

1983 S.C. Op. Atty. Gen. 155 (S.C.A.G.), 1983 S.C. Op. Atty. Gen. No. 83-92, 1983 WL 142761

Office of the Attorney General

State of South Carolina

Opinion No. 83-92

December 5, 1983

*1 Jerry Cameron

Chief

Police Department, Town of Irmo

Post Office Box 406

Irmo, South Carolina 29063

Dear Chief Cameron:

You have asked this Office to define the term 'emergency' as it relates to [Section 5-7-120, Code of Laws of South Carolina \(1982 Cum. Supp.\)](#). The Town of Irmo, due to circumstances beyond your control, has available two full-time police officers in addition to you, and the assistance of the Lexington County Sheriff's Department has been requested until the Irmo police force is returned to its full strength. Based upon the following, the situation you have described would constitute an 'emergency;' your town's attorney concurs in this conclusion.

[Section 5-7-120](#) contains the following provisions:

The governing body of any municipality may upon the request of the governing body of any other political subdivision of the State, send any law enforcement officers to such requesting political subdivision in cases of emergency. A complete record of the request, together with the names of the officers sent, shall be recorded in the minutes of the next regular or special meeting of the governing bodies of both the requesting and the sending political subdivisions. Expenses of the requested services shall be borne by the requesting municipality.

When law enforcement officers are sent to another municipality pursuant to this section, the jurisdiction, authority, rights, privileges and immunities, including coverage under the workmen's compensation laws, which they have in the sending municipality shall be extended to and include the area in which like benefits and authorities are or could be afforded to the law enforcement officers of the requesting political subdivision.

When so sent they shall have the same authority to make arrests and to execute criminal process as is vested by law in the law enforcement officers of the requesting political subdivision, but this section shall not extend the effect of the laws of the sending political subdivision. [Emphasis Added.]

The term 'emergency' is 'an unusual or abnormal condition beyond the control of the [requesting municipality] and a condition beyond [its] reasonable power to remove or overcome. It may arise from causes other than casualty or unavoidable accident or act of God.' [United States v. Atlantic Coast Line Railroad Company](#), 153 F.2d 243, 246 (4th Cir. 1946). Our Supreme Court has used the definition from Websters' New International Dictionary to define 'emergency' as 'an unforeseen occurrence or combination of circumstances which calls for immediate action or remedy; pressing necessity; exigency.' [Hice v. Dobson Lumber Company](#), 180 S.C. 259, 185 S.E. 742, 746 (1936). Thus, because your police force is depleted due to circumstances both unforeseen and beyond your control, which may not be reasonably overcome, an emergency would exist.

Assuming that the emergency does exist, we would advise that the Town of Irmo must follow the procedure as specified in [Section 5-7-120](#). For assistance or clarification about the procedure, you should consult first with the town's attorney, or with this office if Mr. Moore is unavailable.

*2 We hope this information will be helpful to you.

Sincerely,

Patricia D. Petway

Staff Attorney

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