

1989 S.C. Op. Atty. Gen. 201 (S.C.A.G.), 1989 S.C. Op. Atty. Gen. No. 89-76, 1989 WL 406166

Office of the Attorney General

State of South Carolina  
Opinion No. 89-76  
July 28, 1989

\*1 Joseph A. Holley  
Captain  
Director of Executive Protection  
S.C. Law Enforcement Division  
Post Office Box 21398  
Columbia, South Carolina 29221-1398

Dear Captain Holley:

By your recent letter to Attorney General Medlock, you have requested an Opinion “regarding Capitol Police's response to complaints requiring law enforcement assistance in private offices leased by the State of South Carolina.” You ask in your letter: “who is responsible for the law enforcement of leased office space?”

I shall address in this Opinion only the issue of law enforcement authority upon real property leased by the State of South Carolina or its agencies. I shall not analyze law enforcement upon State property, including the State House or grounds.

For the reasons set out hereinafter it is my conclusion that municipal police officers would be responsible for the enforcement of law upon real property leased by the State whenever that leased property is within the corporate limits of the municipality.<sup>1</sup>

A response to your inquiry requires an analysis of the relevant law enforcement legislation. Of course, statutory construction is, ultimately, the province of the courts. *Johnson v. Pratt*, 200 S.C. 315, 20 S.E.2d 865 (1942). In interpreting a statute, the primary purpose is to ascertain the intent of the legislature. *State v. Martin*, 293 S.C. 46, 358 S.E.2d 697 (1987); *Multi-Cinema, Ltd. v. South Carolina Tax Comm'n*, 292 S.C. 411, 357 S.E.2d 6 (1987).

Where a statute is clear and unambiguous, there is no room for construction and the terms of the statute must be given their literal meaning. *Duke Power Co. v. South Carolina Tax Comm'n*, 292 S.C. 64, 354 S.E.2d 902 (1987). In construing a statute, words must be given their plain and ordinary meaning, without resort to subtle or forced construction for the purpose of limiting or expanding its operation. *Walton v. Walton*, 282 S.C. 165, 318 S.E.2d 14 (1984).

The general structure, organization, powers, duties, functions, and responsibilities of all municipalities are set out in S.C. Code Ann. § 5-7-30 (1976 & 1988 Cum.Supp.) which provides, in relevant part:

Each municipality of the State, in addition to the powers conferred to its specific form of government, may enact regulations, resolutions, and ordinances, not inconsistent with the Constitution and general law of this State, including the exercise of powers in relation to roads, streets, markets, law enforcement, health, and order in the municipality or respecting any subject which appears to it necessary and proper for the security, general welfare, and convenience of the municipality or for preserving health, peace, order, and good government in it.... [Emphasis added.]

S.C.Code Ann. § 5-7-110 (1976) provides:

Any municipality may appoint or elect as many police officers, regular or special, as may be necessary for the proper law enforcement in such municipality and fix their salaries and prescribe their duties.

\*2 Police 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; provided, that the municipality may contract with any public utility, agency or with any private business to provide police protection beyond the corporate limits. Should the municipality provide police protection beyond its corporate limits by contract, the legal description of the area to be served shall be filed with the State Law Enforcement Division, the office of the county sheriff and the State Highway Department. [Emphasis added.]

In addition, S.C.Code Ann. § 5-7-120 (1976 & 1988 Cum.Supp.) authorizes municipalities to send law enforcement officers to other political subdivisions of the State upon a request in emergency situations. S.C.Code Ann. §§ 5-7-140 and 5-7-155 (1976 & 1988 Cum.Supp.) provide, respectively, for the extension of police jurisdiction (and authorities of municipalities) bordering on high tide line or high water mark of a navigable body of water and for police jurisdiction over certain streets and highways along which municipal boundaries run.

Thus, municipal law enforcement officers are authorized to exercise broad jurisdiction within the municipality with respect to law enforcement; of course, the specific regulations, resolutions, and ordinances of a given municipality would need to be consulted to analyze their provisions.<sup>2</sup> I am unaware of any legislation which expressly exempts real property located within a municipality and leased by a State agency from that municipality's law enforcement jurisdiction.

By the express terms of S.C.Code § 5-7-110 a municipal police officer "shall exercise" his "powers on all ... public property within the corporate limits of the municipality." Municipal police officers would exercise their powers upon real property leased by the State within the corporate limits of the municipality.

If I can answer any further questions, please advise me.

Sincerely,

Charles W. Gambrell, Jr.  
Deputy Attorney General

#### Footnotes

- 1 Obviously, any law enforcement officers with statewide law enforcement jurisdiction would have concurrent jurisdiction. Also, as to matters outside a municipal boundary, the county sheriff would have jurisdiction to enforce the laws within his county.
- 2 See 1962 S.C.Acts 933 (conferring concurrent jurisdiction upon the City of Columbia with the Sheriff of Richland County as to law enforcement on property owned by the County or its subdivisions located in the City of Columbia); S.C.Code Ann. §§ 23-1-210 & 23-1-215 (concerning written agreements for, respectively, the temporary transfer of a law enforcement officer and between multiple law enforcement jurisdictions for the purpose of a criminal investigation); S.C.Att'y Gen.Ops., Jun. 2, 1988; Feb. 19, 1988; Mar. 18, 1987; & # 86-79 (Jul. 11, 1986) (analyzing S.C.Code Ann. § 23-1-115 (1976)).  
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