

Opinion No. 2010-097

August 31, 2010

Daniel Wright, Esq.  
Wright & Baker, P.A.  
130-C North College  
Fayetteville, Arkansas 72701

Dear Mr. Wright:

You have requested approval, pursuant to the Interlocal Cooperation Act, A.C.A. § 25-20-101 *et seq.* (Repl. 2002 and Supp. 2009) (the "Act"), of a proposed agreement between the City of Greenland, Arkansas and the City of West Fork, Arkansas, captioned "Interlocal Mutual Aid Agreement" (the "Agreement"). You have submitted a copy of the Agreement, under the terms of which the parties agree to cooperate through their respective certified law enforcement agents in the enforcement of the law in their respective jurisdictions. I am required to review the Agreement for the purpose of determining whether it is in proper form and otherwise compatible with Arkansas law. A.C.A. § 25-20-104(f)(1) (Supp. 2009).

I have addressed previous versions of the Agreement in Ops. Att'y Gen. 2010-046 and 2010-090, approving the latter of these submissions. Since the time of my initial approval, you have revised the previously approved version of the Agreement and resubmitted the revision for my approval.

In both of my previous opinions, I set forth the applicable standard guiding my review. I need not set forth that standard again here.

Having reviewed your submission I have concluded that it is in proper form and, subject to one possible qualification, otherwise in accordance with Arkansas law.

The qualification just referenced relates to the final sentence of paragraph 7 of the Agreement, which provides as follows:

It is expressly understood that the policy maker for West Fork is the West Fork City Council and the policy maker for Greenland is the Greenland City Council.

It is unclear precisely to what “policy” this sentence refers. I must note in this regard that, as a matter of law, policymaking authority over various matters may reside not in a city council, but in a mayor, a civil service commission (if one exists) or in a police chief. For purposes of my review, I will assume that the sentence just quoted is not intended to authorize an encroachment by a city council upon the policymaking authority of one of these other authorities. Based upon this assumption, I hereby approve the Agreement as submitted.

Assistant Attorney General Jack Druff prepared the foregoing opinion, which I hereby approve.

Sincerely,

DUSTIN McDANIEL  
Attorney General

DM/JHD:cyh