

Municipalities, transfer of city police services

Number: INFORMAL

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Mr. William F. Brewton
Dade City Attorney
38038 Meridian Avenue
Dade City, Florida 33525

Dear Mr. Brewton:

You ask whether the City of Dade City may furnish police services to the City of San Antonio and the City of Saint Leo, both of which are located outside the jurisdictional limits of the City of Dade City. Attorney General Butterworth has asked me to respond to your letter.

You refer to Attorney General Opinion 93-93 in which this office concluded that Article VIII, section 4, Florida Constitution, relating to the transfer of powers, was not applicable when the town sought to enter into a contract with the sheriff for the provision of the town's law enforcement functions. The opinion dealt with the provision of law enforcement functions within the town by the sheriff who had county-wide law enforcement authority.[1]

Your inquiry, however, concerns the authority of one municipality to provide law enforcement functions to another municipality. Article VIII, section 2(c), Florida Constitution, provides that the "exercise of extraterritorial powers by municipalities shall be as provided by general or special law." Thus, the grant of municipal home rule powers does not extend to the exercise of extraterritorial power and the powers of a municipality, including its police powers, generally cease at the municipal boundaries. Absent statutory authorization, they cannot be exercised outside the city's limits.[2]

You ask whether the cross swearing of the police officers would resolve the problem with a municipality performing law enforcement functions in the other municipalities. In Attorney General Opinion 82-52 this office concluded that the "cross swearing" of police officers by municipalities and the exercise of police powers and functions in neighboring municipalities is authorized only upon compliance with the requirements of Article VIII, sections 2(c) and 4, Florida Constitution. As the opinion points out, section 2(c), Article VIII, Florida Constitution, permits the exercise of extraterritorial powers by municipalities when provided by general or special law, and section 4, Article VIII, Florida Constitution, provides that the transfer and contracts contemplated by section 4, may be effected as specified therein, and "as otherwise provided by law." In that opinion, however, the cross-swearing of the officers was to be accomplished pursuant to an agreement under the Florida Mutual Aid Act, thus satisfying the requirement that the exercise of extraterritorial powers be as provided by special or general law.

More recently, this office in Attorney General Opinion 96-78 considered under what circumstances one municipal police department may provide law enforcement services to another municipality. This office concluded that while a mutual aid agreement may be entered

into pursuant to Part I, Chapter 23, Florida Statutes, allowing one municipality to provide assistance to another municipality on a specified, limited basis, there is no statutory authority for the complete transfer of law enforcement services from one municipality to another where supervision and control of the services are vested in the municipality providing such services. Thus, in instances where a municipality has no police department and seeks to contract for law enforcement services, the municipality may contract with the sheriff whose jurisdiction includes the city.

I am enclosing the above referenced opinions for your review. I trust that the above informal advisory comments may be of assistance.

Sincerely,

Joslyn Wilson
Assistant Attorney General

JW/tgk

[1] *And see City of Palm Beach Gardens v. Barnes*, 390 So. 2d 1188 (Fla. 1980), concluding that the procedural requirements of Art. VIII, s. 4, Fla. Const., were not applicable to a sheriff who contracted to perform law enforcement services to a city within his county since the sheriff was "not the county taxing entity contemplated by section 4."

[2] See s. 166.021(3)(a), Fla. Stat. (1995), stating that municipal home rule powers do not extend to "[t]he subjects of annexation, merger, and exercise of extraterritorial power, which require general or special law pursuant to s. 2(c), Art. VIII of the State Constitution[.]" *And see Ramer v. State*, 530 So. 2d 915 (Fla. 1988) (city police officer lacked authority to seize vehicle on private property outside city limits); *Collins v. State*, 143 So. 2d 700 (Fla. 2d DCA 1962), *cert. denied*, 148 So. 2d 280 (Fla. 1962).