

1980 WL 121140 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 2, 1980

*1 John Patrick, Esquire
Assistant Director
S. C. Court Administration
Post Office Box 11788
Columbia, South Carolina 29211

Dear John:

In your letter dated February 28, 1980, to this Office you raised a question concerning the attempts of the Town of Arcadia Lakes to contract with a private security agency to provide services to the town. I apologize for the delay in responding, but your letter was forwarded to me just this past week.

In your letter you raised the following questions:

1. May an officer employed by a private security agency exercise the power of arrest pursuant to the authority of [Section 40-17-130 of the 1976 South Carolina Code](#) of Laws when such an arrest is made on public rather than on private property?
2. May a local government, e.g., Town Council, contract with a private security agency to provide for police and patrol services on public property?
3. If a local government is authorized to contract with a private security agency for police patrol services, is it necessary that the private security agency employees meet the training requirements mandated for regular police officers?

As to question number two, enclosed please find a copy of a previous opinion of this Office, a letter dated March 6, 1980 from Scott Elliott, apparently also written in response to the situation involving Arcadia Lakes, which states that a municipality is not authorized to contract with a private security agency to provide the personnel of the private agency the power of arrest on public streets and public property. The opinion indicated that:

‘ . . . no municipality may by contract part with the authority delegated it by the State to exercise the police power . . . (T)he State has delegated the power of law enforcement to its municipalities and the municipality may not part with the power by contract with a private security agency.’

Since the answer to question two is negative, no response appears necessary to question three.

As to your first question concerning whether an officer with a private security agency could exercise the power of arrest granted by [Section 40-17-130](#), *supra.*, on public property, this Office in a previous opinion, 1977 Op. Att’y Gen. No. 77-203, pp. 154-155, addressed the question of whether private security officers hired by a college in this State could exercise police powers on city streets and public roadways that ran through or were adjacent to the campus. The opinion stated that such private security guards as private guards ‘ . . . had no authority to exercise police powers except on the private property they were hired to protect.’ The opinion further stated that ‘ . . . the authority of . . . (such) . . . officers to pursue and/or arrest offenders outside that . . . (private) . . . property would be no greater or less than that of private citizens.’ This opinion appears to be consistent with the opinion issued by this Office earlier this month referenced above. Thus, in specific response to your first question, a private security officer is not authorized pursuant to [Section 40-17-130](#), *supra.*, to exercise the power of arrest on public property.

*2 If there are any further questions, please contact me.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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