

The State of South Carolina  
**OFFICE OF THE ATTORNEY GENERAL**

CHARLES M. CONDON  
ATTORNEY GENERAL

October 19, 1998

Sergeant G. D. Parker  
Town of Fort Mill  
Police Department  
Post Office Box 274  
Fort Mill, South Carolina 29716-0274

**Re: Informal Opinion**

Dear Sergeant Parker:

You have sought an opinion regarding the following situation:

I am a Fort Mill Police officer newly assigned to be the District Safety Officer for the Fort Mill school system. Two new schools were built that physically reside in the jurisdiction of the York County Sheriff's Office. A reciprocal agreement between the two agencies has been formed to provide co-jurisdiction to combat the problem until we hear from you. What I am asking is if the School Safety Act in its wording of statewide jurisdiction at school functions and events can be interpreted to cover the day to day operations of a school, therefore giving an officer jurisdiction out of jurisdiction. Please consider the problem and issue a ruling for future procedure.

**Law / Analysis**

Act No. 80 of 1997 is entitled the "South Carolina School Safety Act of 1997." The Act, among other things creates new S. C. Code Ann. Sec. 16-3-612 which provides as follows:

(A) For purposes of this section:

(1) 'Student' means a person currently enrolled in any school.

(2) 'School' includes, but is not limited to, a public or private school that contains any grades of kindergarten through twelfth grade, public or private colleges, universities, and any vocational, technical, or occupational school.

(B) A student who commits an assault and battery, other than one that is aggravated, on school grounds or at a school-sponsored event against any person affiliated with the school in an official capacity including, but not limited to, administrators, teachers, faculty, substitute teachers, teachers' assistants, student teachers, custodial staff, food service staff, volunteers, law enforcement officers, school bus drivers, school crossing guards, or other regularly assigned school-contracted persons is guilty of assault and battery against school personnel which is a misdemeanor and, upon conviction, must be fined not more than one thousand dollars, or imprisoned not more than one year, or both.

Other portions of the Act also relate to and encompass school safety. Section 3 of the Act enumerates those instances in which a juvenile can be detained in a secure juvenile detention facility, for example. Section 5 adds to the Code Section 59-63-370 which relates to notification to the school district of convictions or adjudications of delinquency for certain assault or other violent offenses and provides as follows:

(1) When a student who is convicted of or adjudicated delinquent for assault and battery against school personnel, as defined in Section 16-3-612, assault and battery of a high and aggravated nature committed on school grounds or at a school-sponsored event against any person affiliated with the school in an official capacity, or a violent offense defined in Section 16-1-60 is assigned to the Department of Juvenile Justice, the Department of Corrections, or to the Department of

Probation, Parole, and Pardon Services that agency is required to provide immediate notice of the student's conviction or adjudication to the senior administrator of the school in which the student is enrolled or intends to be enrolled. These agencies are authorized to request information concerning school enrollment from the students convicted of or adjudicated delinquent for assault and battery against school personnel or a violent offense.

(2) When a student convicted of or adjudicated delinquent for assault and battery against school personnel or assault and battery of a high and aggravated nature against school personnel is not sentenced to incarceration or probation, the presiding judge shall as part of his sentence order the clerk of the municipal, magistrate, or general sessions court to provide, within ten days, notification of the student's sentence to the appropriate school district for inclusion in the student's permanent record. If the student is under the jurisdiction of the family court and is not referred to the Department of Juvenile Justice, the prosecuting agency must provide notification within ten days to the appropriate school district.

(3) An administrator notified pursuant to this section is required to notify each teacher or instructor in whose class the student is enrolled of a student's conviction of or adjudication for assault and battery against school personnel, assault and battery of a high and aggravated nature against school personnel, or a violent crime as defined in Section 16-1-60. This notification must be made to the appropriate teachers or instructors every year the student is enrolled in school.

(4) If a student is convicted of or adjudicated delinquent for assault and battery against school personnel, assault and battery of a high and aggravated nature against school personnel, or a violent crime as defined in Section 16-1-60, information concerning the conviction or adjudication and sentencing must be placed in the student's permanent school record and must be

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forwarded with the student's permanent school records if the student transfers to another school or school district.

Section 6 grants immunity from criminal prosecution and civil liability when making a report of school-related crime in good faith to the extent that the exposure to criminal prosecution or civil liability arises from the same report of school-related crime.

Nothing in the School Safety Act speaks either directly or indirectly to the jurisdiction of a law enforcement officer to enforce the Act or the criminal laws of the State. Of course, "it is well-recognized that a law enforcement officer possesses no authority beyond his jurisdiction unless such is expressly authorized by statute." Op. Atty. Gen., June 21, 1995 (Informal Opinion). While it is true that the School Safety Act speaks generally of "school-related events," thereby encompassing school activities away from the school grounds itself, it does not appear that the Legislature contemplated any alteration of a law enforcement officer's territorial jurisdiction thereby. Nothing in the Act evinces an intent to equate the jurisdiction of a school safety officer with activities by the school away from the school grounds, in other words. Likewise, I do not see anything in the Act which would give a school safety officer employed by a municipality jurisdiction outside the town and thus encompass schools beyond the territorial boundaries of the municipality. While such may be a desirable goal, it does not appear that the Legislature contemplated or dealt with the issue of the jurisdiction of a law enforcement officer in the School Safety Act. Only certain officers, such as state constables, SLED agents or state troopers presently possess statewide arrest powers.

Indeed, legislation enacted this past session by the General Assembly extended the jurisdiction of local law enforcement officers in certain specific situations. Act No. 265 of 1998 amended § 17-13-40 so as to authorize that in the event the police authorities of a town or city are in pursuit of an offender for a violation of a municipal ordinance or statute of this State committed within the corporate limits, the "authorities may arrest the offender, with or without warrant, at a place within the corporate limits, **at a place within the county in which the town or city is located**, or at a place within a radius of three miles of the corporate limits." (emphasis added). No mention was made in this Act of other exceptions (such as the School Safety Act) with respect to a municipal police officer possessing authority outside the territorial jurisdiction of a municipality. It is well-recognized tenet of statutory construction that the express enumeration of particular things excludes the idea of something else not mentioned. Pa. Nat. Mut. Cas. Ins. Co. v. Parker, 282 S.C. 546, 320 S.W.2d 458 (Ct. App. 1984).


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Thus, I agree with you that there is the need for a joint agreement between your agency and the Sheriff's Office concerning this matter. I am enclosing a copy of an Opinion, Op. Atty. Gen., No. 86-79 (July 11, 1986) which discusses in considerable detail the various statutes which authorize these reciprocal agreements. We have consistently advised that "... whether or not a ... city police officer could exercise law enforcement authority outside the city limits ... would depend upon whether the officer was in pursuit of an offender or whether an agreement between jurisdictions pursuant to one of the referenced statutory provisions existed by which an officer was specifically authorized to act outside his jurisdiction." Thus, because I am unaware of any provision in the School Safety Act which would give Fort Mill police officers general law enforcement jurisdiction outside the Town, I suggest your Department consult with the Town Attorney and the County Attorney with respect to the specific details of a reciprocal agreement to provide jurisdiction for your officers outside the town limits.

This letter is an informal opinion only. It has been written by a designated Assistant Deputy Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I am

Very truly yours,



Robert D. Cook  
Assistant Deputy Attorney General

RDC/ph

Enclosure