

OFFICE OF THE ATTORNEY GENERAL 86-00142



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STATE OF ALABAMA

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Mr. Don E. Howell
City Clerk/Administrator
City of Gulf Shores
P. O. Box 299
Gulf Shores, Alabama 36542

Municipalities - Police
Jurisdiction - Police Protection

Provision of services in police
jurisdiction discussed.

Dear Mr. Howell:

The opinion request of the City of Gulf Shores has been received in the Office of the Attorney General. Your request presents the following information:

"A situation has come to our attention which causes us some concern as to the potential liability of the City of Gulf Shores, and we will appreciate your help.

Because of a misunderstanding between the City and Baldwin County as to where our police jurisdiction extended, the City hired an engineer to map the contours of our jurisdiction. I enclose a map copy which shows the line as the engineer drew it.

There is a small area in Bon Secour, lying north or northwest of the Bon Secour River, which falls within this contour. The major operation in this area is Bon Secour Fisheries, which, as you know, is a sizable operation.

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The route from Gulf Shores to this area is rather tortuous - State Highway 59 to County Road 10 to County Road 49, etc.

Gulf Shores has not within recent years provided police protection in this area, as Baldwin County has done so. Beginning January 1, 1986, the City of Gulf Shores has resolved, and advertised, that we will not furnish fire and emergency medical services outside our police jurisdiction except in circumstances involving mutual aid agreements with fire departments in adjacent areas, medical emergencies which cannot be adequately handled by other agencies, and in the case of police activity, any situation offering the potential of harm to our City, and when help is requested by another police agency.

The question which arises is that of the liability of Gulf Shores in the event a call for police service (or fire or emergency medical service) is received from this area and our units do not respond.

We do not now and have never collected City taxes from the area in question, and if we were to do so now it might be difficult to justify that services rendered are commensurate with taxes collected."

Your first question is:

"Question 1: Can a natural barrier, in this instance the Bon Secour River, be used as the limit of the police jurisdiction contour?"

The answer to your question is no.

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The second question asked is:

"Question 2: If the answer to question 1 is negative, would an agreement between the affected property owners and the City of Gulf Shores reserving this area from the P.J., relieving the City of liability for providing services, and covenanting that the City would not collect taxes in the area be valid?"

Again, the answer to your question is no. Municipalities may not discriminate by providing different services in different portions of the police jurisdiction.

Your third question reads as follows:

"Question 3: Should both above be in the negative, can the City by ordinance adjust its police jurisdiction line to exclude the area?"

No.

Your next question is:

"Question 4: Would an agreement between the City and Baldwin County by which the County accepted jurisdiction in this area relieve the City of responsibility?"

It is permissible for governmental entities to contract with each other for the provision of necessary services. The city could not forfeit jurisdiction, but could, depending on the terms of the agreement, by contract provide services to this area at the same level at which services are provided to the rest of the police jurisdiction.

The final inquiry is:

"Question 5: If all above are negative and we have no recourse to providing services, is the City then obliged to collect appropriate taxes?"

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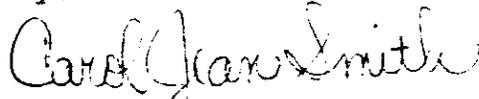
The statutory authority for collecting taxes in the police jurisdiction found at Code of Alabama 1901, § 11-51-91 is permissive, not mandatory. However, if taxes are collected, they must be collected uniformly throughout the police jurisdiction.

I do hope that this response sufficiently answers your inquiry. If, however, we may be of further service, please do not hesitate to contact us.

Sincerely yours,

CHARLES A. GRADDICK
Attorney General

By:



CAROL JEAN SMITH
Assistant Attorney General

CAG:CJS:dn