

1978 WL 34881 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 1, 1978

*1 Sheriff Larry D. Smith
Spartanburg County Sheriff's Department
201 E. Park Drive
Spartanburg, S. C. 29301

Dear Sheriff Smith:

Your recent letter to the Attorney General in which you posed four questions regarding security officers at Wofford College has been referred to me for reply.

You have first asked whether a college security officer can be commissioned under authority of [Section 23-13-210 of the 1976 South Carolina Code of Laws](#), as amended, as an 'industrial' deputy. Upon examining the above-referenced statute, it appears that the answer to your question turns upon the interpretation given 'industrial corporation' as employed in [Section 23-13-210](#). That term is not defined in the statute and has not, to date, been interpreted by the State Supreme Court. Recognizing that the term as originally enacted in 1898 contemplated mill villages and other manufacturing communities, a construction which would now extend the meaning of 'industrial corporation' to include a college campus might be viewed as expansive. However, the question can only be answered properly by the courts at a future date. In the meantime, I would respectfully recommend that the advice previously received from the County Attorney be adhered to.

Next, you have asked who can be commissioned under [Section 23-13-10 of the 1976 South Carolina Code of Laws](#), as amended. [Article XVII, Section I of the South Carolina Constitution \(1895\)](#) provides that, 'No person shall be elected or appointed to any office in this state unless he possess the qualifications of an elector . . .' Accordingly, any person appointed as a deputy sheriff must be registered to vote in the county in which he will serve. Additionally, the requirements of the Police Training Act (Section 23-23-10, et seq.) must be complied with. In particular, Section 23-23-40 and [Section 23-23-50 of the 1976 South Carolina Code of Laws](#), as amended, contain the specific requirements which each law enforcement officer employed in this state must meet. Beyond those fundamental requirements, the Sheriff is vested with complete discretion in selecting those persons he wishes to employ as deputies under [Section 23-13-10](#).

As to who may be appointed as special deputies and what responsibilities they may perform under Section 23-13-40, please be advised that special deputies as provided therein are expressly appointed, 'for the service of process in civil and criminal proceedings only.' Accordingly, persons so appointed need not qualify as regular law enforcement officers, as discussed above and, indeed, need not even be adults. [McConnell v. Kennedy, 29 S.C. 180, 7 S.E. 76 \(1888\)](#). Since special deputies are appointed only for the service of process, they have no authority to carry weapons and exercise no general police authority. They accordingly have no authority to arrest persons, other than that possessed by ordinary citizens in this state.

Finally, you have asked what your deputies' status is in regards to arrests, attending the Criminal Justice Academy, and potential liability incurred by you. Inasmuch as this Office has previously issued opinions on these subjects, copies of which I am enclosing for your convenience, your attention is respectfully directed to them.

*2 I trust the preceding discussion and attachments will adequately answer your questions, however, if any further explanation is required, please feel free to contact me.

With best regards, I am
Very truly yours,

Richard P. Wilson
Assistant Attorney General

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