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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON
ATTORNEY GENERAL

September 28, 2000

Lonnie J. Saxon, Chief of Police
Clemson University
Box 344012
Clemson, South Carolina 29634-4012

Re: Your Memo/Request of September 7, 2000

Dear Chief Saxon:

In your memo you present the following facts along with a request for clarification of your duties and responsibilities:

During football games and other special events where Clemson invites and charges people to attend, am I responsible for all police action involving mutual aid officers, SLED and Highway Patrol, that are sent to assist with traffic and safety? Do I have final say over these officers, as I do my own?

The situation you describe involves the meshing of various state and local law enforcement agencies, all of which have varying jurisdictions and duties. The goal, obviously, is to ensure the safety of those attending, aid in the orderly flow of traffic, and provide a general law enforcement presence at Clemson's football games and other special events. This Office, without exception, encourages cooperation between various law enforcement agencies and between state and local government agencies. There is also ample Constitutional and statutory authority for such cooperative projects.

One example is Article VIII, § 13 of the South Carolina Constitution which provides, in pertinent part, that:

(A) Any county, incorporated municipality, or other political subdivision may agree with the State or with any other political subdivision for the joint administration of any function and exercise of powers and the sharing of the costs thereof.

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(B) Nothing in this Constitution may be construed to prohibit the State or any of its counties, incorporated municipalities, or other political subdivisions from agreeing to share the lawful cost, responsibility, and administration of functions with any one or more governments, whether within or without this State ...

This Office has previously opined that the above provisions of our Constitution can be related to cooperative law enforcement services between jurisdictions and political subdivisions. See Op. Atty. Gen., May 20, 1996.

While authority such as the above allows for cooperation and agreements between law enforcement agencies, there is no specific statute or law which sets out the operational hierarchy which must be followed when various law enforcement agencies come together in a cooperative mission. Therefore, a review of each agencies' general authority, as well as, a consideration of each agencies' area of expertise in a practical sense may be helpful to you.

Section 59-119-310, S.C. Code of Laws (1976), establishes Clemson University as a "municipal corporation" with geographical limits just like any other city or incorporated town in South Carolina. Clemson's Board of Trustees is the governing body of the municipal corporation with the power to appoint one or more "special constables." Those constables "shall exercise all of the power of a State constable or of a municipal policeman to enforce obedience to the ordinances of the board and to the laws of the State. § 59-119-340 S.C. Code of Laws (1976). Your agency, therefore, would be akin to a municipal police department and you to a municipal chief of police.

The powers and duties of municipal police officers are set out in S.C. Code Ann. § 5-7-110 which provides in pertinent part:

Police officers shall be vested with all the powers and duties conferred by law upon constables, in addition to the special duties imposed upon them by the municipality.

Any such police officers shall exercise their powers on all private and public property within the corporate limits of the municipality and on all property owned or controlled by the municipality wheresoever situated.

Accordingly, you and your officers would possess such powers and duties with regard to the municipal corporation of Clemson University.

The South Carolina Law Enforcement Division (SLED) was created by S.C. Code Ann. § 23-3-10. SLED agents are given a wide range of functions and activities and their jurisdiction is statewide. See, § 23-3-15. The Highway Patrol is a division of the Department of Public Safety.

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State Troopers have statewide jurisdiction with primary responsibility for the enforcement of highway traffic, traffic safety and motor vehicle related laws. Troopers also "have the same power and authority held by deputy sheriffs for the enforcement of the criminal laws of the State." S.C. Code Ann. §23-6-140. The power and authority of SLED agents and troopers can be exercised anywhere within the State, including within the boundaries of an incorporated municipality.

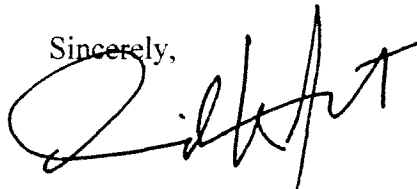
As I mentioned earlier, there is nothing in the law which provides specific authority for one of the aforementioned agencies to assume operational authority when their duties bring them together in the same jurisdiction. A similar situation involving the authority of police officers and coroners in the investigation of violent deaths has been addressed by this Office in Op. Atty. Gen. 76-342, and the following analogy drawn which, I believe, sheds light on your query.

The situation is akin to that in which SLED officers are conducting an investigation into a crime that is also under investigation by a county sheriff. Both have full authority to investigate, but not to the exclusion of the other. Neither does either have the authority to direct the other as to methods of investigation.

Based on the foregoing, your specific questions can only be answered as follows: The Clemson University Police Department, SLED, and the Highway patrol all have territorial jurisdiction to exercise their authority during the football games and special events you mention. Your agency has the authority to agree and cooperate with other local and state agencies to provide law enforcement services at these events. There is no law which dictates which agency is to exercise the ultimate authority, but the agencies can certainly reach an agreement among their personnel as to which is responsible for certain duties and who is to answer to whom. From the statement in your memo regarding your conversations with Chief Stewart of SLED, it sounds like you have begun the process.

This letter is an informal opinion only. It has been written by a designated Assistant Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General and not officially published in the manner of a formal opinion. Should you have any additional questions or comments, please don't hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Avant", written over the word "Sincerely,".

David K. Avant
Assistant Attorney General

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