



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

October 3, 1986

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751

ATTORNEY GENERAL OPINION NO. 86- 139

Ward E. Loyd
103 W. Chestnut Street
Garden City, Kansas 67846-5404

Re: Schools -- Organization, Powers and Finances of
Boards of Education -- School Security Officers

Synopsis: K.S.A. 72-8222 allows the board of trustees of any community junior college to employ school security officers "to aid and supplement law enforcement agencies" The statute also provides that each school security officer so employed, while engaged in a protective function, "shall possess and exercise all general law enforcement powers and privileges" School security officers employed under K.S.A. 72-8222 are not "law enforcement officers," and are thus not eligible for attendance at the Law Enforcement Training Academy. Rather, school security officers possess and may exercise law enforcement powers only while engaged in their protective function, as defined by both K.S.A. 72-8222 and school authorities. Further, the jurisdiction in which school security officers are authorized to exercise their "general law enforcement powers and privileges" is determined by specific limitations imposed by K.S.A. 72-8222, as well as any guidelines set forth by school authorities which fall within the aforementioned statutory jurisdictional limitations. Cited herein: K.S.A. 72-8222; 74-5602(e); 74-5605, as amended by L. 1986, ch. 301, §1.

*

*

*

Dear Mr. Loyd:

As the attorney for Garden City Community College, you have requested our opinion on several questions relating to the hiring of campus security officers at a community college. Specifically, you inform us that for the past several years campus security at Garden City Community College has been provided by police officers employed by the city of Garden City, under an agreement by which the college reimbursed the city for its actual costs in providing such services. However, the college has been notified that the city will terminate the agreement under which the services of the police officers have been provided, effective January 1, 1987. In anticipation of this action, the college requested your opinion on whether the college has authority to employ security officers, and if so, the extent of and limitations upon the authority of any officers so employed. You in turn have requested our opinion on three specific questions relating to this matter.

You first ask that we define the scope of the phrase "all general law enforcement powers and privileges" as used in K.S.A. 72-8222. In order to answer your question, it is necessary to examine the language of that statute, which itself specifies the powers possessed by school security officers, as well as the ends to which these powers are to be exercised. K.S.A. 72-8222 states:

"The board of education of any school district or the board of trustees of any community junior college may employ school security officers to aid and supplement law enforcement agencies of this state and of the community in which such school district or community junior college is located. The protective function of such school security officers shall extend to all school district property and the protection of students, teachers and other employees together with the property of such persons on or in any school property or areas adjacent thereto, or while attending or located at the site of any school or community junior college-sponsored function. While engaged in such protective function, as hereinbefore provided, each school security officer so employed shall possess and exercise all general law enforcement powers and privileges in every county in

which there is located any part of the territory of such school district or community college."

As the statute clearly provides, the decision whether such security officers shall be employed rests solely with the board of education which "may employ school security officers" Further, security officers are employed to "aid and supplement" the regularly constituted law enforcement authorities.

In defining the scope of the security officers' law enforcement powers, we find the crucial terms in the statute to be:

"While engaged in such protective function . . . each school security officer so employed shall possess and exercise all general law enforcement powers and privileges" (Emphasis added.)

The meaning of this section of the statute was interpreted in Attorney General Opinion No. 77-63 (copy enclosed), when we were asked whether security officers employed under authority of K.S.A. 72-8222 have full law enforcement powers enabling them to make arrests and serve search warrants. That opinion stated:

"These security officers are not called law enforcement officers, they are merely clothed with law enforcement powers with limited jurisdiction and a limited purpose. Additionally, since they are employed by school authorities, the school authorities determine their specific assignments and whether they are authorized to carry arms." (p. 3)

The opinion elaborated on the extent of these limitations when it addressed the question of whether K.S.A. 72-8222 makes these security officers "law enforcement officers" who have authority to arm themselves, and who are required to be trained at the Law Enforcement Training Academy.

K.S.A. 74-5602(e) defines "law enforcement officer" or "police officer" for the purpose of describing those persons who are eligible for attendance at the Law Enforcement Training Academy under K.S.A. 74-5605, as amended by L. 1986, ch. 301, §1. Attorney General Opinion No. 77-63 noted that had the

legislature intended school security officers to be eligible for law enforcement training under that statute, it could have so provided when it amended K.S.A. 72-8222 and 74-5602(e) in the 1976 session. We note that the legislature has yet to amend these statutes to include community junior college security officers within the definition of "law enforcement officer."

K.S.A. 72-8222 allows school security officers to aid and supplement law enforcement agencies, but stops short of conferring upon them the title of "law enforcement officer." K.S.A. 1985 Supp. 74-5602(e) defines "police officer" or "law enforcement officer" to mean:

"a full-time or part-time salaried officer or employee of the state, a county or a city, . . ." (Emphasis added.)

A community college security officer is not an employee of the state, a county or a city, but instead is employed by school authorities. Further, the statute does not include security officers within the list of persons the statute defines as "law enforcement officers." As Attorney General Opinion No. 77-63 stated:

"There is little to indicate that the legislature intended these security officers to be 'law enforcement officers' as defined by K.S.A. 1976 Supp. 74-5602(e). Indeed, K.S.A. 1976 Supp. 74-5602 remains unchanged in its reference to 'a full-time, salaried officer or employee of the state, a county or a city,' Boards of education were not included in this section." (p. 3)

Supporting this result is language in the recent Kansas Court of Appeals case of State v. Hargis, 5 Kan.App.2d 608, 610 (1981), in which the court stated:

"The authority of a school security officer includes general law enforcement powers and privileges, but extends only so far as the officer is acting in a protective capacity on school property."

In that relevant language in K.S.A. 72-8222 and K.S.A. 74-5602(e) has not been amended since 1976, we concur with the result reached in Attorney General Opinion No. 77-63. We reemphasize that to construe the term "law enforcement officer," as defined by K.S.A. 74-5602(e), to include school

security officers employed by school authorities under K.S.A. 72-8222, would be contrary to both statutory language and apparent legislative intent. In addition, such interpretation would be contrary to language construing the authority of a school security guard in State v. Hargis, supra.

Therefore, it is our opinion that community junior college security officers are not "law enforcement officers," but are merely clothed with limited law enforcement powers. Accordingly, in our judgment these security officers possess and may exercise these powers only while engaged in their protective function, as defined by both K.S.A. 72-8222 and school authorities.

You next inquire as to the jurisdiction within which such campus security officers may exercise the scope of their authority. We refer again to the language of K.S.A. 72-8222, which provides in part:

"The protective function of such school security officers shall extend to all school district property and the protection of students, teachers and other employees together with the property of such persons on or in any school property or areas adjacent thereto, or while attending or located at the site of any school or community junior college-sponsored function." (Emphasis added.)

The statute goes on to state that a security officer engaged in such protective function shall possess and exercise his or her law enforcement powers and privileges "in every county in which there is located any part of the territory of such school district or community junior college."

Thus, the statute defines a security officer's jurisdiction by specifically delineating the outer limits of the protective function. As stated in Attorney General Opinion No. 77-63:

"These officers are to protect school property, students, and fellow school employees as well as the property adjacent to school property or property adjacent to the site of a school-sponsored activity, such as a sports contest." (p. 2)

In Attorney General Opinion No. 77-276 (copy enclosed), we were asked to interpret the 1976 amendment "or areas adjacent thereto," and thus the territorial extent of the jurisdiction

of school security officers. The opinion was synopsisized in part:

"School security officers may exercise general police powers in areas adjacent to school sites proper, which may include areas not immediately adjoining the school property, but which are regular paths of travel and gathering points for students and/or school personnel adjacent to the school property."

The opinion quoted from Nomath Hotel Co. v. Kansas City Gas Co., 204 Mo.App. 214, 223 S.W. 975, 982 (1920), where the court stated:

"'Adjacent' is defined as being near or close at hand; adjoining; bordering."

Opinion No. 77-276 presumed that the legislature, in adding the new statutory language, recognized that the safety and security of school personnel, teachers and students were not in all instances adequately protected by school security officers whose protective function stopped at the edge of a school site. Thus, the opinion concluded that the general language used by the legislature in amending the statute indicates an intent to permit security officers to extend their security role to all areas adjacent to the school site which are commonly travelled or frequented by students and school personnel. The opinion also stated that absent any specific legislative direction, it would be appropriate for the board of education:

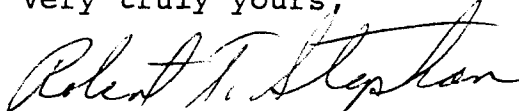
"to specify for the guidance and direction of its security personnel the areas adjacent to school property with which they are to exercise general law enforcement powers, this specification to be based on the local customs and practices of students in areas adjacent to school property." (pp. 3-4)

In that the legislature has never provided such legislative direction, we concur with this suggestion, and conclude that school authorities may specify, within the limitations imposed by K.S.A. 72-8222, the jurisdiction in which school security officers are authorized to exercise their "general law enforcement powers and privileges."

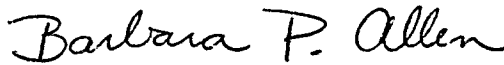
Finally, you inquire as to the limits on the authority of campus security officers in light of traditionally acknowledged police powers. After reviewing our answers to the previous two questions, we feel your third question has been adequately addressed in previous portions of this opinion. In general terms, limitations on the authority of security personnel will be determined by the scope of their law enforcement authority, and the jurisdiction within which they may exercise the scope of their authority.

In summary, K.S.A. 72-8222 allows the board of trustees of any community junior college to employ school security officers "to aid and supplement law enforcement agencies" The statute also provides that each school security officer so employed, while engaged in a protective function, "shall possess and exercise all general law enforcement powers and privileges" School security officers employed under K.S.A. 72-8222 are not "law enforcement officers," and are thus not eligible for attendance at the Law Enforcement Training Academy. Rather, school security officers possess and may exercise law enforcement powers only while engaged in their protective function, as defined by both K.S.A. 72-8222 and school authorities. Further, the jurisdiction in which school security officers are authorized to exercise their "general law enforcement powers and privileges" is determined by specific limitations imposed by K.S.A. 72-8222, as well as any guidelines set forth by school authorities which fall within the aforementioned statutory jurisdictional limitations.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Barbara P. Allen
Assistant Attorney General

RTS:JLM:BPA:crw