

OP. NO. 03-097

CRIMINAL PROCEDURE: TRIAL AND ITS INCIDENTS – VENUE.

Jurisdiction of Waverly police department in criminal cases involving offenses against Commonwealth extends 1 mile beyond town corporate limits. Because corporate authorities have no jurisdiction to enforce town ordinances outside corporate limits of town, town of Waverly is not entitled to fines collected for violations of state law occurring outside its corporate limits.

The Honorable E. Carter Nettles, Jr.
Commonwealth's Attorney for Sussex County
December 2, 2003

Issues Presented

You ask whether a town police officer lawfully may issue a traffic summons within a one-mile radius of the town's corporate limits for violation of a town ordinance. You also ask whether the town is entitled to the fines collected for town ordinance violations that occur outside its corporate limits.

Response

It is my opinion that the jurisdiction of the Waverly police department in criminal cases involving offenses against the Commonwealth extends one mile beyond the corporate limits of the town of Waverly. The jurisdiction of the police department, however, does not include the authority to enforce town ordinances outside the corporate limits of the town.¹ Since the town's police department may not enforce town ordinances outside the corporate limits of the town, the town of Waverly is not entitled to any fines collected for violations of state law occurring outside its corporate limits.

Background

You relate that Waverly police officers issue summonses for speeding violations detected by radar outside the corporate limits of the town. A Waverly police officer typically checks a block on the Virginia Uniform Summons indicating a violation of the town ordinance. Both the section number of the town ordinance and the jurisdiction of offense (indicating the town of Waverly) are preprinted on the summons.

The use of a summons form containing such preprinted information generally is not improper, provided that the Waverly police department either confines its traffic enforcement to the corporate limits of the town or corrects the preprinted information pertaining to the town of Waverly. You believe, however, that the use of such forms poses a significant risk of error when the town police department uses the exception granted by § 19.2-250(A) to patrol or to enforce state law within one mile beyond the town corporate limits.²

Applicable Law and Discussion

Section 19.2-250 limits the jurisdiction of corporate authorities in criminal matters in adjoining jurisdictions. Section 19.2-250(A) provides:

Notwithstanding any other provision of [Article 2, Chapter 15 of Title 19.2] and except as provided in subsection B hereof, the jurisdiction of the corporate authorities of each town or city, in criminal cases involving offenses against the Commonwealth, shall extend within the Commonwealth one mile beyond the corporate limits of such town or city; except that such jurisdiction of the corporate authorities of towns situated in counties having a density of population in excess of 300 inhabitants per square mile, or in counties adjacent to cities having a population of 170,000 or more, shall extend for 300 yards beyond the corporate limits of such town or, in the case of the criminal jurisdiction of an adjacent county, for 300 yards within such town.

A 2001 opinion of the Attorney General concludes that determination of jurisdiction pursuant to § 19.2-250(A) rests on whether the population density of the county in which a town is located exceeds 300 inhabitants per square mile.³ Because the population density of Loudoun County exceeds 300 inhabitants per square mile, the prior opinion concludes that the jurisdiction of the town of Purcellville police department was limited to 300 yards beyond the corporate limits of the town.⁴

In the case of the town of Waverly, the same analysis requires the opposite conclusion. The population density of Sussex County, in which the town of Waverly is located, is 25.5 inhabitants per square mile,⁵ which is under the threshold of 300 inhabitants per square mile prescribed in § 19.2-250(A). Accordingly, the jurisdiction of the Waverly police department to enforce state law extends one mile beyond the corporate limits of the town of Waverly.

This grant of jurisdiction to corporate authorities, however, is limited by its terms to "criminal cases involving offenses against the Commonwealth."⁶ Section 19.2-250(A) does not expand the jurisdictional reach of local ordinances or confer on local police departments any authority to enforce those ordinances outside the corporate limits of the towns that they serve. Indeed, if the General Assembly had done otherwise, the problem of conflicting ordinances would arise in the one-mile radius at issue. The Supreme Court of Virginia has held that local ordinances have no effect beyond the corporate limits of a town.⁷

Conclusion

Accordingly, it is my opinion that the jurisdiction of the Waverly police department in criminal cases involving offenses against the Commonwealth extends one mile beyond the corporate limits of the town of Waverly. The jurisdiction of the police department, however, does not include the authority to enforce town ordinances outside the corporate limits of the town.⁸ Since the Waverly police department may not enforce town ordinances outside the corporate limits of the town, the town of Waverly is not entitled to any fines collected for violations of state law occurring outside its corporate limits.

¹I note, however, that § 19.2-77 permits an officer attempting to arrest a person for a crime committed within his jurisdiction to pursue that person into another jurisdiction for the purpose of effectuating an arrest.

²A Commonwealth's attorney's request for an opinion from the Attorney General "shall itself be in the form of an opinion embodying a precise statement of all facts together with such attorney's legal conclusions." Va. Code Ann. § 2.2-505(B) (LexisNexis Repl. Vol. 2001).

³2001 Op. Va. Att'y Gen. 119, 120.

⁴*Id.* at 120.

⁵See U.S. Census Bureau State & County QuickFacts for Sussex County, Va., available at <http://quickfacts.census.gov>. "Population" means "the population ... as shown by the United States census last preceding the time at which any provision dependent upon population is being applied, or the time as of which it is being construed, to the end that there will be ... flexibility." Va. Code Ann. § 1-13.22 (LexisNexis Repl. Vol. 2001).

⁶Va. Code Ann. § 19.2-250(A) (Michie Repl. Vol. 2000).

⁷See *Kelly v. County of Brunswick*, 200 Va. 45, 104 S.E.2d 7 (1958) (holding that town ordinance prohibiting operation of motor vehicle while under influence of intoxicants had no effect beyond town limits); see also *Hoambrecker v. City of Lynchburg*, 13 Va. App. 511, 412 S.E.2d 729 (1992) (noting that § 19.2-250 does not extend effect of city ordinances beyond city limits).

⁸See *supra* note 1.

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