

1978 WL 35295 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 23, 1978

*1 Edward C. Thomas
Deputy Director of Institutions
Division of Youth Services
P. O. Box 21487
Columbia, S. C. 29221

Dear Mr. Thomas:

You have requested an opinion from this office concerning the authority and use of equipment by members of the Public Safety Division in the performance of their duties.

You first ask of the limits of authority of persons in the Department of Youth Services having a constable's commission. Special constables are appointed by the Governor 'to assist in the detection of crime and the enforcement of . . . criminal laws in this State . . .' South Carolina Code of Laws, 1976, Section 23-1-60. For instance, a State constable has the 'right and authority to arrest anywhere without a warrant any person committing a misdemeanor in his presence.' [State v. Luster, 182 S.E. 427, 178 S.C. 199 \(1935\)](#). This power is in addition to the powers afforded all citizens to arrest a felon or thief under certain prescribed circumstances. [South Carolina Code Section 17-13-10](#). Also, State constables are allowed to carry pistols. [South Carolina Code Section 16-23-20](#). However, it should be noted that the constable commissions in question are limited by their terms to assistance in enforcement of State law 'in connection with duties within the South Carolina Department of Youth Services.' This does not denote a territorial limitation to their powers, however, but, rather, limits their law enforcement powers to the furtherance of Department of Youth Services interests.

You have also asked whether such constables are allowed to use 'blue lights' and sirens or 'wailers' in the performance of their duties. [Section 56-5-4700\(c\) of the South Carolina Code](#) states that a police vehicle when used as an authorized emergency vehicle may use a dome-mounted, oscillating, rotating or flashing blue light. (emphasis added) [Section 56-5-4950 of the South Carolina Code](#) similarly states that 'No vehicle other than an authorized emergency vehicle shall be equipped with nor shall any person use upon any such vehicle any siren, whistle, or bell.' (emphasis added) It is the opinion of this office that even when such constables are performing law enforcement duties that their vehicles do not become 'police vehicles', and hence, not 'authorized emergency vehicles' within [Section 56-5-170 of the South Carolina Code](#). Therefore such constables cannot use 'blue lights' and sirens or 'wailers'.

Sincerely,

Scott Elliott
Staff Attorney

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