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ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005

October 29, 2015
OPINION 15-0152

77 OFFICERS – LOCAL AND MUNICIPAL

107 SHERIFFS, CONSTABLES, AND MARSHALS

LA R.S. 13:1881
LA R.S. 13:5539
LA R.S. 13:1892
LA R.S. 33:423
LA R.S. 22:423

Chief Bobby Corner
Bunkie Police Department
438 Northwest Main Street
Post Office Box 630
Bunkie, Louisiana 71322

The marshal/constable of the City/Ward Court, as the executive officer of that court, should be the primary peace officer to serve such warrants within the territorial jurisdiction of his office.

Dear Chief Corner,

Our Office received an opinion request from you concerning who bears responsibility for serving bench warrants issued by the Ward 10 Court when said Court has an elected marshal specifically for Ward 10.

The Ward 10 Court was apparently merged into the Bunkie City Court. See Editor's note to Chapter 18 of the City of Bunkie Code of Ordinances. The laws pertaining to the marshals or constables of city courts therefore govern the office of Marshal for the City of Bunkie/Ward 10 Court. Louisiana Revised Statute 13:1881 outlines the duties relating to the marshal of a city court and sets forth a duty to execute all orders of the Court, which would include bench warrants. Specifically, Section 1881 states: duties of marshal; deputy marshals

A. The marshal is the executive officer of the court; he shall execute the orders and mandates of the court and in the execution thereof, and in making arrests and preserving the peace, he has the same powers and authority of a sheriff.

This office has previously issued opinions recognizing that as executive officer of the city court, the court's marshal/constable has the primary responsibility to execute the orders of the city court and to serve warrants issued by the court within the limits of his or her territorial jurisdiction to the same extent that a sheriff has such responsibility as the executive officer of the district court within his or her territorial jurisdiction. See La. Atty. Gen. Op. No. 75-790. This follows directly, in

our opinion, from the city court marshal/constable's duty to attend the sessions of the city court as executive officer thereof. See La. R.S. 13:1881 (marshal of a city court has the powers and authority of a sheriff in acting as executive officer of his or her city court); and La. R.S. 13:5539(B) (sheriff has duty as executive officer of the district court to attend every session of court).

On the other hand, the city police chief is designated by statute as having "general responsibility for law enforcement in the municipality, and shall be charged with the enforcement of all ordinances within the municipality and all applicable state laws. He shall perform all other duties required of him by ordinance." La. R.S. 33:423(A). We note that the Code of Ordinances for the City of Bunkie does not add or include any specific duties for the chief of police with regard to service of arrest warrants issued out of the City of Bunkie/Ward 10 Court.

Nevertheless, as we have noted in previous opinions, the Chief of Police is also *ex officio* a marshal and constable. See La. Atty. Gen. Op. No. 84-242; see also La. R.S. 33:381.1 and La. R.S. 22:423(A). That being the case, we have issued opinions recognizing that although a city court marshal/constable has the primary duty as executive officer of the city court to execute the arrest warrants issued by that court, the chief of police for that city has concurrent authority to serve such warrants. See La. Atty. Gen. Op. Nos. 775-790, 84-71, and 04-0250. We based this opinion in part on the language of Article 204 of the Code of Criminal Procedure, which states that because an arrest warrant "is to be directed to all peace officers in the state ... [it] may be executed in any parish by any peace officer ..." La. C.Cr.P. art. 204. We also noted that the Revised Statutes also supported this conclusion:

Service of all process in civil or criminal cases issuing from the city court shall be made by the marshal or by any sheriff or deputy sheriff where they respectively exercise their authority, or by any peace officer of the city or town where the service is to be made. It shall be the duty of those officers to execute all such writs and processes which are placed in their hands for service by the direction of the court."

La. R.S. 13:1892. We did caution, however, that neither the police chief nor the city court marshal/constable could "unilaterally refuse to serve warrants." See La. Atty. Gen. Op. No. 84-71.

Inasmuch as a City of Bunkie/Ward 10 bench warrant commands a law enforcement officer to arrest the listed subject of the warrant, it is the opinion of this office that the marshal/constable of the City of Bunkie/Ward 10 Court, as the executive officer of that court, should be the primary peace officer to serve such warrants within the territorial jurisdiction of his office. We further are of the opinion

Honorable Bobby Corner
Chief, Bunkie Police Department
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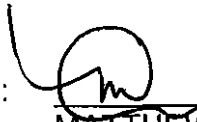
that your current practice of running names for warrant checks during traffic stops and residence calls, then making the arrest once the warrant is confirmed, is sufficient to satisfy your concurrent duty to execute the warrants issued by the city court within the territorial jurisdiction of your office. However, we are of the opinion that any obligations to actively seek out wanted subjects based on City of Bunkie/Ward 10 Court orders would lie with the marshal/constable of that court under R.S. 13:1881, as noted above, absent "any arrangement mutually agreed to by the marshal of the city court and the city police department to share this responsibility." See La. Atty. Gen. Op. No. 84-71.

We trust this adequately responds to your request. However, if our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

JAMES "BUDDY" CALDWELL
ATTORNEY GENERAL

BY:

A handwritten signature in black ink, appearing to be "M. Derbes", written over a horizontal line.

MATTHEW B. DERBES
ASSISTANT ATTORNEY GENERAL