

1983 WL 181813 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 24, 1983

***1 SUBJECT: Employees, Public—Law Enforcement—**

(1) In 1970 the General Assembly enacted certain legislation that established the Law Enforcement Training Council, and what has since become the Criminal Justice Academy.

(2) The same legislation required that all law enforcement officers throughout the state, with certain specific exceptions, complete a course at the Academy.

(3) Correctional officers of the Department of Corrections and security personnel employed in local detention facilities fall within the definition of law enforcement officers, contained in the 1970 legislation, and their training at the Academy is mandatory upon the Training Council.

William D. Leeke
Commissioner
South Carolina Department of Corrections

QUESTION:

1. Is the training of Department of Corrections' officers and local detention facility officers mandatory upon the South Carolina Law Enforcement Training Council?

OPINION:

Yes. In 1970, the General Assembly enacted certain legislation that established the Law Enforcement Training Council, a central training facility for the training of all law enforcement officers from all parts of the state, and the requirement that such training be accomplished by law enforcement officers. [Sections 23-23-10, et seq., Code of Laws of South Carolina](#) (1976, as amended). The intent of the General Assembly was clear:

[T]o ensure the public safety and general welfare of the people of this state, and to promote equity for all segments of society, a program of training for law enforcement officers and other persons employed in the criminal justice system in this state is hereby proclaimed . . .

[Section 23-23-10\(a\)](#) (emphasis added).

That section went on to define 'law enforcement officer':

The term 'law enforcement officer' shall mean an appointed officer or employee hired by and regularly on the payroll of the State or any of its political subdivisions, who is granted statutory authority to enforce all or some of the criminal, traffic, and penal laws of the state and who possesses, with respect to those laws, the power to effect arrest for offenses committed or alleged to have been committed.

[Section 23-23-10\(d\)\(1\)](#) (emphasis added). See also, 1959 Opinion Attorney General No. 102, p. 207; Blacks Law Dictionary (5th Ed.) 1017.

A central training facility was also authorized, today known as the Criminal Justice Academy in Columbia. [Section 23-23-20, Code](#). That section went on to require that the Academy ‘provide facilities and training for any and all officers from state, county, and local law enforcement agencies and for other designated persons in the criminal justice system’. *Id.* (emphasis added)

Finally, the article established the requirement that the training program at the Academy be completed by all law enforcement officers, with certain specific exceptions. Officers from any law enforcement agency in the state who failed to complete the program as required would be prohibited from performing law enforcement duties. [Section 23-23-40, Code of Laws](#) (as amended); see also 1978 Opinion Attorney General No. 78-92, p. 118.

*2 From the foregoing, there would be no dispute that a full-time county deputy sheriff, for example, who did not fall into one of the specific exceptions in [§ 23-23-40](#), would have to complete the prescribed course. The question is then raised as to whether or not correctional officers of the Department of Corrections, and security personnel in local detention facilities, would also be required to take the training. If such officers fall within the accepted definition of law enforcement officers, their training would be mandatory upon the Law Enforcement Training Council. It is the opinion of this officer that they fit that definition, as set forth in statutes and case law.

Certain language in the statutes emphasized above appears to make the inclusion of correctional officers within the definition of law enforcement officers consistent with the intent of the General Assembly. Further evidence of this intent is found at §24-1-280, Code of Laws, with regard to employees of the Department of Corrections:

Employees of the South Carolina Department of Corrections while performing their officially assigned duties relating to the custody, control, transportation or recapture of any inmate within the jurisdiction of the Department; or any inmate of any jail, penitentiary, prison, public work, chain gang, or overnight lockup of the state or any political subdivision thereof not within the jurisdiction of the Department, shall have the status of peace officers anywhere in the state in any matter relating to the custody, control, transportation or recapture of such inmate.

The only limitation is that the status as peace officer be afforded those employees while performing their official duties. Similar language includes employees of county and municipal correctional facilities:

Employees of any county or municipal jail, prison, work camp or overnight lockup facility, while performing their officially assigned duties relating to the custody, control, transportation or recapture of any inmate or prisoner in this state, shall have the status of peace officers anywhere in the state in any matter relating to the custody, control, transportation or recapture of such inmate or prisoner. Provided, that for the purposes of this section no trustees shall be considered an employee.

[Section 23-1-145, Code of Laws of 1976](#) (as amended).

The broad definition of law enforcement officers in [§23-23-10\(d\)\(1\)](#) has existed, in similar form, in South Carolina statutes since at least the 1930's. The term ‘peace officer’ was applied to that definition by our Supreme Court in [Powell v. Board of Commissioners of the Police Insurance and Annuity Fund](#), 210 S.C. 136, 41 S.E.2d 780 (1947). Other courts have applied similar language to include as peace officers individuals who worked as radio operators and maintenance persons, [Fleming v. Maddox](#), 171 S.E.2d 276 (Ga. 1969); probation officers, [Vandiver v. Manning](#), 114 S.E.2d 121 (Ga. 1960); and guards of county public work camps, [Priest v. Peace Officers' Annuity and Benefit Fund](#), 284 S.E.2d 257 (Ga. 1981).

*3 It is also submitted that there exists a public policy and public interest issue here as well. Consistent with the intent of the General Assembly in the 1970 legislation discussed above, it would be well within the public interest for employees of the Department of Corrections, and employees of local detention facilities, to have the expertise and training afforded by the

Criminal Justice Academy, and required by the statute. There would seem to be no doubt that situations will arise when these employees will have to exercise the power of arrest, and the force of arms, to detain or recapture prisoners in this state. They have, by statute, been authorized peace officer powers throughout the state, as noted in the specific statutes cited above.

Therefore, it is the opinion of this office that the training of correctional officers of the Department of Corrections, and security personnel employed in local detention facilities, is mandatory upon the South Carolina Law Enforcement Training Council.

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