



ALAN WILSON
ATTORNEY GENERAL

April 23, 2019

Director Lewis J. Swindler, Jr.
South Carolina Criminal Justice Academy
5400 Broad River Road
Columbia, SC 29212-3540

Dear Director Swindler:

We received your request seeking an opinion on whether an entity other than the South Carolina Criminal Justice Academy would be authorized to provide basic law enforcement training. This opinion sets out our Office's understanding of your question and our response.

Issue (as quoted from your letter):

I am writing to request an opinion regarding whether an entity, other than the South Carolina Criminal Justice Academy ("CJA"), would be authorized to provide basic law enforcement training. If so, would the South Carolina Law Enforcement Training Council ("LETC") be required to allow an outside entity, such as a technical college, to conduct basic law enforcement training?

Law/Analysis:

It is the opinion of this Office that the South Carolina Criminal Justice Academy is the sole South Carolina institution authorized by law to conduct the mandatory basic law enforcement training required for certification of a law enforcement officer pursuant to S.C. Code Ann. § 23-23-40. Accordingly the Law Enforcement Training Council is not required to permit any other entity to conduct basic law enforcement training.

Chapter 23 of Title 23 is titled "Law Enforcement Training Council and Criminal Justice Academy," and that Chapter creates and empowers both of those bodies. The CJA is created in Section 23-23-20 which reads in full:

There is hereby created the South Carolina Criminal Justice Academy which shall provide facilities and training for all officers from state, county, and local law enforcement agencies and for other designated persons in the criminal justice system. Correctional officers and other personnel employed or appointed by the South Carolina Department of Corrections may be trained by the academy. Administration of the academy must be vested in a director who is responsible for

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selection of instructors, course content, maintenance of physical facilities, recordkeeping, supervision of personnel, scheduling of classes, enforcement of minimum standards for certification, and other matters as may be agreed upon by the council. The director must be hired by and responsible to the council. Basic and advance training must be provided at the training facility.

S.C. Code Ann. § 23-23-20 (Supp. 2018). Section 23-23-30 creates the South Carolina Law Enforcement Training Council, and the powers and duties of that Council are set out in Section 23-23-80. In a previous opinion our Office has described the relationship between the Council and the CJA such that “the minimum standards for training of law enforcement officers in South Carolina are determined by the Law Enforcement Training Council and administered by the Criminal Justice Academy.” *Op. S.C. Att’y Gen.*, 2013 WL 861299 (February 26, 2013).

Chapter 23 also generally mandates that any new South Carolina law enforcement officer must be certified as qualified by the LETC before such an officer is authorized to enforce the laws of this State. S.C. Code Ann. § 23-23-40 (Supp. 2018). One key component of the LEO certification process at issue here is found in Subsection 23-23-60(B)(9), which requires “evidence satisfactory to the director of successful completion of a course of law enforcement training as established and approved by the director, and conducted at an academy or institution approved by the director, this evidence to consist of a certificate granted by the approved institution.” S.C. Code Ann. § 23-23-60(B)(9) (Supp. 2018). We understand that the question presented in your letter could be restated as whether some entity in South Carolina other than the CJA could somehow claim to provide authorized basic law enforcement training as required under this subsection even if the CJA Director never approves such training.

Our Office has opined before on the statutory creation of the CJA, and in one such opinion published in 2009 we wrote:

The cardinal rule of statutory interpretation is to ascertain and give effect to legislative intent. *State v. Martin*, 293 S.C. 46, 358 S.E.2d 697 (1987). Typically, legislative intent is determined by applying the words used by the General Assembly in their usual and ordinary significance. *Martin v. Nationwide Mutual Insurance Company*, 256 S.C. 577, 183 S.E.2d 451 (1971). Resort to subtle or forced construction for the purpose of limiting or expanding the operation of a statute should not be undertaken. *Walton v. Walton*, 282 S.C. 165, 318 S.E.2d 14 (1984). Courts must apply the clear and unambiguous terms of a statute according to their literal meaning and statutes should be given a reasonable and practical construction which is consistent with the policy and purpose expressed therein.

State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991); *Jones v. South Carolina State Highway Department*, 247 S.C. 132, 146 S.E.2d 166 (1966).

Op. S.C. Att’y Gen., 2009 WL 2844875 (August 25, 2009). More specifically, that same 2009 opinion also opined that “it is apparent that the General Assembly[,] while providing for a central State Criminal Justice Academy which would initially train officers from the various law enforcement agencies in this State for certification, also provided for training to be provided at various locations throughout this State.” *Id.*

Turning to the text of the statute, Section 23-23-10 defines "academy" for the purposes of Chapter 23, Title 23 to “mean[] the South Carolina Criminal Justice Academy created by this chapter.” S.C. Code Ann. § 23-23-10(E)(3) (Supp. 2018). The same Section defines "director" as “the Director of the South Carolina Criminal Justice Academy.” § 23-23-10(E)(4). Accordingly, the numerous references to “the academy” throughout Chapter 23 of Title 23 necessarily refer to the CJA to the exclusion of any other institution. A court may very well conclude that this plain and unambiguous language resolves the question presented in your letter without further inquiry and conclude that the CJA is the sole South Carolina entity authorized to conduct basic law enforcement training. As our prior opinions have observed, the statutory relationship established by the General Assembly is that “the minimum standards for training of law enforcement officers in South Carolina are determined by the Law Enforcement Training Council and administered by the Criminal Justice Academy.” *Op. S.C. Att’y Gen.*, 2013 WL 861299 (February 26, 2013). Unless and until the CJA director expressly approves some entity conducting the established and approved training course, any such entity simply is foreign to the statute and cannot claim any authority under it. *Cf.* S.C. Code Ann. § 23-23-60(B)(9) (Supp. 2018).

As additional support for this conclusion we note that the basic training and certification system established by Chapter 23 of Title 23 contains numerous provisions which plainly contemplate that such training would be conducted by the CJA itself. For example, Section 23-23-70 reads in relevant part: “A retired law enforcement officer . . . who subsequently serves as a magistrate . . . must be issued a certificate as a law enforcement officer pursuant to Section 23-23-60 if that person completes the legal course for Class I certified officers taught by the academy.” S.C. Code Ann. § 23-23-70(A) (Supp. 2018). Similar references also are found in Sections 23-23-70(A), 23-23-110, and 23-23-115. A good-faith reading of these Code sections tends to convey that the General Assembly intended for the CJA to be the central, unitary hub for the training and certification of all law enforcement officers in our State. *See id.*

Finally, we observe that other acts of the General Assembly have professionalized other aspects of South Carolina law enforcement by establishing an exclusive statutory scheme and delegating authority to a single governmental body in order to ensure consistent policy and

robust oversight. For example, in the context of regulation of South Carolina State Constables, one previous opinion of this Office observed in 2012:

[P]roviding regulatory authority to SLED fosters uniformity of law enforcement services and the conduct of state constables, ensures compliance with federal and state laws governing law enforcement conduct, and better serves law enforcement and the public in this area. *See* §§ 23-23-10 et seq. [providing that minimum standards for training of law enforcement officers in South Carolina are determined by the South Carolina Law Enforcement Training Council and is administered by the Criminal Justice Academy]; *Op. S.C. Atty. Gen.*, April 7, 2011 [advising that, because the Legislature expressly empowered SLED to administer the collection of DNA samples for the State DNA Database, a DNA collection program outside the parameters of the DNA Act would be inconsistent with legislative intent for uniformity in this area]; *cf. Hay v. S.C. Tax Comm.*, 273 S.C. 269, 255 S.E.2d 837 (1979) [statutory provisions should be given a reasonable and practical construction consistent with the purpose and policy expressed in the legislation].

Op. S.C. Att’y Gen., 2012 WL 440545 (January 6, 2012). While this 2012 opinion did not expressly opine on the question presented in your letter, we highlight that this opinion cited the relationship between the LETC and the CJA as another example of the South Carolina Legislature establishing a unified and exclusive authority to oversee a law enforcement training program. *Op. S.C. Att’y Gen.*, 2009 WL 2844875 (August 25, 2009) (“[I]t is apparent that the General Assembly [provided] for a central State Criminal Justice Academy which would initially train officers from the various law enforcement agencies in this State for certification . . .”).

Conclusion:

In summary, Chapter 23 of Title 23 unequivocally defines the term "academy" to mean the South Carolina Criminal Justice Academy created by the same legislation. S.C. Code Ann. § 23-23-10 & -20 (Supp. 2018). Our Office consistently has understood that Chapter to create a unitary Law Enforcement Training Counsel to guide policy and a single Criminal Justice Academy to effect it. *Op. S.C. Att’y Gen.*, 2013 WL 861299 (February 26, 2013). One prior opinion also observed that “it is apparent that the General Assembly [provided] for a central State Criminal Justice Academy which would initially train officers from the various law enforcement agencies in this State for certification.” *Op. S.C. Att’y Gen.*, 2009 WL 2844875 (August 25, 2009). This understanding has been based in part on the numerous statutory references to a single "academy" under the authority of a single "director" as defined, and the statutory scheme as a whole. *See, e.g.*, S.C. Code Ann. §§ 23-23-70(A), 23-23-110, 23-23-115

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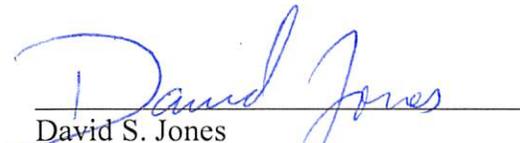
(Supp. 2018). Additionally, this is consistent with other acts of the General Assembly which has professionalized other aspects of South Carolina law enforcement by establishing an exclusive statutory scheme and delegating authority to a single governmental body in order to ensure consistent policy and robust oversight. *See Op. S.C. Att’y Gen.*, 2012 WL 440545 (January 6, 2012).

Therefore, it is the opinion of this Office that the South Carolina Criminal Justice Academy is the sole South Carolina institution authorized by law to conduct the mandatory basic law enforcement training required for certification of a law enforcement officer pursuant to S.C. Code Ann. § 23-23-40. Accordingly the Law Enforcement Training Council is not required to permit any other entity to conduct basic law enforcement training.

Of course any institution, such as a technical college, is generally free to offer whatever educational or training resources it chooses to develop. But unless that education and training is conducted under the auspices of the Director of the South Carolina Criminal Justice Academy created by Chapter 23 of Title 23 of the South Carolina Code, such education and training cannot claim any authorization or legitimacy under that Chapter.

We note that this opinion is focused on the authority of an entity to train newly-hired law enforcement officers to become certified in this State, and it does not address law enforcement officers with current certifications from other states who come to South Carolina. *See Jones v. S.C. Republican Party*, 425 S.C. 339, 822 S.E.2d 333 (2018) (holding that “thirty-one years of experience as a certified law enforcement officer in Virginia” qualified a candidate to run for Sheriff).

Sincerely,



David S. Jones
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Solicitor General