

1983 WL 181865 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 28, 1983

**\*1 SUBJECT: Law Enforcement-Forfeiture of Vehicle**

The Division of Investigation of the South Carolina Department of Social Services qualifies as an official law enforcement agency for the purposes of receiving under transfer title to a vehicle confiscated by the South Carolina Law Enforcement Division, or any other law enforcement agency, and forfeited to the State pursuant to [§ 44-53-530, Code of Laws of South Carolina \(1976\)](#), as amended.

John A. Crossscope, Jr.  
Interim Commissioner  
South Carolina Department of Social Services

QUESTION:

You have inquired as to whether the Division of Investigation of your agency qualifies as an official law enforcement agency for the purposes of receiving under transfer a vehicle confiscated by SLED in accordance with [§ 44-53-530\(3\)\(a\), Code of Laws of South Carolina \(1976\)](#), as amended.

OPINION:

The Division of Investigation at the Department of Social Services qualifies as a law enforcement agency within the scope of your question.

[Section 44-53-530 of the Code](#) of Laws, as amended in 1979 and 1980, provides for the forfeiture to the State of all conveyances, including motor vehicles, aircraft, and water going vessels, which are used or intended for use to 'unlawfully conceal, contain, or transport or in any manner facilitate the unlawful concealment, containment, or transportation of controlled substances and their compounds.' The statute goes on to provide a procedure for the Attorney General or his designee to petition the Circuit Court to have the conveyance forfeited to the State.

The scope of this opinion is limited to motor vehicles, in accordance with the question presented.

Subsection (3) of [§ 44-53-530](#), as amended, provides as follows:

Whenever property is forfeited under the provisions of this section, the Attorney General or the Circuit Solicitor effecting the forfeiture may in his discretion:

(a) As to property other than water vessels and aircraft, provide for the transfer of title to such property to the law enforcement agency making the seizure. Any such law enforcement agency is authorized to own and use such forfeited conveyance for law enforcement and to transfer title of the conveyance to any other law enforcement agency for use in law enforcement. . . (Emphasis added)

It appears from the statute that a motor vehicle forfeited to the State for transportation of controlled substances may be transferred to a law enforcement agency other than the one making the original seizure, for use in law enforcement. If the Division of Investigation of the Department of Social Services qualifies as a law enforcement agency, within the accepted definitions, then it would qualify for a receipt of title of such a motor vehicle.

In accordance with your request, I have spoken with Mr. Edwin A. Farnell, Director, Division of Investigation at DSS. My research has revealed that Mr. Farnell and his investigators are charged with the primary responsibility of enforcement of certain violations related to USDA food coupons (food stamps). In addition, the division investigates trafficking of food coupons within South Carolina. The investigators are commissioned by the Governor as Constables without additional compensation, with statewide authority to enforce the law. They are certified by the Criminal Justice Academy, having taken certain courses at that location and at a federal institution in Georgia. They possess the power of arrest, and are charged with the responsibility to investigate crime, apprehend the criminal, and assist in his prosecution under the law.

\*2 [Section 23-23-10, of the Code](#) of Laws, defines the term 'law enforcement officer' as follows:

[A]n appointed officer or employee hired by and regularly on the payroll of the State or any of its political subdivisions, who is granted statutory authority to enforce all or some of the criminal, traffic, and penal laws of the State and who possesses, with respect to those laws, the power to effect arrest for offenses committed or alleged to have been committed.

The Division of Investigation appears to fall within that definition. In addition, the courts have recognized within the definition of 'law enforcement agency', the powers to investigate crime, apprehend the criminal, and assist in his prosecution under the law. [Criminal Injuries Compensation Board v. Gould](#), 331 A.2d 55 (Md. 1975). Other cases have recognized within the definition of law enforcement agency the power of arrest, [Morgan v. Hope](#), 371 So. 2d 416 (Ala. 1979); and the power to conduct criminal investigations, [State v. McNair](#), 243 S.E.2d 805 (N.C. App. 1978).

Based upon the definition contained within the Code of Laws of South Carolina, and accepted definitions by the Courts, it appears that the Division of Investigation of the South Carolina Department of Social Services qualifies as a law enforcement agency. Accordingly, should a vehicle be forfeited to the State under the provisions of [§ 44-53-530](#), and the vehicle be transferred to the law enforcement agency making the seizure of controlled substances, it would be within the discretion of that agency to transfer title of the vehicle to the Division of Investigation at DSS. If the title to such a vehicle was transferred, of course the Division would be required to use the vehicle for law enforcement purposes only. See, § 44-53-530(3)(a), [supra](#).

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