



ALAN WILSON
ATTORNEY GENERAL

June 08, 2023

Chief John Milby
Furman University Police Department
3300 Poinsett HWY
Greenville, SC 29613

Dear Chief Milby:

Attorney General Alan Wilson has referred your letter to the Opinions section. Your letter states the following:

I am writing on behalf of Furman University to request an opinion to confirm that private university police departments may enter into mutual aid agreements with public law enforcement agencies pursuant to the Law Enforcement Assistance and Support Act (S.C. Code Ann. 23-20-10 et. seq.), and if so, whether there [are] parameters that restrict such agreements.

The City of Travelers Rest and the Travelers Rest Police Department have asked the Furman University Police Department to enter into a mutual aid agreement extending our jurisdiction to cover The Vinings Apartments, a complex owned by Furman University, but no longer used to house students. The mutual aid agreement states, in pertinent part, "the Furman University Police Department shall be responsible for the enforcement of all laws in the Enforcement Area and may respond without request by the Travelers Rest Police Department for any law enforcement-related purpose..."

... [W]e seek clarification to this question: can a private university police department enter into a mutual aid agreement with another South Carolina law enforcement agency to extend its jurisdiction for the purpose of providing patrol services?

Law/Analysis

It is this Office's opinion that a court would likely hold private university police departments are not authorized to enter into mutual aid agreements under the Law Enforcement Assistance and Support Act. S.C. Code § 23-20-10 *et seq.* (Supp. 2022). The act was amended in 2016 and is titled in relevant part as:

AN ACT TO ... DELETE THE PROVISION THAT ALLOWS LAW ENFORCEMENT AGENCIES TO ENTER INTO CONTRACTUAL AGREEMENTS TO PROVIDE LAW ENFORCEMENT SERVICES, TO ALLOW POLITICAL SUBDIVISIONS TO ENTER INTO MUTUAL AID AGREEMENTS TO PROVIDE LAW ENFORCEMENT SERVICES, TO PROVIDE FOR THE CONTENT OF A MUTUAL AID AGREEMENT, TO SPECIFY THE OFFICIALS WHO MAY ENTER INTO AND ENFORCE A MUTUAL AID AGREEMENT ...

2016 Act No. 222. We have previously noted this language states the amendment was intended "to shift the authority to enter into a mutual aid agreement from law enforcement agencies and to political subdivisions, subject to certain exceptions." Op. S.C. Att'y Gen., 2019 WL 6244760, at 4 (November 8, 2019). To that end, section 23-20-30 now reads, "Any county, incorporated municipality, or other political subdivision of this State may enter into mutual aid agreements as may be necessary for the proper and prudent exercise of public safety functions. All agreements must adhere to the requirements contained in Section 23-20-40." S.C. Code § 23-20-30(A) (emphasis added). The mutual aid agreements "must be approved by the appropriate governing bodies of each concerned county, incorporated municipality, or other political subdivision of this State." S.C. Code § 23-20-40(B).¹ Because state universities are considered political subdivisions, a campus police department at a state university is authorized participate in mutual aid agreements if approved by its governing board. See Op. S.C. Att'y Gen., 1984 WL 249914, at 3 (June 26, 1984). However, a private university is not a political subdivision of the state nor does it qualify

¹ Subsection (C) contains an exception whereby sheriffs may enter into a mutual aid agreement without first seeking approval from his county governing body.

As noted earlier in this opinion, the current version of Section 23-20-40(C) now expressly provides that "[a]n elected official whose office was created by the Constitution or by general law of this State is not required to seek approval from the elected official's governing body in order to participate in mutual aid agreements." At the request of the South Carolina Sheriffs' Association, we note that a South Carolina Sheriff holds such an office.

as any of the other bodies authorized to enter into a mutual aid agreement under the terms of the Law Enforcement Assistance and Support Act. Therefore, it is this Office's opinion that the Act does not authorize private university police departments to enter into mutual aid agreements.

Conclusion

It is this Office's opinion that a court would likely hold private university police departments are not authorized to enter into mutual aid agreements under the Law Enforcement Assistance and Support Act. S.C. Code § 23-20-10 *et seq.* (Supp. 2022). However, its officers may still respond to distress calls or requests for assistance in adjacent jurisdictions. See S.C. Code § 17-13-45 ("When a law enforcement officer responds to a distress call or a request for assistance in an adjacent jurisdiction, the authority, rights, privileges, and immunities, ... that are applicable to an officer within the jurisdiction in which he is employed are extended to and include the adjacent jurisdiction.").

Sincerely,



Matthew Houck
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Solicitor General