



HENRY McMASTER
ATTORNEY GENERAL

January 21, 2009

Chris Guy, Chief of Police
Wellford Police Department
P. O. Box 99
Wellford, South Carolina 29385

Dear Chief Guy:

In a letter to this office you indicated that you have experienced conflicts with other law enforcement agencies as to who has authority and/or command at various crime and traffic accident scenes. You referenced situations where an incident occurs in your jurisdiction and have questioned whether another agency with jurisdiction can respond and assume command of that scene. For instance, you referenced a situation where a traffic accident occurred in your jurisdiction and the highway patrol arrives and assumes command. In another situation, you referenced a domestic violence incident which occurs within your city and you question whether the county sheriff's office can respond and take over the investigation. As to such, you have questioned whether a municipal police chief has authority over a sheriff's department or highway patrol officer as to incidents that occur within a municipality.

As to the authority of the various law enforcement agencies referenced in your letter, the powers and duties of municipal police officers is set forth in S.C. Code Ann. § 5-7-110 which states that

[p]olice officers shall be vested with all the powers and duties conferred by law upon constables, in addition to the special duties imposed upon them by the municipality. Any such police officers shall exercise their powers on all private and public property within the corporate limits of the municipality and on all property owned or controlled by the municipality wheresoever situated....

As referenced in an opinion of this office dated September 28, 2000,

[s]tate troopers have statewide jurisdiction with primary responsibility for the enforcement of highway traffic, traffic safety and motor vehicle related laws. Troopers also "have the same power and authority held by deputy sheriffs for the enforcement of the criminal laws of the State." S.C. Code Ann. § 23-6-140.

A prior opinion of this office dated March 1, 2005 referenced that a sheriff's jurisdiction "encompasses his entire county." That opinion cited S.C. Code Ann. § 23-13-70 which imposes a duty on deputy sheriffs to patrol the entire county. Another opinion dated November 6, 1992 commented that

[t]he general law in this State presently requires a sheriff and his deputies to patrol their county and provide law enforcement services to its citizens. Such is consistent with an opinion of this office dated May 8, 1989 which recognized the status of a sheriff as the chief law enforcement officer of a county.

As recognized in prior opinions of this office, various statutes authorize cooperative agreements between multiple agencies for law enforcement purposes. For instance, a prior opinion dated dated May 29, 1997 cited S.C. Code Ann. § 23-1-210 which allows for the temporary transfer of a law enforcement officer to work in another municipality or county and §23-1-215 which authorizes county and municipal law enforcement agencies to enter into an agreement "to exercise jurisdiction within other counties or municipalities for the purpose of criminal investigations." See also: S.C. Code Ann. § 5-7-120 (municipalities authorized to send law enforcement officer to other political subdivisions upon request in emergency situations).

As to your specific question regarding which agency has primary authority at a particular crime scene, an opinion of this office dated December 20, 2002 stated that

...it does not appear the county sheriff has authority over a police chief while the police chief is acting in his official capacity within his corporate limits. This office has consistently recognized the status of the sheriff as the chief law enforcement officer of the county...However, a municipal police department has concurrent jurisdiction over any violation of state law occurring within the limits of the municipality. While the sheriff and municipal police department may have concurrent jurisdiction over violations of state law occurring within a municipality, there is no statute or other law which sets out an operational hierarchy among the agencies. Both have full authority to investigate, but not to the exclusion of the other. Neither does either have the authority to direct the other as to methods of investigation.

See also: Op. Atty. Gen. dated September 28, 2000 ("[w]hile authority...allows for cooperation and agreements between law enforcement agencies, there is no specific statute or law which sets out the operational hierarchy which must be followed when various law enforcement agencies come together in a cooperative mission...[T]here is nothing in the law which provides specific authority for one...(particular agency)...to assume operational authority when their duties bring them together in the same jurisdiction"). Consistent with such, this office cannot in an opinion state categorically what particular agency would have authority to assume command in a particular situation if that situation comes within the general law enforcement jurisdiction of a particular law enforcement

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agency. I can only stress cooperation between such agencies and state again that there is no authority with which I am familiar which grants one law enforcement agency with jurisdiction at a particular scene to direct another agency with simultaneous law enforcement jurisdiction as to their method of investigation.

With kind regards, I am,

Very truly yours,

Henry McMaster
Attorney General



By: Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



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