

STATE UNIVERSITY:
POLICE OFFICERS:
SHERIFF:
ARREST:

City police officers, sheriff, and state highway patrol have jurisdiction over crimes committed on state university property.

OPINION NO. 108

December 19, 1968



Honorable Zane White
Prosecuting Attorney
Phelps County
Court House
Rolla, Missouri 65401

Dear Mr. White:

This is in response to your request for an opinion on the following questions, to-wit:

"1. Is the land and buildings of the University of Missouri, at Rolla, which is a federal land grant college and a state university, and is located entirely inside the city limits of the City of Rolla, Phelps County, Missouri, 'off limits' with respect to their official duties to any of the following:

- a. The city police of Rolla, Missouri
- b. Phelps County Sheriff and his deputies
- c. Missouri State Highway Patrol
- d. Federal Bureau of Investigation and other federal officers.

"2. What is the status, responsibility, authority and duties of the campus police respecting investigation of state law violations?

a. If the campus police make an investigation of a state law violation, what is their relationship to the county sheriff, the county prosecutor and other officials?"

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Under Article IV, Section 9(a) of the Constitution of Missouri, the government of the state university is vested in a Board of Curators; and Section 9(b) requires the General Assembly to maintain it. These constitutional provisions have been implemented by Chapter 172, RSMo 1959. Section 172.260 provides that it shall be the duty of the Board of Curators to provide for the protection and enforcement of the site of the university and to erect and maintain thereon all edifices. Section 172.350 provides for the curators to appoint watchmen, "* * * to protect property and to preserve peace and good order in the public buildings * * *", with power to maintain order, preserve peace, and make arrests as peace officers on the campus, grounds, and farms over which they have control. Under these statutes their jurisdiction would apply to property beyond the city limits belonging to the university as well as the property within the city. When any offense is committed in violation of the laws of this state, it is their duty to make whatever investigation and arrest that is necessary and report the same to the proper officials.

City police have the same authority to arrest as a sheriff has for violations of any of the laws. *State v. Nolan*, 354 Mo. 980, 192 S.W.2d 1016; *State v. Brown*, Mo. 291 S.W.2d 615. City police are given this authority by common law. *State v. Evans*, 161 Mo. 95, 61 S.W. 590. A sheriff has no authority to arrest beyond the limits of his county unless in hot pursuit. *Ex parte Knight*, 308 Mo. 538; *State v. Owen*, Mo. 258 S.W.2d 662.

City police of a third class city have no authority to arrest any person for violations beyond the city limits of either state laws or city ordinances. *Rodgers v. Schroeder*, 220 Mo.App., 575, 287 S.W. 861. If the campus of the state university is not considered within the corporate limits of the city because it is state property, there is no doubt that the city police would not have authority to arrest for violations of the law on the campus. The same would be true regarding the jurisdiction of a sheriff because the property would not be considered as being within the county. However, we consider the campus of the University of Missouri at Rolla to be within the boundaries of the city and should be so considered in this opinion.

In *State ex rel St. Louis Union Trust Company v. Ferriss*, 304 S.W.2d 896, a zoning ordinance of the City of Ladue was held not applicable to a public school building being built in the City of Ladue. In *Kansas City v. School District of Kansas City*, 356 Mo. 364, 201 S.W.2d 930, the court upheld the right of the City of Kansas City to collect fees from the school district for inspection of the boiler, smoke stack, and other facilities in the school building.

In the case of the *Board of Education of City of St. Louis v. City of St. Louis*, 267 Mo. 356, 184 S.W. 975, an ordinance of the City of St. Louis as to the type of vents from water toilets was held not to apply to a school building being built in St. Louis.

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In *Smith v. Board of Education of City of St. Louis*, 359 Mo. 264, 221 S.W.2d 203, an ordinance providing for the inspection of food, cooking utensils, disposal of garbage, and clothing to be worn by the employees dealing with the food was held to be binding and valid and applicable to the school restaurant. In *Kansas City v. Fee*, 174 Mo.App., 501, 160 S.W. 537, the court held a city ordinance, which required firemen of steam boilers to be licensed by the city, applies to firemen in charge of the boiler in the public school.

It seems in these cases that the courts have made a distinction in ordinance regulations that apply to property and its use and ordinances dealing with the employees or individuals and their conduct on the premises. In other words it appears city ordinances that have anything to do with the control or use of the property of the public schools are held not to be binding on the school authorities. We do not consider these cases in point or of much weight in deciding the question that we have under consideration because they involved a local ordinance or building code, and the question we are considering is the application of a state law.

In *Hall v. City of Taft*, 41 Cal.2d 177, 302 P.2d 574, the Supreme Court of California held a city building regulation does not apply to a public school district's construction of a building in the city and in discussing the authority of the school district it said in part, l.c. 578:

"* * * When it engages in such sovereign activities as the construction and maintenance of its buildings, as differentiated from enacting laws for the conduct of the public at large, it is not subject to local regulations unless the Constitution says it is or the Legislature has consented to such regulation. * * *"

The cases *State ex rel St. Louis Union Trust Company v. Ferriss*, 304 S.W.2d 896; *Board of Education of City of St. Louis v. City of St. Louis*, 267 Mo. 356, 184 S.W. 975, and *Kansas City v. School District of Kansas City*, 356 Mo. 364, 201 S.W.2d 930, are cited in the above cited opinion.

It appears in the above case the court was making a distinction as to the authority of a city to make ordinances regarding the construction and maintenance of buildings and ordinances for the conduct of people at large such as breach of the peace, peace disturbance, etc.

It is our view that the city police of Rolla have the same authority to arrest a person on the campus of the University School of mines at Rolla for the violation of any state law as they have to arrest within the city limits.

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This is on the theory that the campus territory is not any different from any other property within the city limits and that the criminal laws of this state apply in the same manner as they do in any other part of the state. It is true the Board of Curators have exclusive jurisdiction of the construction of buildings, maintenance of the property, and governing of the university and the authority to appoint watchmen to protect the property and to arrest any person violating a state law on the premises; but this does not exclude the other peace officers from the premises for the performance of their duty. It is likewise true that the Board of Curators have authority to make necessary rules, enact ordinances, etc., regarding the government of the university; but it does not have authority to provide a penalty such as a fine or imprisonment enforceable in any court of this state for their violation. In other words they are not a municipal corporation with police power authority to enact ordinances that can be enforced and punished as a quasi criminal law in any court. We believe the criminal laws of this state apply on the campus of the university at Rolla in the same manner as they apply to any other property within the state and are to be enforced in the same manner and by the same officials that enforce any other state law.

Although the opinion request, as we consider it, involves only the enforcement of state and federal laws, it is our view that any ordinance of the City of Rolla which has been enacted or which may be enacted for the maintenance of public peace would be valid and enforceable by the city police on the campus, whereas ordinances relating to the construction of the buildings or use of the premises would not be applicable.

We do not believe the authority of the Federal Bureau of Investigation is a matter necessary to be considered in this because no duties of the prosecuting attorney are involved in such a matter.

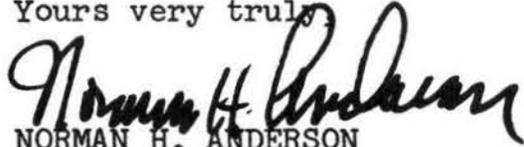
CONCLUSION

It is the opinion of this department that the police of the City of Rolla, Missouri, the sheriff of Phelps County, and the state highway patrol, have authority to investigate and arrest for violation of any criminal law on the campus of the University of Missouri at Rolla in the same manner and to the same extent as they have in any criminal matter within their respective jurisdictions. That it is the duty of the watchmen, appointed by the curators of the University of Missouri with authority to make arrests as peace officers, to arrest and report any violations of the state law of which they have knowledge to the proper authorities in the same manner as is required of any peace officer.

Honorable Zane White

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Moody Mansur.

Yours very truly,

A handwritten signature in black ink, appearing to read "Norman H. Anderson". The signature is written in a cursive style with a large, prominent initial "N".

NORMAN H. ANDERSON
Attorney General