



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON
 ATTORNEY GENERAL

September 25, 2001

Greg Holland, Chief of Police
 Carlisle Police Department
 P.O. Box 305
 Carlisle, SC 29031

Re: Class 2 Law Enforcement Officer (Jailer) - Contract for Bloodhound Services with Municipality

Dear Chief Holland:

Your letter concerning the above topic was referred to me for response. Your correspondence requested an opinion from this Office concerning the authority of a Class 2 Officer to provide bloodhound tracking services by contract for your police department.

Under S.C. Code Ann. § 38-007 Class 2 Officers are certified as local detention facility officers. As such, they have the status of peace officers as enumerated in S.C. Code Ann. § 23-1-145 which states the following:

Employees of any county or municipal jail, prison, work camp or overnight lockup facility, while performing their officially assigned duties relating to the custody, control, transportation and recapture of any inmate or prisoner in this State, shall have the status of peace officers anywhere in the State in **any matter relating to the custody, control, transportation or recapture of such inmate or prisoner.** (emphasis added)

Therefore, a Class 2 Officer's authority as a peace officer is limited to duties related to the local detention facility or the inmates therein. Having the status of peace officers, local detention facility employees have the same arrest authority as peace officers while performing their duties in the detention facility or in relation to the custody, control, transportation or recapture of inmates. See S.C. Op. Atty. Gen., March 19, 1986.

As a general rule, statutes regarding criminal procedure and authority are strictly construed. See S.C. Op. Atty. Gen., October 18, 1994. Your municipality may not therefore expand the duties and authority conferred upon a Class 2 Officer by contracting with him to provide services outside of his statutory authority. If a local detention facility officer is not acting within the scope of S.C. Code Ann. § 23-1-145, he does not have the status of peace officer and could only arrest under the

same authority as a private citizen. S.C. Code Ann. § 17-13-10 enumerates the circumstances under which any person may arrest a felon or thief as follows:

Upon (a) view of a felony committed, (b) certain information that a felony has been committed or (c) view of a larceny committed, any person may arrest the felon or thief and take him to a judge or magistrate, to be dealt with according to law.

Additionally, S.C. Code Ann. § 17-13-20 provides the following:

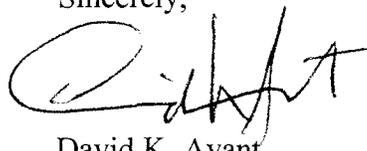
A citizen may arrest a person in the nighttime by efficient means as the darkness and the probability of escape render necessary, even if the life of the person should be taken, when the person:

- (a) has committed a felony;
- (b) has entered a dwelling house without express or implied permission;
- (c) has broken or is breaking into an outhouse with a view to plunder;
- (d) has in his possession stolen property; or
- (e) being under circumstances which raise just suspicion of his design to steal or to commit some felony, flees when he is hailed.

Therefore, the Class 2 Officer may provide this service to your police department but only to the extent that a private citizen may provide such a service. The Class 2 Officer may not, while providing this service, hold himself out in any way that creates the appearance that he has any more authority than that of a private citizen. Essentially, by acting outside of his authority, the Class 2 Officer loses his status as a peace officer and may not make an arrest outside of his jurisdiction without observing circumstances that allow for an arrest by an ordinary citizen. See generally S.C. Op. Atty. Gen., March 20, 1985 (stating that police officers acting 'under color' of office, but outside their jurisdiction may not arrest, unless a citizen may do so). Any type of contract made with the Class 2 Officer should carefully enumerate his authority as a private citizen and should take into consideration the policy of the detention facility regarding outside employment of its Class 2 Officers.

I hope the information provided herein proves helpful. This letter is an informal opinion only. It has been written 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 published in a manner of a formal opinion.

Sincerely,



David K. Avant
Assistant Attorney General