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Office of the Attorney General

T. TRAVIS MEDLOCK  
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING  
POST OFFICE BOX 11549  
COLUMBIA S.C. 29211  
TELEPHONE 803-758-3970

April 19, 1985

Walter E. Floyd, Jr., Chief of Detectives  
City of North Myrtle Beach  
Department of Public Safety  
421 Main Street  
North Myrtle Beach, South Carolina 29582

Dear Detective Floyd:

In a letter forwarded to this Office you raised several questions relating to problems your department has encountered in investigating drug cases that occur within the North Myrtle Beach city limits but spill over to areas outside your jurisdictional limits. You indicated that you are seeking a solution that would give your department authority to pursue such cases outside your jurisdictional limits. You particularly referenced the possible utilization of a state constable's commission and the provisions of Section 23-1-210 of the 1976 Code of Laws in seeking such additional authority.

As to the utilization of a state constable's commission by officers within your department, consistent with prior opinions of this Office, it would be a violation of the dual office holding provisions of the State Constitution for a North Myrtle Beach police officer to simultaneously hold a state constable's commission. See: Ops. of Att'y. Gen. dated September 23, 1980; September 16, 1981; December 19, 1984. An opinion written by former Attorney General McLeod dated June 5, 1974 indicated that there are no provisions which absolutely preclude the compensation of a State constable by a governmental body for services rendered in enforcement of the law. However, another opinion of this Office dated October 4, 1973 indicated that a situation whereby a city police officer would surrender his city commission and obtain a state constable's commission which he would utilize in his law enforcement duties would create

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"a great many problems" as specified in the opinion and as a result would be "unworkable". Consistent with such, this Office does not recommend the utilization of a state constable's commission by officers within your department so as to give those officers law enforcement jurisdiction beyond the city limits.

You also questioned whether the provisions of Section 23-1-210 could be utilized in enabling members of your department to work outside the limits of your municipality. Such statute provides in part that:

"(a)ny municipal or county law enforcement officer may be transferred on a temporary basis to work in law enforcement in any other municipality or county in this State under the conditions set forth in this section, and when so transferred shall have all powers and authority of a law enforcement officer employed by the jurisdiction to which he is transferred."

Such provision, however, does not appear to be a solution to your problem inasmuch as it only provides for the "temporary" transfer of a law enforcement officer to another jurisdiction and, moreover, only allows the transfer of law enforcement officers between municipalities or between counties. It does not authorize the transfer of a municipal police officer to a county sheriff's department. Therefore, inasmuch as Section 23-1-210 appears to be inapplicable to your situation, specific answers to the questions raised by you relating to such provision appear to be unnecessary.

Other statutes also authorize law enforcement activity by law enforcement officers outside their regular jurisdiction in certain instances. Section 5-7-120, Code of Laws of South Carolina, 1976, as amended, authorizes municipalities to send law enforcement officers to other municipalities when requested in cases of emergency. When officers are sent to another municipality, they have all the jurisdiction and authority of law enforcement officers of the requesting municipality. This Office also recognized in a June 20, 1984 opinion that Sections 8-12-10 et seq., Code of Laws of South Carolina, 1976, "... would permit the interchange of local governmental employees, such as sheriffs' deputies, between the counties."

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Referencing the above, it is clear that there is specific authority for a law enforcement officer to act outside his jurisdiction in certain circumstances. However, none of these provisions would appear to be a solution to the problem posed by you. As stated, Section 5-7-120 only provides for the transfer of officers in cases of emergency. Section 8-12-20 allows the exchange of employees between political subdivisions whereby the employees are shifted from one subdivision to another. Such agreements do not appear to authorize the type activity suggested by your letter.

While none of the above-referenced provisions would appear to provide for a means to increase the jurisdiction of your city police officers in the manner referenced by you, this Office in an opinion dated January 28, 1985 provided an extensive discussion of the authority for law enforcement officers to work undercover in drug operations outside their jurisdiction. I am enclosing a copy for your review. I believe that such would be of interest to you and would provide guidance as to your authority to act outside your jurisdiction.

Sincerely,

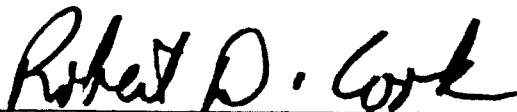


Charles H. Richardson  
Assistant Attorney General

CHR/an

Enclosure #1207

REVIEWED AND APPROVED BY:



Robert D. Cook  
Executive Assistant for Opinions