



The State of South Carolina  
**OFFICE OF THE ATTORNEY GENERAL**

CHARLIE CONDON  
 ATTORNEY GENERAL

May 17, 2001

Captain Richard D. Abney  
 Aiken Department of Public Safety  
 P.O. Box 1177  
 Aiken, South Carolina 29802

Dear Captain Abney:

Your letter requesting an opinion from this office was referred to me for response. Your request asked for guidance in regards to mutual aid agreements among law enforcement agencies. For purposes of clarity, I will address your questions individually.

1. Does South Carolina Code of Laws Section 17-13-45 allow a municipal police officer to respond to a distress call or request for assistance from a S.C. Highway Patrolman who is outside the city limits?

S.C. Code Ann. § 17-13-45 confers upon an officer responding to a distress call, or request for assistance from an adjacent jurisdiction, the same rights, privileges and immunities that are applicable to the officer within the jurisdiction he is employed. Therefore, as long as the municipal police officer responds to a request for assistance from an **adjacent** jurisdiction, he has the same rights and authority as he has within his "home" jurisdiction. Previously, this Office opined that "[b]ased [ S.C. Code Ann. § 17-13-45] police jurisdiction extends outside corporate limits... to include an adjacent jurisdiction when the officer responds to a distress call or call for assistance." ATTY. GEN. OP. (Dated February 17, 1998). As the language of Section 17-13-45 places no limitation on the source of the distress call, a municipal officer would be authorized to respond to such a call from a Highway Patrolman.

2. Would South Carolina Code of Laws Section 23-1-210 or 23-1-215 be the appropriate section of law to establish mutual aid agreements with neighboring jurisdictions for the purpose of rendering aid during vehicular pursuits?

If a municipal officer is in pursuit of a vehicle, S.C. Code Ann. § 17-13-40 (A) allows the officer to arrest within a three-mile radius of the corporate limits of his jurisdiction for violations of a municipal ordinance or state statute committed within the corporate limits. S.C. Code Ann. § 17-13-40 (B) allows county officers in pursuit of an offender for violations of a county ordinance or state

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statute to arrest the offender at a place within the county, or at a place within an adjacent county. This is also known as the "hot pursuit" statute.

S.C. Code Ann. § 23-1-210 contemplates temporary transfers of law enforcement to other municipalities or counties in order to "work" and would not be appropriate to authorize any agreement between municipalities with respect to ordinary vehicular pursuits.

S.C. Code Ann. § 23-1-215 allows for agreements between multiple law enforcement jurisdictions for purposes of criminal investigation. This code section, as well as § 23-1-210, requires a formal, written agreement, and would not grant appropriate authority for aid in a vehicular pursuit that was not part of an ongoing criminal investigation. An opinion of this office dated June 2, 1988 described the authority conferred upon law enforcement through this code section as being "limited to the specific criminal investigation contemplated by the agreement entered into by the jurisdictions involved." Only if the hot pursuit resulted from the "specific criminal investigation" would this statute be applicable. Therefore, § 23-1-215, is not appropriate for most instances of vehicular pursuit as such would most likely not be part of an ongoing, specific criminal investigation that would have required a written agreement.

Specific statutory authority for vehicular pursuit situations beyond municipal jurisdictions can be found, as discussed above, only in § 17-13-40. However, such a situation may be covered by a distress call received pursuant to §17-13-45 or an emergency request pursuant to § 5-7-120 ( 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 the requesting political subdivision in cases of emergency).

Accordingly, whether a municipal police officer could exercise his authority outside of his jurisdiction, depends on whether the officer was in pursuit of the offender (§17-13-40), whether he was responding to a distress call (§17-13-45), an emergency request (§5-7-120), or whether there existed an agreement that specifically authorized the officer to act outside of his jurisdiction. If a municipal officer were to respond to a call outside of his jurisdiction, and no such exception existed, the officer's actions, for liability reasons, would be limited to those actions that would not involve the exercise of his legal authority. See Op. Atty. Gen., July 11, 1986.

3. In what situations would it be appropriate to develop mutual aid agreements utilizing South Carolina Code of Laws Section 23-1-215?

Several prior opinions of this office relate to your question. Specifically, this office has commented upon the use of this code section to create multijurisdictional agreements to combat: violent crime, See Op. Atty. Gen., May 29, 1997; drug offenses, See Op. Atty. Gen., June 21, 1994, Op. Atty. Gen., June 2, 1988; or for purposes of a particular criminal investigation, See Op. Atty. Gen.,

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February 17, 1994. I have enclosed these opinions for your further review in addition to other opinions that discuss the ability of law enforcement agencies to contract.

4. Does the existence of an agreement under 23-1-215 between a municipality and a county allow a municipal police officer to go into such county to investigate crimes that occurred in the city and make an arrest without a deputy being on the scene?

As discussed above, and in the enclosed opinions, as long as the municipal officer was acting pursuant to a written agreement, and for the purpose of investigating crimes contemplated by that agreement, he would be vested with "equal authority and jurisdiction outside his resident jurisdiction for the purpose of investigation, arrest, or any other activity related to criminal activity for which the agreement was drawn." S.C. Code Ann. § 23-1-215(B).

5. In reference to South Carolina Code of Laws Section 23-1-215, when would a crime in the city constitute 'a crime where multiple jurisdictions ... are involved?' Specifically, when would a crime in the city constitute both city and county jurisdiction? What is an example of 'a crime where multiple jurisdictions ... are involved?'

In regards to S.C. Code Ann. § 23-1-215, a crime that constitutes a "crime where multiple jurisdictions ... are involved," would be the type of crime or particular investigation contemplated by the agreement reached under that section. For examples of such crimes, see the Attorney General Opinions attached in reference to your question number 3.

Generally, a crime in the city that violates state law would be a crime in which "multiple jurisdictions are involved." As the Sheriff has jurisdiction over the entire county, including any political subdivisions therein, the Sheriff would technically have jurisdiction (concurrent with the municipal police department) over any violation of state law occurring within any municipality in his county. See ATTY. GEN. OPS. (Dated December 21, 1988; October 16, 1991; July 10, 1998). Furthermore, any law enforcement agency charged with the enforcement of the criminal laws of this State (such as SLED or the Highway Patrol) could exercise their authority in a municipality in regards to the violation of any state law. While, state, county and local law enforcement 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.<sup>1</sup> Common practice or a specific agreement usually dictates such.

Any agreement that is entered into by the town and county may address the numerous concerns presented in your correspondence. Input from concerned law enforcement agencies, with the advice

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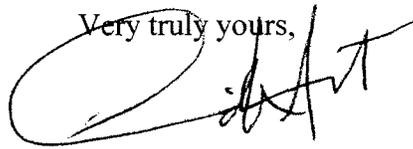
<sup>1</sup> There are some exceptions to this general principle. For example, SLED is given exclusive jurisdiction over certain crimes pursuant to S.C. Code Ann. §23-3-15(A)(1).

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from county and city attorneys, should be employed in determining when an agreement pursuant to Section 23-1-215 is necessary and what the parameters of such an agreement should be.

I hope the information provided herein proved helpful. This letter is an informal opinion only. It has been authored by a designated Assistant Attorney General and represents the position of the undersigned as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

Very truly yours,

A handwritten signature in black ink, appearing to read 'D. Avant', written over the closing text.

David K. Avant  
Assistant Attorney General