

1979 WL 43009 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 18, 1979

*1 George R. Hundley, Esquire
Staff Attorney
Municipal Association of South Carolina
Post Office Box 11558
Columbia, South Carolina 29211

Dear Mr. Hundley:

You have requested an opinion from this Office as to whether or not two or more municipalities are authorized to enter into an agreement to provide 'joint' police protection in certain circumstances. In my opinion, they most probably are so authorized as hereinafter discussed.

My understanding is that two or more small towns, located near or adjacent to one another, have police forces either too small to have an officer on duty at all times or without sufficient manpower to deal with certain emergency situations. The contemplated solution is for those towns to enter into agreements to provide adequate police protection to one another whenever it is not available within a particular town.

First, I agree with your conclusion that the provisions of [Section 5-7-110, CODE OF LAWS OF SOUTH CAROLINA, 1976](#), as amended, which authorize a municipality to 'contract with any public utility, agency or with any private business to provide police protection beyond the corporate limits,' are not applicable both because they envision police protection full-time rather than on an as-needed basis and because they most probably do not include other municipalities within the purview of 'public agencies.' See generally, 35 WORDS AND PHRASES 'Public Agency' at 38 (1963); [Vallas v. City of Chula Vista](#), 128 Cal.Rptr. 469, 56 C.A.3rd 382. [Section 5-7-120, CODE OF LAWS OF SOUTH CAROLINA, 1976](#), as amended, does authorize one municipality to send its police to another municipality upon request in cases of emergency. Inasmuch as that Section does not define 'cases of emergency,' I think that a municipality would be free to find that a case of emergency occurs whenever adequate police protection is not available within that municipality. If the other actions required by that Section are subsequently taken, then I think such an agreement would be valid. In support of this conclusion are the provisions of [Sections 13 and 17 Article VIII of the State Constitution](#), which authorize any incorporated municipality to agree with any other political subdivision for the joint administration of any function or exercise of any power and mandate that all laws concerning local government be liberally construed in their favor, respectively.

You have also inquired as to whether or not such an agreement must comply with the filing requirements imposed by [Section 5-7-110 of the Code](#). While such compliance is not expressly required, I would advise that the filing requirements be met as a matter of precaution.

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

1979 WL 43009 (S.C.A.G.)