any motor vehicle of the Department of Public Safety, which would include motor pool vehicles not used for policing purposes or emergency vehicles, would be covered; any traffic collision involving such vehicles would have to be investigated by the sheriff of the county where the collision occurred.

In your third question you addressed Subsection (C), asking whether it applied where an officer was driving his or her private vehicle. Subsection (C) prohibits a law enforcement agency from investigating collisions in which an employee of that agency was involved. Looking at the grammatical arrangement of the sentence, and giving it its plain and ordinary meaning, I would advise you that where a law enforcement officer is involved in a collision driving his or her private vehicle, that person's agency should not conduct the investigation. Again, as in Subsection (B), there is no qualification or limitation placed upon the word "vehicle" in Subsection (C), or upon "employee." It would seem that such a conclusion is the logical intent of this statute, which appears to be to remove the appearance of impropriety or the possibility of a conflict of interest in the investigation of motor vehicle collisions involving law enforcement officers.

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Should you have questions or desire further information,
please advise.

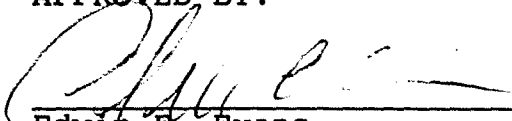
Sincerely,



James G. Bogle, Jr.
Assistant Attorney General

JGBjr:ypj

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