

Sheriff, law enforcement within unincorporated town

Number: INFORMAL

Date: May 16, 1997

The Honorable C.W. "Charlie" Croft
Sheriff, Osceola County
400 Simpson Road
Kissimmee, Florida 34744-4455

Re: SHERIFFS--LAW ENFORCEMENT--HOMEOWNERS' ASSOCIATIONS--sheriff may enter into agreement with association to provide law enforcement within unincorporated town.

Dear Sheriff Croft:

You ask substantially the following question:

May the sheriff enter into an agreement with a homeowners' association to provide law enforcement services within the boundaries of an unincorporated town when all costs of such services will be paid by the homeowners' association?

In sum:

While the sheriff may provide additional law enforcement services to the unincorporated town under an agreement with the homeowners' association, the decision whether to enter into such an agreement rests with the sheriff.

According to your letter, the residents of the unincorporated Town of Celebration, located within the Reedy Creek Improvement District, have formed a homeowners' association. The association has requested additional law enforcement resources from the sheriff's department and is willing to enter into an agreement to pay all costs associated with this request.

The sheriff's jurisdiction is countywide.[1] Thus, the sheriff already possesses the authority and duty to provide law enforcement services within the unincorporated town.

While increasing the number of on-duty officers without incurring additional expenses may enable the sheriff to better allocate his resources, providing improved law enforcement protection in those areas where it is needed, the internal operation of sheriff's office and the allocation of resources is a function that belongs uniquely to the sheriff as chief law enforcement officer of the county.[2] Thus, the allocation of personnel and resources within the sheriff's office is a decision that falls within the discretion of the sheriff.

Accordingly, while this office is not aware of any prohibition against the sheriff providing such additional law enforcement services to the unincorporated town, the decision whether to enter into such an agreement rests with the sheriff.[3]

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tgk

[1] See s. 30.15, Fla. Stat.; *and see* Op. Att'y Gen. Fla. 71-195 (1971) (respective duties, legal jurisdiction and limitations of a county sheriff and a municipal police department located in the same county have concurrent jurisdiction); and Op. Att'y Gen. Fla. 71-195A (1971) (each agency is authorized to conduct investigations without unnecessary intrusion from the other but two agencies should cooperate with each other, not because they are legally required to, but because it is a necessary condition to the proper performance of each agency's duty to provide police protection); *cf.* Op. Att'y Gen. Fla. 94-45 (1994). You have advised this office that the public has a right to travel on the roads within the unincorporated town. See s. 316.640(2)(a), Fla. Stat. (1996 Supp.) (sheriff shall enforce the traffic laws of this state on all the streets and highways and elsewhere throughout the county wherever the public has the right to travel by motor vehicle).

[2] See s. 30.53, Fla. Stat. *And see* *Weitzenfeld v. Dierks*, 312 So. 2d 194 (1975) (internal operation of sheriff's office and allocation of appropriated money within the six statutory items of his budget are functions that belong uniquely to sheriff and county may not intrude into functions that are necessarily within purview of sheriff's office).

[3] Unlike the situation in Op. Att'y Gen. Fla. 90-61 (1990), in which this office stated that the sheriff could not administer an off-duty employment program for his deputies, the services in the instant inquiry would be provided to an unincorporated town by on-duty officers and operate as an enhancement of service to the community that the sheriff is generally under an obligation to provide.