

Criminal Procedure Law §§ 1.20(34)r, 2.10(9), 2.20; 15 N.Y.C.R.R. §§ 91.2, 19.3; Session Laws 1991 Ch 542, 1980 Ch 843; Environmental Conservation Law § 9-1501; Municipal Home Rule Law § 10(4)(a); Vehicle And Traffic Law § 511-b

The Village's park rangers may issue uniform traffic tickets for violations of the Vehicle and Traffic Law within village parks. They may not issue tickets for violations they observe on public streets while traveling between parks.

August 8, 2012

Anthony S. Guardino
Village Attorney
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Informal Opinion
No. 2012-7

Dear Mr. Guardino:

You have requested an opinion regarding whether the Village is authorized to delegate to its park rangers the power to issue uniform traffic tickets under the Vehicle and Traffic Law. The delegation would authorize the exercise of this power both when the park rangers are patrolling village parks and when they are traveling between the parks on public streets. As explained below, we are of the opinion that the park rangers are currently authorized by state law -- without any new delegation -- to issue uniform traffic tickets when they are patrolling village parks. We are of the further opinion that the Village may not extend this power to include issuing tickets while the park rangers are traveling on public streets between parks.

Preliminarily, state law specifically grants to "park rangers in Suffolk County" the authority to issue appearance tickets, simplified traffic informations, simplified parks informations, and simplified environmental informations. Criminal Procedure Law § 2.10(9). A simplified traffic information comprises one part of the uniform traffic ticket promulgated by the Commissioner of Motor Vehicles. 15 N.Y.C.R.R. § 91.3. Park rangers issuing tickets for traffic violations must use the uniform traffic ticket. 15 N.Y.C.R.R. § 91.2. The Village is in Suffolk County, and its park rangers are "park rangers in Suffolk County." Thus, state law expressly grants the Village's park rangers the authority to issue uniform traffic tickets.

A more complex question is where the Village's park rangers can exercise this authority. The fundamental responsibilities of local park rangers involve patrolling local parks. It necessarily follows that the Legislature intended the authority it granted to park rangers in Suffolk County to be exercised in the parks patrolled by the rangers. Therefore, we believe that the Village's park rangers are authorized to issue uniform traffic tickets while they patrol village parks.

We are of the opinion, however, that the Legislature did not intend this power to be exercised by the Village's park rangers on the streets outside patrolled parks. This is because Village park rangers, unlike County park rangers, are expressly made peace officers rather than police officers, and state law imposes limits on the authority of peace officers to exercise their powers. State law specifically provides that "[p]ark rangers in Suffolk County" (who are employed by towns and villages, *see* Act of July 23, 1991, ch. 542; Governor's Veto Mem., Veto Jacket, Veto 28 of 1990) are peace officers. Criminal Procedure Law § 2.10(9). By contrast, a "Suffolk County Park Police Officer" employed by the Suffolk County Department of Parks is expressly made a "police officer" under state law. Criminal Procedure Law § 1.20(34)(r). This distinction reflects a legislative decision to permit town and village park rangers to maintain their peace officer status when their towns and villages opted into the Suffolk County Police District and thus gave up their police departments, and the Suffolk *County* Park Rangers (now "Park Police") were given police officer status. *See* Act of July 23, 1991, ch. 542; Governor's Veto Mem., Veto Jacket, Veto 28 of 1990.

Unlike a police officer, who is responsible for general law enforcement, a peace officer "performs a law enforcement function for an agency that does not have policing as its central mission." Preiser, Practice Commentary, McKinney's Cons. Laws of N.Y., Book 11A, Criminal Procedure Law § 2.10 at 69 (McKinney's 2003). "[T]he term 'peace officer' was to refer to persons with more specialized law enforcement responsibilities confined to a specific locale or criminal activity." Recommendation of the Law Revision Commission to the 1976 Legislature: Relating to the Revision of New York Law Dealing with Peace Officers [hereinafter "Recommendation"], at 3, *reprinted in* Bill Jacket for ch. 843 (1980). As a result, a peace officer is authorized to exercise his powers, for the most part, only when he is "acting pursuant to his special duties." Criminal Procedure Law § 2.20. This phrase "conforms a peace officer's powers to the scope of his employment." Memorandum in Support of Unified Peace Officer Bill, at 2, *reprinted in* Bill Jacket for ch. 843 (1980).

Thus, for example, a municipal housing guard is authorized to arrest someone he believes has committed a burglary in a municipal housing project, *see* Recommendation, at 5; but a railroad peace officer may not enforce traffic infractions on city streets that "in no way interfere with or are related to the operation of the railroad," *People v. Hartman*, 114 Misc. 2d 138, 143 (Crim. Ct. Bronx Co. 1982). Correction officers and parole officers cannot enforce the prohibition against unauthorized removal of an evergreen tree, which may only be enforced by police officers or "peace officers who are acting pursuant to their special duties." Letter to Richard A. Brown, Counsel to Governor, from Melvin H. Miller, Assemblyman, (June 24, 1980), at 3, *reprinted in* Bill Jacket for ch. 843 (1980); Environmental Conservation Law § 9-1501.

Similarly, we believe that enforcing the Vehicle and Traffic Law on village streets outside village parks does not come within the specialized nature of a village park ranger's employment. The authority granted by sections 2.10(9) and 2.20 of the Criminal Procedure Law to park rangers in Suffolk County to issue simplified informations for violations of the Vehicle and Traffic Law; the Parks, Recreation, & Historic Preservation Law; and the Environmental Conservation Law is consistent with, and limited to, their responsibility to patrol and protect village parks and consequently may be exercised only within village parks. To view this grant of authority to the Village's park rangers as extending outside village parks would be inconsistent with the limitations of their status as peace officers for the Village parks.

Nor do we believe that the Village is authorized to extend its park rangers' jurisdiction to public streets outside patrolled parks. We do not consider whether a local government may as a general matter make such an extension pursuant to its home rule authority, because we are persuaded that on the particular facts presented here the Village cannot do so. The Village joined the Suffolk County Police District in 1958, and thereby irrevocably divested itself of its general law enforcement functions. *Inc. Village of Old Field v. Cosgrove*, 244 A.D.2d 530 (2d Dep't 1997); *County of Nassau v. Inc. Village of Woodsburgh*, 109 Misc. 2d 299, 317 (Sup. Ct., Nassau Co. 1981); *aff'd*, 86 A.D.2d 856 (2d Dep't 1982); *aff'd*, 58 N.Y.2d 996 (1983). Moreover, by joining the county police district, the Village relinquished its authority to designate a peace officer to issue an appearance ticket to enforce laws relating to the public health, safety, and welfare pursuant to Municipal Home Rule Law § 10(4)(a). *County of Nassau v. Inc. Village of Woodsburgh*, 109 Misc. 2d at 311-12, 316. Instead, having transferred the responsibility for general law enforcement to the County, the provisions of the Suffolk County Charter relating to the exercise of police functions by the County govern the Village. *Id.* at 316. In light of this history, we are of the opinion that the Village cannot delegate enforcement of the Vehicle and Traffic Law on public streets outside village parks to its park rangers.

You have suggested that an earlier Opinion of the Attorney General, Op. Att'y Gen. (Inf.) No. 91-28, supports the Village's authority to delegate to its park rangers the power to issue uniform traffic tickets under the Vehicle and Traffic Law, but we disagree. In the cited opinion we considered the question of whether a town's park rangers were authorized to impound motor vehicles pursuant to Vehicle and Traffic Law § 511-b. We "assum[ed] that the rangers are authorized to make arrests and issue appearance tickets for violations of section 511 of the Vehicle and Traffic Law," and reasoned that "they are also authorized to impound vehicles pursuant to section 511-b." We made that assumption because the requester had "informed us that the town has charged the park rangers with the duty to enforce all provisions of the Vehicle and Traffic Law" and we had no information that the requesting town had transferred its

law enforcement power to the county. We did not opine as to whether the town was authorized to charge its park rangers with the duty to enforce the Vehicle and Traffic Law, either broadly or with respect to limited territory. Thus Op. Att'y Gen. (Inf.) No. 91-28 does not provide an answer to the question you have asked.

In summary, we are of the opinion that the Village's park rangers may issue uniform traffic tickets for violations of the Vehicle and Traffic Law within village parks but that they may not for violations they observe on public streets while travelling between parks.

The Attorney General issues formal opinions only to officers and departments of state government. Thus, this is an informal opinion rendered to assist you in advising the municipality you represent.

Very truly yours,

KATHRYN SHEINGOLD
Assistant Solicitor General
in Charge of Opinions