



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES M. CONDON  
ATTORNEY GENERAL

December 14, 1999

Leslie Lambert, Investigator  
Greenville County Sheriff's Office  
4 McGee Street  
Greenville, South Carolina 29601

**Re: Informal Opinion**

Dear Investigator Lambert:

Thank you for your letter to the Attorney General's Office which has been referred to me for a response. You request clarification on South Carolina Code of Laws Section 20-7-8510, which specifies when a juvenile in custody must be fingerprinted. Specifically you inquire whether a juvenile charged only with possession of a firearm on school property must be fingerprinted in accordance with the guidelines of § 20-7-8510.

South Carolina Code § 20-7-8510 (C) states:

A juvenile charged with committing an offense must be fingerprinted by the law enforcement agency who takes the juvenile into custody if the juvenile is charged with:

- (1) a violent crime as defined in Section 16-1-60;
- (2) grand larceny of a motor vehicle;
- (3) a crime in which a weapon was used; or
- (4) distribution or trafficking in unlawful drugs as defined in Article 3, Chapter 53 of Title 44.

Thus, a juvenile must be fingerprinted if charged with one of the four types of crimes specified above. The question remains, then, whether the possession of a weapon on school property fits within one of these categories.

South Carolina Code Section 16-23-420 reads:

- (A) It is unlawful for a person to carry onto any premises or property owned, operated, or controlled by a private or public school, college, university, technical college, other post-secondary institution, or any publicly-owned building a firearm of any kind, without the express permission of the authorities in charge of the premises or property.
- (B) It is unlawful for a person to enter the premises or property described in subsection (A)

*Request Letter*

Investigator Lambert  
Page 2  
December 14, 1999

and to display, brandish, or threaten others with a firearm.

(C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both.

In the limited circumstances you describe, in which the juvenile is charged only with the possession of a firearm on school grounds, the only potentially applicable provision of § 20-7-8510(C) is Part (3), "a crime in which a weapon was used."

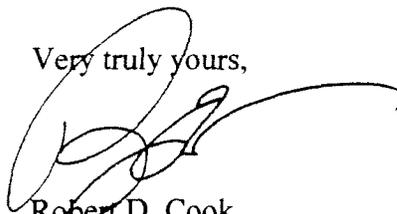
Section 16-23-420 provides for two circumstances involving the use of a weapon on school property. The first, or Part (A), prohibits a person from even possessing a firearm on school property without the express permission of those in charge in the property. The second, or Part (B), prohibits a person not guilty of (A) from entering the property described in (A) and displaying, brandishing, or threatening others with the weapon. For example, one may have the permission of the authorities to possess the gun on school property but then threaten another with it; or a person could obtain the weapon from someone with authority and then threaten another with it. Both would violate Part (B) but not (A). The two provisions describe separate crimes.

The manner in which "a weapon was used" in Part (B) of 16-23-420 may seem more clear than in Part (A). The use of the weapon in Part (B) is the displaying, brandishing and threatening. The use of the weapon in Part (A) is the carrying. This distinction emphasizes that the use of the weapon is inherent even in only the possession of the weapon and its presence on school grounds. In Part (A), the person need only carry the firearm onto school property, without appropriate permission, to commit the crime. It is, therefore, the opinion of this Office that a charge under §16-23-420 (A) for possession of a weapon on school property is included in the crimes specified in § 20-7-8510. As such, a juvenile taken into custody and charged under §16-23-420 (A) must be fingerprinted accordingly.

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 question asked. It has not, however, been personally scrutinized by the Attorney General not officially published in the manner of a formal opinion.

With kind regards, I remain

Very truly yours,



Robert D. Cook  
Assistant Deputy Attorney General