

The State of South Carolina



Office of the Attorney General

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October 31, 1989

Elliott D. Thompson, Chairman
Alcoholic Beverage Control Commission
1205 Pendleton Street
Columbia, South Carolina 29201

Dear Mr. Thompson:

This is in response to your inquiry concerning the appropriateness of two Local Option Permit (LOP) grant requests which the Commission approved pursuant to 61-5-180, S.C. Code of Laws, as amended. You asked whether programs which provide intervention assistance for criminally "at risk" persons are law enforcement related.

Section 61-5-180, S.C. Code of Laws, as amended, authorizes the Commission to retain Local Option Permit (LOP) fees to be used for law enforcement and law enforcement related purposes. While the particular statute in question provides no other direction or mandate regarding use of these funds, it appears from a review of pertinent authority that providing criminally "at risk" individuals with preventive services is a law enforcement related purpose.

It is the duty of law enforcement generally to preserve the public peace, prevent crime and protect society against the commission of vice and crime. See 70 Am. Jur. 2d, Sheriffs, Police, and Constables §46; 80 C.J.S.. Sheriff's and Constables §42. See also Lusk v. Commonwealth, 291 Ky. 339, 164 S.W. 2d 389 (1942); State v. Thyfault, 121 N.J. Super. 487, 297 A.2d 873 (1972); State v. Lewisohn, 379 A.2d 1192 (Me. 1977); Morris v. Faulkner, 46 Ill. App. 3d 625, 5 Ill. Dec. 112, 361 N.E. 2d 112 (1977). Specifically, law enforcement must protect the lives, person, property, health and morals of the people. Elder v. Camp, 193 Ga. 320 18 S.E. 2d 622 (1942).

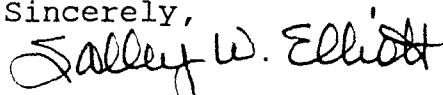
Our General Assembly has recognized the increased incidence of crime and its threat to the peace, security and welfare of the citizens of this state. S.C. Code Ann. §23-4-10. It has called for a concerted effort from the judiciary, corrections and law enforcement to prevent crime, maintain peace and good order, and assure the safety of the people. Id.

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Our legislature also requires that public awareness and prevention programs be established and that intervention efforts be taken by law enforcement for children and adults at risk in this state. See S.C. Code Sections 20-7-20 (Prevention of children's problems is state policy); 20-7-600 (Intervention by law enforcement mandated where a child is at risk); 20-7-3210 (Public awareness and prevention programs shall be developed); 23-1-220 (Adult incapable of rendering to himself food, clothing, and lodging shall be taken into protective custody by law enforcement).

The grants mentioned are targeted for "at risk" youth and adults in an effort to deter criminal behavior through preventive efforts. 1/ Considering the legislative intent which supports these efforts, it is our opinion that funds collected by LOP may be utilized for "at risk" individuals and that the expenditure would be law enforcement related. Of course, it is a policy matter within the discretion of the ABC Commission as to whether a grant should be given to any particular organization.

Sincerely,



Salley W. Elliott
Assistant Attorney General

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REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions

1/ It is our understanding that the grant request from the Boy Scouts of America is intended to establish Boy Scout troops in several Columbia Housing Authority Communities where criminal activity by youth in the various communities has been identified. The goal of the project is to deter and prevent future criminal conduct and, thus, is law enforcement related.

It is also our understanding that the grant request from Harvest Hope Food Bank is intended to aid in the provision of food services to low income and/or individuals who are at risk of committing unlawful activities. Further, it is our understanding that these individuals include adjudicated criminals at risk of becoming repeat offenders and participants in programs and shelters for adults and children who may otherwise require protective services of law enforcement authorities or who may have been placed there pursuant to protective service action. Again, such a program would be law enforcement related.