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The State of South Carolina  
**OFFICE OF THE ATTORNEY GENERAL**

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

October 15, 1996

The Honorable Thurman Coward, Jr.  
Mayor, Town of Salem  
Post Office Box 30  
Salem, South Carolina 29676

RE: Informal Opinion

Dear Mayor Coward:

By your letter of July 9, 1996, to Attorney General Condon, you have sought an opinion as to whether law enforcement officers of the Town of Salem may enforce state traffic laws on those portions of secondary roads S-37-24 and S-37-172 that pass through the campus of the Tamassee D.A.R. School. You have advised that, as authorized by S.C. Code Ann. §5-7-110, on June 11, 1996, the Town of Salem and Tamassee D.A.R. School, Inc., (which school is in Oconee County just outside the town limits of Salem) entered into a contract whereby the Town of Salem would provide law enforcement protection for the Tamassee D.A.R. School. Two state-maintained roads go through the campus and residential area of the School: Tamassee School Road (S-37-24) goes through the heart of the campus, and DAR Road (S-37-172) is the main entrance road from S.C. Highway 11 to the Tamassee D.A.R. School.

You have further advised that the Tamassee Elementary School is located on S-37-24, and a 25 MPH School Zone has been marked and posted by the S.C. Department of Transportation. In addition, there are five residence halls, one day care center, a dining hall, an auditorium, and a church also located on S-37-24.

You had enclosed a copy of the contract for our review, as well as a number of attachments, such as maps to show the area of Oconee County encompassed by the School and therefore by the contract. Attachment A of the contract provides specifications for police protection and includes such items as patrolling the populated area of the

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campus, enforcing the student curfew, checking personnel and vehicles on campus after a specified hour, insuring that doors of specified buildings are locked after a specified hour, responding to problems on the unpopulated areas of the campus if necessary, writing reports, and taking other actions as specified in the attachment. The only apparent mention of vehicular traffic enforcement is found in item 3: "Challenge and check personnel and vehicles on campus property after 10:00 p.m. (postal patrons excluded). Only staff personnel are authorized to drive on campus property after hours. Positive ID and reasons can and should be checked."

As stated in your letter, secondary roads S-37-24 and S-37-172 are state roads which are maintained by the state. As secondary roads, these roads are a part of the state highway system. S.C. Code Ann. §57-5-10 (1995 Cum. Supp.). These secondary roads are located outside the corporate limits of the Town of Salem. In the usual case, law enforcement officials of the Town of Salem would not have jurisdiction over traffic offenses on those roads. Section 17-13-40 provides:

The police authorities of all towns and cities of this State may make arrests of all offenders against the municipal ordinances and statutes of this State committed within the corporate limits or at any place within a radius of three miles of the corporate limits, with or without a warrant, when such police authorities are in pursuit of such offender. [Emphasis added.]

See also §5-7-110, infra. Police jurisdiction over certain streets and highways is also provided in §5-7-155:

If any portion of a street or highway is within the boundary of a municipality, the right of way of the street or highway is not within the municipal boundary but touching the boundary is nevertheless considered to be within the boundary of the municipality for purposes of its police jurisdiction.

A street or boundary 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.

The necessary inference of §5-7-155 is that the police jurisdiction over streets or highways would be those streets or highways located in the municipality and those streets or highways touching the municipal boundary, but not those streets otherwise beyond the municipal boundary.

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This Office has previously concluded, as to the law enforcement authority of police officers of a municipality in unincorporated areas of the county in which the municipality is located, that the express limitations of §17-13-40 meant that the jurisdiction of municipal police officers could not be extended in the absence of some express authority. See, for example, Ops. Att'y Gen. dated June 22, 1987 and October 10, 1978.

One statute which does authorize municipal police officers to exercise their authority outside the corporate limits of the municipality is §5-7-110, which provides in relevant part:

Any such police officers [appointed by a municipality] shall exercise their powers on all private and public property within the corporate limits of the municipality and on all property owned or provided, that the municipality may contract with any public utility, agency or with any private business to provide police protection beyond the corporate limits. controlled by the municipality wheresoever situated; provided, that the municipality may contract with any public utility, agency or with any private business to provide police protection beyond the corporate limits. Should the municipality provide police protection beyond its corporate limits by contract, the legal description of the area to be served shall be filed with the State Law Enforcement Division, the office of the county sheriff and the Department of Public Safety.<sup>1</sup> [Emphasis added.]

You have advised that this is the statute which the Town of Salem followed in extending its law enforcement protection to the Tamassee D.A.R. School. The statute requires that the contract be entered into between the Town of Salem and a public utility, agency, or

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<sup>1</sup>It is observed that §5-7-110 was amended by §62 of Act No. 181 of 1993. The only apparent change to the statute was the substitution of the Department of Public Safety for the State Highway Department. It appears, however, that there is a typographical error or a juxtaposition of two lines of type; in the version before amendment, §5-7-110 read in relevant part:

Any such 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; provided, that the municipality may contract with any public utility, agency or with any private business to provide police protection beyond the corporate limits. ...

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private business. It is assumed that the School falls within the category of "private business." It does not appear from your letter that the School owns the roads in question.

A leading treatise on municipal corporations, The Law of Municipal Corporations, edited by McQuillin (3d Ed. 1989), provides the following in Volume 7A, in §24.610: "In some instances by virtue of specific authority, but not otherwise, cities may regulate highway and street traffic a certain distance beyond their corporate limits." (Emphasis added.) I have been unable to locate statutory authority for the Town of Salem to extend its traffic enforcement to streets and highways beyond the Town boundaries by virtue of contract, though §5-7-110 would permit the Town to extend its police protection to property outside the municipal limits by contract with a public utility, agency, or a private business. Clearly, none of those three entities could enter into a contract with a municipality for the municipality to provide police protection (here, traffic enforcement) on property not owned by the entity, however.

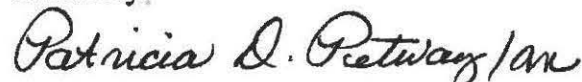
If it appears that enforcement of traffic laws on the secondary roads in question is in need of enhancement, the attorney who ordinarily represents the Town of Salem may wish to work with the county attorney or the county sheriff, or perhaps the Department of Public Safety (on behalf of the Highway Patrol), toward more effective enforcement of traffic laws. There may also be other ways to work out traffic enforcement on the secondary roads in question, as suggested in Op. Att'y Gen. dated June 22, 1987, a copy of which is enclosed.

In conclusion, I am of the opinion that at present there is no statutory authority for the police officers of the Town of Salem, by contract with the Tamassee D.A.R. School, Inc., to enforce traffic laws on the secondary roads in question.

This is an informal opinion only. It has been written by a designated Senior Assistant Attorney General and represents the opinion 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 kindest regards, I am

Sincerely,



Patricia D. Petway

Senior Assistant Attorney General

Enclosure