Memorandum to Presidents

Date: December 17, 1982

From: Offices of the University Counsel and Vice Chancellor for Legal Affairs and the Vice Chancellor for Employees Relations and Educational Services

Subject: Peace Officer Designation, Training and Removal

To: Presidents, State-operated Campuses

Recent events have underscored the need for a restatement and clarification of SUNY policy on the designation, removal and training of University peace officers within campus public safety departments. Specific attention has been directed to the circumstances under which a president should designate campus public safety officers as peace officers and when peace officer status may or should be removed. Closely related to these issues is the question of the consequences of lack of peace officer training for peace officer status. This memorandum is designed to clarify these areas of uncertainty.

Under Section 355 of the Education Law, public safety departments have the responsibility for preserving law and order in and about the buildings and grounds of their institutions. This responsibility includes the protection of people and property, the detection and prevention of crime and the enforcement of State and local laws, rules and regulations for the maintenance of peace, order and security. In order to enable SUNY public safety officers to carry out these responsibilities to the fullest extent, the Legislature has authorized the appointment and designation of certain members of campus public safety departments as peace officers. This status empowers them to exercise important law enforcement powers such as executing arrest and search warrants, issuing certain appearance tickets and making an arrest upon reasonable cause to believe that a person has committed an offense.

Without this designation as a peace officer, campus public safety officers have more limited authority in the law enforcement field. In fact, since the revisions made by the 1980 Unified Peace Officers Law (see Memorandum to Presidents, Vol. 80, No. 15, October 20, 1980), public safety officers who are not designated as peace officers have only those powers possessed by private citizens to enforce the law. While there may be a legitimate and useful role for non-peace officer
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security personnel to play in carrying out the mission of the campus public safety department, the lack of peace officer status has important consequences for the campus community and its ability to provide a secure environment for its members. One significant consequence that may result from inadvertent or unintentional failure to designate security personnel as peace officers is the risk of liability, both institutional and personal, for unauthorized actions, such as false arrest.

Designation

The Board of Trustees, as most recently reconfirmed on February 25, 1981 (Resolution 81-341), has delegated the authority to appoint and designate peace officers to the presidents of the State-operated institutions of the State University. This power is to be exercised at the discretion of the president after an evaluation of the mission of the campus public safety department and its needs in carrying out this mission. In the past, most presidents have designated a majority of their security officers as peace officers in order to permit them to carry out the widest range of law enforcement powers. Those employees who are eligible for designation as peace officers have the following State titles: Director or Assistant Director of Public Safety, Supervising Campus Public Safety Officer, Campus Public Safety Investigator, and Campus Public Safety Officer II. Designation of peace officers must be accomplished in writing by completion of an appropriate form which is contained in Administrative Procedures Manual Item 080. Information about each officer, which is also described in the Administrative Procedures Manual, must be submitted to the Central Administration Office of Public Safety Services for transmittal to the State Peace Officer Registry. An oath of office is also administered to the designated peace officer.

Training

A focus of recent concern over personnel practices in campus public safety departments has been the relationship between statutorily-mandated peace officer training and peace officer status. Section 355 of the Education Law provides that an eligible security (now public safety) officer may be appointed as a peace officer provided that the employee has completed or completes within 6 months of appointment a course of law enforcement training approved by the Municipal Police Training Council (MPTC) in consultation with the University. The effect of failure to complete this required training within the six month time period allotted is automatic loss of peace
officer status and ability to exercise peace officers powers. The same result occurs whether the noncompletion is due to the employee's inability to successfully pass the course or the employer's failure to send the officer to the training course in a timely fashion. The duties of an officer who has lost peace officer status must be revised in accordance with the more limited authority this individual would then possess to enforce the law.

It is strongly urged that presidents take every precaution to ensure that the necessary law enforcement training is made available to those officers who are to exercise peace officer powers within the six month period following designation. Recommendations to the president for designation of specific officers as peace officers should be made with cognizance of the ability of the campus to send the employee to a training course within the given time period. It is not an appropriate procedure to remove an officer's peace officer designation and then to redesignate the officer in order to commence a new six month period. This practice is not consistent with the statutory purpose of limiting the time period within which an untrained officer may act without risk of liability for exceeding the officer's law enforcement authority.

While the loss of peace officer status as described above occurs automatically, presidents are asked to complete the written forms for removal of peace officers in all cases where such loss occurs (Form CS-5). This action is necessary to provide official notification to the public safety officer involved and to the Central State Registry of peace officers maintained by the Division of Criminal Justice Services.

Loss of peace officer status does not automatically affect the officer's appointment to a civil service position, for example as Campus Public Safety Officer II. For this reason, it is strongly urged that public safety officers be scheduled for completion of their MPTC training program during their probationary period. The six month period within which the officer must complete the training course should coincide with six months of the probationary term. In the event that the officer does not successfully complete the MPTC course, the employee's probationary status would permit the separation of that employee from service without the necessity of using the disciplinary procedures contained in Article 8 of the Agreement between Security Unit Employees, Council 82 and the State of New York.
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Removal

Peace officer status carries with it no tenure rights. The president has the discretionary authority, delegated by the Board of Trustees, to remove the designation at any time. In addition to the circumstances discussed above relating to training, a president may choose to remove peace officer designation for a variety of reasons, including a re-evaluation of the personnel needs of the department or the misconduct or incompetence of the officer. Where misconduct or incompetence is the basis for the removal of a permanent public safety officer's peace officer designation, it is, of course, assumed that the contractual disciplinary procedures will subsequently be followed to obtain appropriate penalties, including the termination of the employee.

We hope that this clarification of University policy will provide helpful guidance. If you have any questions the Office of University Public Safety (518-473-1055) and the Office of University Counsel (518-473-7591) will be pleased to assist.

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cc: Public Safety Directors,
    State-operated Campuses

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