

FORMAL OPINION

and standards for the disposal of solid waste. N.J.S.A. 13:17-11. It may acquire, construct, maintain and/or operate solid waste facilities and charge and collect fees for the use of these facilities. N.J.S.A. 13:17-10. Additionally, it is authorized to eliminate existing landfilling techniques and develop new disposal technology. N.J.S.A. 13:17-1; N.J.S.A. 13:17-9(a); N.J.S.A. 13:17-10; N.J.S.A. 13:17-11(a); *Mun. San. Landfill Auth. v. HMDC, supra*. Finally, the Act expressly provides that the written consent of the HMDC is required before anyone can treat or dispose of solid waste in the District. N.J.S.A. 13:17-10(d).

It is clear from the above that the regulatory scheme established by the Act vests the HMDC with broad power to regulate waste treated and disposed of in the District. This includes the authority to control the flow of solid waste within the District. To conclude otherwise would seriously frustrate the legislative intent of the Act by impairing the HMDC's ability to effectively eliminate existing disposal techniques of a less environmentally sound nature, *i.e.*, landfilling, and develop and implement new technology in the waste disposal field such as resource recovery. Thus, it is apparent that in order to permit the HMDC to carry out its mandate regarding waste disposal in the District and the orderly development and reclamation of the region, the Legislature intended that the HMDC would have the authority to control the flow of waste within its boundaries.

Very truly yours,  
JOHN J. DEGNAN  
*Attorney General*

By: THEODORE A. WINARD  
*Assistant Attorney General*

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ANN KLEIN, *Commissioner*  
Department of Human Services  
Capital Place One  
222 South Warren Street  
Trenton, New Jersey 08625

August 28, 1979

FORMAL OPINION NO. 19—1979

Dear Commissioner Klein:

A question has arisen as to the authority of special policemen at Marlboro State Hospital to patrol the perimeter roads adjacent to that institution. You are advised that special policemen at Marlboro Hospital have the authority to patrol the perimeter roads adjacent to the institution as a means to insure the preservation of order on institutional property and to facilitate the apprehension and return of escapees.

The Commissioner of the now Department of Human Services with the approval of the Attorney General may appoint special policemen for

ATTORNEY GENERAL

each state institution. The powers and duties of special policemen are set forth in N.J.S.A. 30:4-14 as follows:

[W]ithin the territory prescribed and for the time limited he [special policeman] shall have the same powers as a constable of the county or a police officer of a city in criminal cases. *His special duty shall be to preserve order in and about the institution with power to arrest and hold any offender against the public peace within the limits of his commission.* [Emphasis supplied.]

N.J.S.A. 30:4-160 provides that the New Jersey state hospitals shall include the state hospital at Marlboro and "all farms, grounds or places where the inmates thereof may from time to time be maintained, kept, housed or employed."

A resolution of this question turns on a determination of the meaning of the phrase "about the institution" in the above cited statute. Although there is no helpful legislative history, it is instructive to note that where the legislature enacted analogous statutes describing the territorial jurisdiction of special state police forces, it stated its intent to include the streets adjacent to state property. For example, N.J.S.A. 52:17B-9.2 grants authority to the State Capitol police "at, around and between state grounds." Also, N.J.S.A. 18A:6-4.5 empowers campus police officers at the respective state colleges "on contiguous streets and highways." In order to discern the legislative intent, statutes dealing with the same subject matter should be construed together. *Loboda v. Clark Tp.*, 40 N.J. 424, 435 (1963). It is reasonable to assume that by its use of the phrase "in and about the institution", the legislature intended not only to encompass the existing buildings and lands of the hospital but also all of the perimeter roads and streets surrounding the hospital premises. It may therefore be concluded that the duties and authority of a police officer enumerated in N.J.S.A. 30:4-14 extended to the perimeter roads of the State institution so long as the exercise of authority on these perimeter roads relates to the primary responsibility of special policemen to preserve institutional order.

This conclusion is reinforced by N.J.S.A. 30:4-116 which provides that:

The chief executive officer of any state institution, or any subordinate officer or employee of the institution appointed by him in writing as a special officer, shall have power to arrest without warrant any inmate committed thereto by order of any court, who shall leave such institution, without first obtaining a parole or discharge, and return him or her to the institution. *For purpose of retaking, the chief executive officer or special officer may go to any place either within or without the state, where the escaped inmate may be.* [Emphasis added.]

It is well established that in interpreting the scope of an administrative officer's powers, an officer should be deemed to have, in addition to the express authority conferred on him, such incidental authority as may be

FORMAL OPINION

reasonably necessary to achieve the desired legislative objectives. *Cammarata v. Essex County Park Commission*, 26 N.J. 404, 411 (1960). It would be unreasonable to assume that hospital policemen could effectively prevent escapes and return wanderers without patrolling the roads adjacent to the hospital property.

For these reasons, you are advised that the jurisdiction of special policemen appointed at State institutions extends to and includes the perimeter roads adjacent to those institutions so long as the exercise of authority on such perimeter roads is consistent with the primary responsibility to preserve institutional order. In addition, special policemen have the incidental authority to patrol the perimeter roads contiguous to those institutions as a necessary means to preserve order on the institution premises and to further the apprehension and return of escapees and wanderers.

Very truly yours,  
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October 1, 1979

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FORMAL OPINION NO. 20—1979

Dear Commissioner Klein:

The Division of Youth and Family Services has asked for an opinion as to whether it may refuse to process the adoption application of a married couple solely because they have refused to consent in advance to blood transfusions for their children should they become necessary. The applicants are Jehovah's Witnesses and such consent would violate their religious beliefs. It is our opinion that the Division of Youth and Family Services may take into account a refusal to consent to a blood transfusion for a prospective adopted child along with other pertinent factors bearing on the best interests of the child, but a refusal to provide such consent alone should not be determinative of the best interests of the child in all cases.

It is axiomatic that the primary consideration "in awarding custody of a child is the promotion of the best interests and welfare of the child." *In re Adoption of E*, 59 N.J. 36, 45 (1971). N.J.S.A. 9:3-37. Further, it