



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

August 14, 1995

Informal Opinion

Ralph R. Porter, Chief of Police
City of Florence
Drawer JJ, City-County Complex
Florence, South Carolina 29501-3456

Dear Chief Porter:

You have asked the following question:

I am seeking to determine if the City of Florence can transfer jurisdiction of criminal cases to the Florence County Magistrate's Court in lieu of continuing to handle these cases in Municipal Court. Our Municipal Court currently handles all traffic and criminal matters. All prisoners who fail to bond out of our "Four Hour Holding Facility" within four hours are transferred to the County Jail and the City of Florence pays a daily fee for their housing.

With the possible closing of our Holding Facility, we are considering allowing the Magistrate's Court to handle all criminal cases for our officers and collect any fines or fees applicable. We currently use the Magistrate's Office for all drug related cases without a problem. Specifically, we need to know if there is any legal reason why city police officers cannot simply set all criminal cases under magistrate's jurisdiction should they desire to do so.

Of course, as you are aware, municipal courts possess concurrent jurisdiction with magistrates in the criminal area. In that regard, S. C. Code Ann. § 14-25-45 provides that

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[each] municipal court shall have jurisdiction to try all cases arising under the ordinances of the municipality for which established. The court shall also have all such powers, duties and jurisdiction in criminal cases made under state law and conferred upon magistrates. The court shall have the power to punish for contempt of court by imposition of sentences up to the limits imposed on municipal courts. The court shall have no jurisdiction in civil matters.

Section 14-25-5 further provides for the establishment of municipal courts by ordinance of the town or city council. Municipal courts are expressly made part of the unified judicial system. A municipality is required to establish facilities for municipal courts as well as "sufficient clerical and nonjudicial support personnel" to assist the municipal judge.

However, § 14-25-25 further provides that

[a] municipality may contract with any other municipality in the county or with the county governing body to employ the municipal judge of the other municipality or a magistrate to preside over its court.

In addition, § 14-25-5(c) authorizes any municipality to

... prosecute any of its cases in any magistrate court in the county in which such municipality is situate upon approval by the governing body of the county.

This Office, in an opinion dated July 14, 1981, addressed the question of whether the Beaufort Township Magistrate could handle City of Beaufort Municipal Court matters on some type consolidation basis through an agreement between the County and City. There, we stated that "it appears that such arrangement would be permitted by Sections 14-25-25 and 14-25-5(c). (emphasis added). We further referenced an earlier opinion, dated October 2, 1980, which discussed how fines collected pursuant to such an arrangement might be handled. I am sending copies of these opinions for your review.

In conclusion, based upon the foregoing statutes and opinions, it would appear that §§ 14-25-25 and 14-25-5(c) would permit the handling of municipal cases by the magistrate's courts if such arrangement is agreed to by contract and is made in accord with the express terms of these two referenced statutory provisions. Obviously, the issue

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of where violations of municipal ordinances would be heard would have to be addressed in any discussions. I would thus suggest that you consult extensively with your City Attorney who would, in turn, work with county officials (and the county attorney) if you choose to pursue this procedure.

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
Enclosures