

THE CALIFORNIA STATE UNIVERSITY AND COLLEGES
Office of the Chancellor
5670 Wilshire Boulevard
Los Angeles, California 90036

Date: October 28, 1975
To: Presidents
From: Harry Harmon *Harry Harmon*
Executive Vice Chancellor
Subject: Executive Order No. 228 - Amendment

Attached is an amended version of Executive Order No. 228. The amendment makes clear that a campus president has the full authority to deal with an emergency situation in accordance with his or her best judgment. That judgment should only be exercised, however, after consultation with the chief of campus police in order to receive the necessary input from those who have the statutory responsibility to enforce the law. In this regard, we refer you to the attached opinion of the Attorney General, which addresses the issue of a peace officer's obligation to enforce the law.

Finally, all instances of such emergencies will be reported to the Chancellor's Office as soon as reasonably possible after the emergency has abated.

GSD:pg

Attachment

Distribution: Vice Presidents for Administration
Business Managers
Chiefs of Campus Police
Personnel Officers
Chancellor's Staff

THE CALIFORNIA STATE UNIVERSITY AND COLLEGES
Office of the Chancellor
5670 Wilshire Boulevard
Los Angeles, California 90036

Executive Order No: 228 -- Amendment

Title: Campus Peace Officer Firearms Policy for The California State University and Colleges

Effective Date: October 28, 1975

Supersedes: Amends Executive Order 228 of September 26, 1975

Effective October 1, 1975, it shall be the policy of The California State University and Colleges that all qualified Campus Peace Officers will be armed while on duty, except under unusual circumstances which make it inadvisable. Such circumstances shall be identified in advance with sufficient rationale and approved by the Office of the Chancellor. It is recognized that a Campus President retains the authority to determine, in a unique and unforeseeable emergency situation, that one or more Campus Peace Officers not be armed during such emergency.

In furtherance of this policy, all Presidents will ensure that:

Qualified Campus Peace Officers who are armed shall periodically receive training in the legal, moral and operational aspects of firearms;

Qualified Campus Peace Officers are sufficiently armed to protect themselves and the community from violent actions;

Campus Peace Officers are armed with sidearms only, and that law enforcement service requiring further armament will be sought from local law enforcement agencies; and

Each campus law enforcement unit will develop procedures for the use of firearms which respect the atmosphere, environment and demeanor of the campus community.

This Executive Order is issued pursuant to Sections 1 and 2 of Chapter III of the Standing Orders of the Board of Trustees of The California State University and Colleges.



Glenn S. Dumke, Chancellor

Dated: October 28, 1975



OFFICE OF THE ATTORNEY GENERAL

Department of Justice

STATE BUILDING, SAN FRANCISCO 94102

October 27, 1972

Mr. Gene Muehleisen
Executive Director
Commission on Peace Officer
Standards and Training
714 "P" Street
Sacramento, California

Dear Mr. Muehleisen:

Re: Campus Police Officers

This is in reply to your memorandum of August 16, 1972. You request our opinion as to the continuing validity of a 1969 opinion of the General Counsel of the University of California wherein it is concluded that campus administrative officers have no legal authority to order a campus policeman to refrain from arresting a criminal law violator.

We have reviewed the applicable statutes, including amendments thereto made subsequent to 1969, and have concluded that the above-mentioned opinion is still valid.

First, it is to be noted that state law specifically provides that members of the "University of California Police Department" and of "a state college police department", are peace officers. Pen. Code § 830.2(d), (e). The authority of campus peace officers is solely prescribed and limited by state law. Pen. Code § 830.2; Educ. Code §§ 23501, 24651. These statutes provide that the primary duty of a campus peace officer is to make arrests for crimes committed in his presence or based upon probable cause, within the geographical area in which he is authorized to act. Pen. Code § 830.2; see also Pen. Code § 836, 849. The campus officer's jurisdiction is also limited by statute to the campus, its environs up to one mile and other grounds or property of the state college or university. Educ. Code §§ 23501, 24651.

Secondly, any peace officer, including a campus police officer, is duty bound to make an arrest where he has legal cause to do so. Pen. Code § 836. Indeed, his wilful failure to make

an arrest may subject him to criminal prosecution. Pen. Code § 142.

From the foregoing, it is readily concluded that the decision to arrest is one to be made by the police officer himself pursuant to state law. There are no special exceptions applicable to campus peace officers authorizing a campus administrator to limit the officer's power to arrest or to refrain from making an arrest. The only other applicable limitations on a peace officer's power to arrest are the fundamental safeguards contained in the Fourth Amendment of the United States Constitution as interpreted by the courts.

Before closing, it should also be noted that in addition to the powers of arrest outlined in the above-noted state statutes, campus peace officers have recently been given special authority by state law to deal with serious campus disturbances and related security problems. Pen. Code §§ 626.4, 626.6. In general, these new statutes authorize a campus peace officer to exclude a person from a campus for limited periods of time where he has reasonable cause to believe such person is wilfully disrupting normal campus activities. The constitutionality of section 626.4 is now being considered by the California Supreme Court in the case of Braxton v. Municipal Court, Crim. No. 22896. Consequently, further comment must await the filing of the decision in that case by the Court.

It is hoped that the above information satisfactorily resolves the question you have raised.

Very truly yours,

EVELLE J. YOUNGER
Attorney General



SANFORD SVETCOV
Deputy Attorney General

SS:cmw