



ALAN WILSON
ATTORNEY GENERAL

July 23, 2020

Chief Kevin Portee
Benedict College Police Department
1600 Harden Street
Columbia, SC 29204

Dear Chief Portee:

We received your request seeking an opinion on when the general jurisdiction of campus police officers extends beyond the physical campus of a private college or university. This opinion sets out our Office's understanding of your question and our response.

Issue:

Your letter recounts that Benedict College police officers pursued an individual from campus to a stop on a portion of a public road not touching the campus. In the course of the stop, a passing motorist nearly hit one of the officers. Benedict College police officers apprehended motorist soon after, all while on a portion of a public road not touching the campus. Your letter recounts that the motorist "was slightly intoxicated and had open containers in the vehicle." One of the campus police officers arrested and charged the motorist. You further recount:

While at the detention center, a Richland county magistrate informed the officer that his jurisdiction did not extend to where he stopped the violator and he would have to drop the case and let the violator go. . . . The officer [referenced Section 59-116-20] and also stated that we have a mutual aid agreement with the City of Columbia [where the stop took place].

We understand that you have three essential questions in light of this incident:

1. Does the term "contiguous" in Section 59-116-20 establish that campus police officers have jurisdiction over portions of roads which are not touching campus property but are in close proximity to the campus?
2. Does the mutual aid agreement with the City of Columbia extend the jurisdiction of campus police officers to include property in close proximity to the campus?
3. If the statute in Title 59 limits jurisdiction, but the constable commission issued was unrestricted, would that extend the territorial jurisdiction of the officers to statewide?

Law/Analysis:

We will address each of your questions after setting out some of the applicable law. Section 59-116-20 reads in full:

The board of trustees of each college or university may establish a safety and security department and appoint and employ campus police officers to carry out the functions of the department. While on duty, campus police officers shall wear distinctive uniforms prescribed by the board of trustees or its designees.

The officers must be commissioned as constables pursuant to Section 23-1-60 and take the oath of office prescribed by law and the state Constitution for those officers. The jurisdiction of such a constable is limited to the campus grounds and streets and roads through and contiguous to them.

S.C. Code Ann. § 59-116-20 (2020). Furthermore, Section 59-116-30 provides in relevant part:

Campus police officers shall exercise powers granted in this chapter only upon the real property owned by their respective institutions as defined in item (1) of Section 59-116-10. . . . Campus police officers may arrest persons outside the territory described in subsection (A) when the person arrested has committed a criminal offense within that territory, and the arrest is made during the person's immediate and continuous flight from that territory.

S.C. Code Ann. § 59-116-30(A)(2) & (B) (2020).

Finally, we note that any question of whether a law enforcement officer has jurisdiction in a particular instance is a fact-specific question that a court must determine, and our Office generally does not interpret the terms of specific mutual aid agreements. We turn now to the legal questions presented in your letter.

1. **Does the term “contiguous” in Section 59-116-20 establish that campus police officers have jurisdiction over portions of roads which are not touching campus property but are in close proximity to the campus?**

Chapter 116 of Title 59 does not define the term “contiguity” for purposes of these statutes. This Office is not aware of any reported court decisions interpreting whether a particular property is contiguous for purposes of Section 59-116-20 beyond a summary conclusion that a particular officer had jurisdiction. *Cf. United States v. Marsh*, 783 Fed.Appx. 282 (4th Cir. 2019) (“After reviewing the record, we conclude that the district court did not err in finding that

[Benedict College police officer] Eggleston was within his jurisdiction when he stopped Marsh.”).

In the context of municipal annexation, the South Carolina Supreme Court has held that “[t]he statutory word ‘contiguous’ must be afforded its ordinary meaning of ‘touching.’” *Bryant v. City of Charleston*, 295 S.C. 408, 411, 368 S.E.2d 899, 901 (1988). Similarly, this Office has previously observed in the context of multi-county industrial parks that “[g]enerally, an actual touching of lands is required to fulfill the requirement of contiguity in a given instance.” *Op. S.C. Att’y Gen.*, 1997 WL 569037 (July 22, 1997). This ordinary meaning of “contiguous” as “actually touching” is consistent with the role of a campus police department as a safety and security function of a particular college or university, established by the board of trustees pursuant to Section 59-116-10.

For these reasons we believe that a court most likely would conclude that the term “contiguous” in Section 59-116-20 establishes that campus police officers have general jurisdiction only over the portions of roads that actually touch real property owned by the college or university. If a road is not touching and is only in “close proximity,” we believe that any arrest must be made pursuant to another source of authority. Incidentally, this interpretation also provides a definite demarcation of jurisdiction that is objective and workable, while a “close proximity” test would always invite questions about how close is close enough.

2. Does the mutual aid agreement with the City of Columbia extend the jurisdiction of campus police officers to include property in close proximity to the campus?

We reiterate that any question of whether a law enforcement officer has jurisdiction in a particular instance is a fact-specific question that a court must determine, and our Office does not interpret the terms of specific mutual aid agreements. Additionally, it appears that the letter we received contains only part of the referenced mutual aid agreement.

With those caveats, we observe that the mutual aid agreement enclosed with your letter appears to extend jurisdiction only in response to a specific request: “[t]he assistance to be rendered pursuant to this Agreement shall solely involve responding law enforcement officers from one party’s jurisdiction to the other. When so responding, such law enforcement officers shall have all powers and authorities of law enforcement officers employed by the requesting jurisdiction.” (emphasis added). This language appears to contemplate that a Benedict College officer will only exercise general law enforcement authority off-campus in response to a request from the City of Columbia.

For the sake of clarity, we use the term “general law enforcement authority” here to distinguish it from cases where, for example, a campus police officer pursues a suspect from campus pursuant to the hot pursuit provision of S.C. Code Ann. § 59-116-30. (“Campus police officers may arrest persons outside the territory described in subsection (A) when the person arrested has committed a criminal offense within that territory, and the arrest is made during the person's immediate and continuous flight from that territory.”). We understand that your question is whether Benedict College police officers would have authority to arrest a person off campus for an offense committed off campus without a prior request for assistance from the City. In this context, we observe without opining that the mutual aid agreement does not appear to grant such authority.

3. If the statute in Title 59 limits jurisdiction, but the constable commission issued was unrestricted, would that extend the territorial jurisdiction of the officers to statewide?

Our Office requested and received an example copy of the constable commission your officers are issued. It is a Group I, Class III Limited Duty commission “to enforce the Laws of the State aforesaid while in performance of the duties of his employment.”

Our Office has opined previously on the territorial jurisdiction of a constable commission issued to a Benedict College police officer. In 2006 our Office was presented with the question of whether such officers had law enforcement powers at Williams Brice Stadium during the annual Palmetto Classic football game. *Op. S.C. Att’y Gen.*, 2006 WL 1574908 (May 12, 2006). We concluded that they would not have that authority because constable commission granted to Benedict College police officers grants “territorial jurisdiction limited to ‘the campus grounds and streets and roads through and contiguous to them.’” *Id.* (quoting S.C. Code Ann. 59-116-20).

We affirm our 2006 prior opinion. The constable commission provided to us does not purport to grant statewide jurisdiction. While the Governor has the power to grant a statewide commission, any future commission would have to be assessed based on the express grant of language in it. *See Richardson v. Town of Mt. Pleasant*, 350 S.C. 291, 566 S.E.2d 523 (2001).

Conclusion:

In conclusion, the question of whether a law enforcement officer has jurisdiction at a particular location is a fact-specific question that cannot be answered definitively in a general opinion of this Office. Furthermore, our Office’s longstanding policy is to defer to magistrates in their determinations of probable cause, and to local officers and solicitors in deciding what charges to bring and which cases to prosecute. This opinion is not an attempt to comment on any

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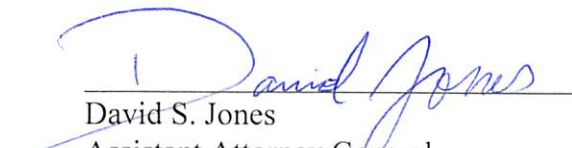
pending litigation or criminal proceeding. Our discussion of the law here is simply intended to aid you in your discussions with your circuit solicitor.

As a general matter, however, we believe that a court most likely would conclude that the term “contiguous” in S.C. Code Ann. § 59-116-20 (2020) establishes that campus police officers have general jurisdiction only over the portions of roads that actually touch real property owned by the college or university. If a road is not touching and is only in “close proximity,” we believe that any arrest must be made pursuant to another source of authority – such as the hot pursuit provision of S.C. Code Ann. § 59-116-30 (2020).

Our Office has previously concluded that the constable commission granted to Benedict College police officers grants “territorial jurisdiction limited to ‘the campus grounds and streets and roads through and contiguous to them.’” *Op. S.C. Att’y Gen.*, 2006 WL 1574908 (May 12, 2006) (quoting § 59-116-20). We affirm that prior opinion. Any future commission would have to be assessed based on the express grant of language in it. *See Richardson v. Town of Mt. Pleasant*, 350 S.C. 291, 566 S.E.2d 523 (2001).

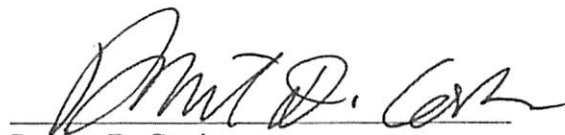
We also observe without opining that mutual aid agreement you provided to us does not appear to extend the general jurisdiction of a Benedict College police officer to non-campus property. The language you provided to us appears to contemplate that a Benedict College officer will only exercise general law enforcement authority off-campus in response to a request from the City of Columbia.

Sincerely,



David S. Jones
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Solicitor General