



OFFICE OF THE COUNTY ATTORNEY

Douglas M. Duncan  
County Executive

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County Attorney

February 26, 2004

Robert N. McDonald, Chief Counsel  
Opinions and Advice  
Office of the Attorney General  
200 St. Paul Place  
Baltimore, MD 21202

Re: Maryland-National Capital Park and Planning Commission (M-NCPPC) Opinion Request

*Bob*  
Dear ~~Mr. McDonald~~:

Thank you for providing the County Attorney's Office with an opportunity to comment on the request made by the Maryland-National Capital Park and Planning Commission (M-NCPPC) for an Attorney General opinion. The opinion request asks for guidance on the appropriate process the Montgomery County Council must follow in approving an agreement that would grant certain police powers to M-NCPPC Police (Park Police) in non-park areas of the County.

Article 28, Section 5-114(a), of the Annotated Code of Maryland provides that Park Police may exercise police powers off park property as may be provided in an agreement entered into under Section 2-105 of the Criminal Procedure Article. Section 2-105 provides that a mutual aid agreement may be entered into by the governing body of a county "by action as in the regular routine for legislative enactments."

Although Montgomery County has exercised its authority under the Criminal Procedure Article by enacting a law adopting a procedure for entering mutual aid agreements through Section 35-13 of the Montgomery County Code, we do not believe that provision covers mutual aid agreements with the M-NCPPC. Section 35-13 of the Montgomery County Code authorizes the County Executive, subject to approval of the County Council, to enter into a police mutual aid agreement with "counties, municipal corporations and the District of Columbia."<sup>1</sup> Under authority of Section 35-13 the County has entered into police mutual aid agreements by the Council adopting a resolution approving an agreement signed by the County Executive. We believe this procedure comports with the Criminal Procedure Article, because the County has "by action as in the regular routine for legislative enactment" adopted a procedure for entering mutual

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<sup>1</sup>I understand that the M-NCPPC has provided you with a copy of Section 35-13 as an attachment to its opinion request.

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aid agreements and we do not believe the Criminal Procedure Article must be read to require each agreement to be separately approved by law. But M-NCPPC does not fall within the ambit of Section 35-13, because it is neither a county, nor a municipal corporation.

Accordingly, an agreement with M-NCPPC to extend police power to Park Police under Section 5-114(a) must comply with the provisions of Section 2-105 of the Criminal Procedures Code, and be approved by the governing body "by action as in the regular routine for legislative enactments." This means that either: 1) Section 35-13 must be amended by the Council and an agreement subsequently entered into by the Executive and approved by Council resolution; or 2) the agreement must be approved under the process the County Charter establishes for the approval of legislation.

I hope this letter will be helpful to you in preparing a response to the opinion request from M-NCPPC. Please let me know if I can provide you with any further assistance in this matter.

Very truly yours,



Marc P. Hansen, Chief  
Division of General Counsel

cc: Derick P. Berlage, Chair, Maryland-National Capital Park and Planning Commission  
Michael Faden, Senior Legislative Attorney, County Council  
Jerome Nicholas, Assistant County Attorney  
Michael Fry, Assistant County Attorney