

1979 WL 43464 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 13, 1979

*1 Mr. Timothy G. Quinn
Office of the President
Legal Affairs and Legislation
University of South Carolina 29208

Dear Mr. Quinn:

You have recently asked the opinion of this Office concerning the status of University of South Carolina police with respect to the regulations promulgated by the State Budget and Control Board governing the operation of all state-owned vehicles. Specifically, you desire to know whether the University police are full-time law enforcement officers within the meaning of the exemption to the recently promulgated regulations. It is the understanding of this Office that the regulations in question have not yet become effective, due to action taken by the General Assembly postponing the date of effect until the fall. Assuming, *arguendo*, that the said regulations become effective, the following opinion is rendered.

Section 133, Part I of the 1978 General Appropriations Act prohibits perquisites of office. Pursuant to authority granted under Part II, Section 24 of Act 644, 1978 (Motor Vehicle Management Act), the State Budget and Control Board established rates and regulations governing the operation of all state-owned vehicles. The particular regulation in question was devised in order to comply with Section 133's prohibition of perquisites of office. The regulation provides that persons assigned vehicles shall pay commuting charges. This charge requires that an employee who commutes in a state vehicle reimburse the State at the amount per mile as specified in the Appropriations Act for reimbursement (which is 16 cents per mile) to individuals who utilize their personal vehicles on official business. The Budget and Control Board formulated an exemption to the aforementioned regulation:

'The regulation does not obtain to the Governor and state-wide elected officials and to full-time law enforcement officers whose sole task is protection of life and property.'

Under [Section 23-23-10\(D\)\(1\), Code of Laws of South Carolina \(1976\)](#), a law enforcement officer is defined as '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 arrests for offenses committed or alleged to have been committed.' The statutory provision pertains to the training of all law enforcement officers in the State; and such definition may be applicable to the case at bar.

[Section 23-3-30, Code of Laws of South Carolina \(1976\)](#), provides that the security personnel of the University, who are employed by the State, shall be under the direct supervision of the South Carolina Law Enforcement Division (SLED). SLED is the chief investigative agency in the State. Section 56-21-10, *et seq.* of the [Code of Laws](#) further provides that the University police are given jurisdiction over traffic offenses which occur upon University property and streets. This provision fully complies with the definition of law enforcement officers as given in [Section 23-23-10\(D\)\(1\) of the Code of Laws](#). It is evident that University police are exercising State authority in making arrests.

*2 It is the opinion of this Office that the University of South Carolina police are full-time law enforcement officers empowered to protect the lives and property of persons within the University community. '[Section 23-23-10\(D\)\(1\)](#).' SLED has direct supervision of such police, and views such police as full-time law enforcement officers. By exercising

a portion of State authority in accordance with 'Section 56-21-10,' et seq., the University police reflect duties and responsibilities not unlike those of other law enforcement officers.

Therefore, with respect to the regulations issued governing the operation of all state-owned vehicles, it is the opinion of this Office that the University police come within the purview of the exemption of the Governor, all state-wide elected officials, and all full-time law enforcement officers whose sole task is protection of life and property.

Sincerely,

Scott Elliott
State Attorney

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