



ALAN WILSON
ATTORNEY GENERAL

August 6, 2013

Mark Keel, Chief
State Law Enforcement Division
Post Office Box 21398
Columbia, South Carolina 29221

Dear Chief Keel,

You seek an opinion of this Office as to whether a campus police department may authorize its officers to use their personal vehicles for law enforcement purposes and install blue lights on such vehicles. By way of background, you state:

Benedict College Police Department has, because of funding cuts to the department, granted permission for utilization of their personal vehicles as authorized emergency vehicles for their department. The Benedict College Police Department is now requesting permission to install blue lights in these personal automobiles. Can a college police department grant permission to do this under Title 56, Section 56-5-170(A)(5) or 56-5-760?

After further discussion, it is our understanding the Benedict College Police Department intends for such personal vehicles to be unmarked. Furthermore, the Director or Chief of the Benedict Police Department believes that he has the authority of "the police chief of a municipality" under S.C. Code § 56-5-170(A)(5) to designate vehicles as "emergency vehicles."

Law/Analysis

Campus security departments are authorized pursuant to S.C. Code §§ 59-116-10 *et seq.* With regards to vehicles used by campus police officers in furtherance of their official duties, subsection (D) of 59-116-30 states:

(D) Campus police officers may designate and operate emergency vehicles and patrol cars in the manner provided by law for municipal and county law enforcement officers. **Such a vehicle must bear distinctive and conspicuous lettering which reads "campus police" on the sides and rear of the vehicle.**

§ 59-116-30(D) (emphasis added). The use of red or blue lights on a campus police vehicle is specifically addressed by subsection (A) of § 59-116-60:

(A) Vehicles used for police purposes by a safety and security department are considered emergency vehicles and must be equipped with red or blue lights or

combination of them and sirens and operated in conformance with the requirements of Chapter 5 of Title 56.

§ 59-116-60(A).

As indicated by the above provision as well as your letter, the use of red or blue lights on a law enforcement vehicle is regulated by several provisions found in the Uniform Act Regulating Traffic on Highways (the "UTA"), S.C. Code §§ 56-5-10 et seq. For purposes of the UTA, § 56-5-170 provides the following with regards to "authorized emergency vehicles":

(A) Authorized emergency vehicles for purposes of this section include the following:

- (1) fire department vehicles;
- (2) police vehicles;
- (3) ambulances and rescue squad vehicles which are publicly owned;
- (4) vehicles of coroners and deputy coroners of the forty-six counties as designated by the coroners;
- (5) emergency vehicles designated by the fire department or the chief of police of a municipality;**
- (6) county government litter enforcement vehicles used by certified law enforcement Class 3 litter control officers;
- (7) Department of Natural Resources vehicles, federal natural resources vehicles, and forestry commission vehicles when being used in the performance of law enforcement duties;
- (8) public and private vehicles while transporting individuals actually engaged in emergency activities because one or more occupants belong to a fire department, volunteer fire department, police department, sheriff's office, authorized county government litter enforcement office, rescue squad, or volunteer rescue squad;
- (9) county or municipal government jail or corrections vehicles used by certified jail or corrections officers, and emergency vehicles designated by the Director of the South Carolina Department of Corrections;
- (10) vehicles designated by the Commissioner of the Department of Health and Environmental Control when being used in the performance of law enforcement or emergency response duties; and
- (11) federal law enforcement, military, and emergency vehicles.

(B) **Only authorized emergency vehicles** and private security patrol vehicles regulated by the State Law Enforcement Division **are allowed use or display of any blue lights or red lights.** This includes light bars and smaller lights such as dash, deck, or visor lights. To “display” means to be seen, whether activated or not.

(C) A vehicle shall not display the word ‘police’ unless it is an authorized emergency vehicle for use only by sworn police or other officers who are approved and certified by the South Carolina Criminal Justice Academy.

(D) The provisions of this section do not apply to automobile dealerships, to police equipment suppliers that sell, deliver, or equip police vehicles to or for a law enforcement agency, to vehicles owned solely as collector's items and used only for participation in club activities, exhibits, tours, parades, and similar uses, or to persons designated by an agency owning such a vehicle to drive the vehicle or drive an auxiliary vehicle transporting such a vehicle.

§ 56-5-170 (emphasis added).

As to the issue of whether the personal vehicles of campus police officers may be equipped with blue lights, we understand the argument could be made that § 59-116-30(D) and § 56-5-170(A)(5), when read together, could be construed as giving the director or chief of a campus police department the same authority as a municipal police chief to designate vehicles as "authorized emergency vehicles." Even assuming that the director or chief of a campus police department has such authority, a vehicle is not permitted under the law to be equipped with blue lights simply because it has been designated as an "authorized emergency vehicle." Subsection (C) of § 56-5-4700(C) expressly states that "[i]t shall be unlawful for any person to possess or display on any vehicle any blue light that is visible from outside the vehicle except one *used primarily for law enforcement purposes.*" § 56-5-4700(C) (emphasis added). Thus, the pertinent question in determining whether blue lights may be installed on the personal vehicles of campus police officers is whether such vehicles are "used primarily for law enforcement purposes."

In construing § 56-5-4700(C), we have previously concluded that *county* vehicles used by county code enforcement officers would qualify as vehicles used "primarily for law enforcement purposes" and thus would likely be authorized to utilize blue lights. Op. S.C. Att'y Gen., 1993 WL 439030 (Sept. 13, 1993). Likewise, we concluded in a 2005 opinion that *county* vehicles used by animal control officers, county fire code officials, and county building code officials who have "all the powers and duties conferred by law upon constables" pursuant to § 4-9-145 are allowed to use or display blue or red lights on their *county* vehicles. Op. S.C. Att'y Gen., 2005 WL 1983360 (July 29, 2005). We note we have concluded that pursuant to § 56-5-4700(B)¹ full-time and volunteer firemen using their personal vehicles to engage in emergency activities must have red lights installed upon such vehicles. Op. S.C. Att'y Gen., 1984 WL 159825 (Feb. 15, 1984). Unlike police vehicles, however, vehicles used by firefighters in responding to emergency situations are not required to be used *primarily* for fire or emergency purposes.

¹ The pertinent language in that provision states that "every authorized emergency vehicle ... must be equipped with signal lamps ... which must be capable of displaying to the front two alternately flashing red lights ... and to the rear two alternately flashing red lights" § 56-5-4700(B).

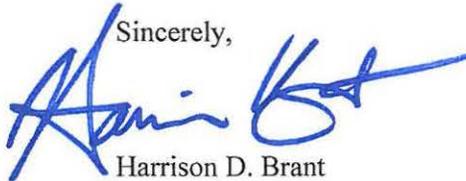
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Thus, we concluded in a 2002 opinion that although a fire department vehicle is an "authorized emergency vehicle" for purposes of § 56-5-170, such vehicles are not "used primarily for law enforcement purposes" under § 56-5-4700(C) such that they may utilize blue lights. Op. S.C. Att'y Gen., 2002 WL 1925743 (June 12, 2002).

Conclusion

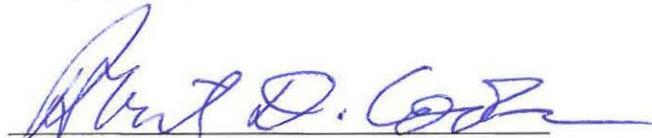
In accordance with the above prior opinions, we believe the personal vehicle of a campus police officer cannot be construed as one which is "used primarily for law enforcement purposes" for purposes of § 56-5-4700(C); thus, such vehicles are prohibiting from utilizing or displaying blue lights. This conclusion does not, however, prevent a campus police department from installing blue lights on vehicles owned by the college or university which are designated for use as police vehicles. As for the use of unmarked campus police vehicles, this is expressly prohibited by the language of § 59-116-30(D) stating a campus police vehicle "must bear distinctive and conspicuous lettering which reads 'campus police' on the sides and rear of the vehicle."

Sincerely,



Harrison D. Brant
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Solicitor General