



COMMONWEALTH of VIRGINIA

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The Honorable Robert P. Mosier
Fauquier County Sheriff
78 West Lee Street
Warrenton, Virginia 20186

Dear Sheriff Mosier:

I am responding to your request for an official advisory opinion in accordance with § 2.2-505 of the *Code of Virginia*.

Issue Presented

You ask whether it is legally permissible to prohibit weapons in all parts of a courthouse, including those areas occupied by constitutional officers and county employees.

Background

The facts you have provided are as follows:

The Fauquier County Courthouse was completed approximately forty years ago.¹ It is a single four-story building with four public entrances, one on each side of the building. It houses two Circuit Court courtrooms, a temporary detention facility for prisoners awaiting court appearances, the Circuit Court record room, the Circuit Court Clerk's Office, the court's administrative offices, the judges' chambers, offices of three constitutional officers,² and also several county administrative offices.³ It has been considered a mixed-use facility since it was completed. One entrance, on Culpeper Street, has been continuously identified as the courthouse entrance.

At that entrance, which provides access to the two courtrooms and is used only when court is in session, there is a security officer and a metal detector. Weapons may not be brought into the courthouse

¹ The architect's plans are dated March 1, 1971, and November 18, 1972, with renovation plans dated July 4, 2004.

² Commonwealth's Attorney, Treasurer, and Commissioner of the Revenue.

³ Community Development, Permitting, Building and Zoning, Land Development, GIS Department, Mapping, and 911 Addressing.

through it. The other three entrances provide direct access to the Clerk's Office, the constitutional officers, and county administrative offices. At these entrances, there is no security officer and no metal detector. There is presently no prohibition against bringing weapons into the building through the three unsecured entrances, and persons have from time to time been observed in the Clerk's Office or record room carrying firearms.

A person who enters the building through one of the unsecured entrances may obtain access to secured areas such as the courtrooms, the judges' chambers, and the Commonwealth Attorney's office through a number of different internal access points, including emergency exits, stairwells, and elevators. While there are restrictions of access at some of these access points, they are not uniform, and several of the restrictions may be bypassed. For that reason, it is not possible to effectively isolate the secured areas from persons who enter the courthouse through the unsecured entrances. Security audits made by outside consultants and law enforcement agencies indicate that the present system of access to the courthouse creates material security risks.

In order to provide adequate security to the courthouse, you have determined that it is necessary to restrict the building to one full-time public entrance and one entrance that is open only when court is in session, and to have metal detectors at both of those entrances. Weapons would not be allowed into the building, except for persons authorized by law to carry weapons in courthouses. You ask whether such a security plan would be legal.

Applicable Law and Discussion

The General Assembly has determined that it is illegal—a Class 1 misdemeanor—for anyone to have a weapon in a courthouse, subject to an exception for certain public officers and officials. The statute is § 18.2-283.1 of the *Code of Virginia*, and it provides as follows:

It shall be unlawful for any person to possess in or transport into any courthouse in this Commonwealth any (i) gun or other weapon designed or intended to propel a missile or projectile of any kind, (ii) frame, receiver, muffler, silencer, missile, projectile or ammunition designed for use with a dangerous weapon and (iii) any other dangerous weapon, including explosives, stun weapons as defined in § 18.2-308.1, and those weapons specified in subsection A of § 18.2-308. Any such weapon shall be subject to seizure by a law-enforcement officer. A violation of this section is punishable as a Class 1 misdemeanor.

The provisions of this section shall not apply to any police officer, sheriff, law-enforcement agent or official, conservation police officer, conservator of the peace, magistrate, court officer, judge, or city or county treasurer while in the conduct of such person's official duties.^[4]

To underscore the importance of this prohibition, the General Assembly has also determined that certain weapons taken into a courthouse are forfeited to the Commonwealth.⁵ In light of this emphatic

⁴ VA. CODE ANN. § 18.2-283.1 (2014).

⁵ "Any firearm . . . or any weapon concealed, possessed, transported or carried in violation of § 18.2-283 . . . shall be forfeited to the Commonwealth . . ." Section 19.2-386.28 (2015).

statutory prohibition on weapons in courthouses, the precise question presented is whether the various non-judicial offices within a courthouse are somehow exempt from the prohibition.

The manifest purpose of the statute in question is to ensure security in courthouses by barring the possession of weapons there. “[I]t is well established that every act of the legislature should be read so as to give reasonable effect to every word and to promote the ability of the enactment to remedy the mischief at which it is directed.”⁶ Allowing persons with weapons into unsecured non-judicial areas of a courthouse where—as is the case here—they would have access to secured areas such as courtrooms and judges’ chambers would defeat the purpose of the statute.

Further, an important principle of statutory construction is that words not defined in a statute are to be construed according to their ordinary meaning.⁷ A 2008 Attorney General opinion noted that where a statute referred to courthouses but did not define that term, “it is necessary to employ the general definition of that word.”⁸ The ordinary meaning of the term “courthouse” is “a building housing judicial courts.”⁹ Here, that means the entire Fauquier County Courthouse.

The fact that some portions of the courthouse are used for non-judicial offices does not change the fact that they are within, and a part of, the courthouse. The General Assembly could have worded the weapons statute to exclude “non-judicial” offices in a courthouse. It did not do so. “Rules of statutory construction prohibit adding language to or deleting language from a statute.”¹⁰

For the reasons stated, and because of the particular fact that there is access from unsecured non-judicial areas in the courthouse to secured judicial areas, I conclude that the statute barring weapons in courthouses applies to the entire Fauquier County Courthouse, not just those portions of the building occupied by judges and courts.

Conclusion

Accordingly, it is my opinion that under the circumstances you have described, it would be legally permissible to implement a courthouse security plan under which weapons are prohibited in all

⁶ Jones v. Conwell, 227 Va. 176, 181 (1984).

⁷ Sansom v. Bd. of Supvrs., 257 Va. 589, 594-95 (1999) (quoting Dep’t of Taxation v. Orange-Madison Coop. Farm Serv., 220 Va. 655, 658 (1980)) (“An undefined term must be ‘given its ordinary meaning, given the context in which it is used.’”).

⁸ 2008 Op. Va. Att’y Gen. 48, 49.

⁹ AMERICAN HERITAGE DICTIONARY, p. 420 (4th ed. 2009).

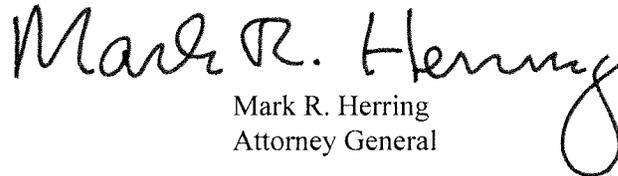
¹⁰ Appalachian Power Co. v. State Corp. Comm’n, 284 Va. 695, 706 (2012) (citing BBF, Inc. v. Alstom Power, Inc., 274 Va. 326, 331 (2007)). I note that there is case law holding that a circuit court judge may not control which government officials occupy portions of a courthouse not devoted to the judicial function, and it is the locality which has authority to assign that space. Egerton v. Hopewell, 193 Va. 493, 501 (1952); *see also* Bd. of Supvrs. v. Bacon, 215 Va. 722, 724-25 (1975) (holding that the locality, rather than the circuit court, controlled the use and occupancy of a portion of the courthouse building not designated for judicial function). However, that holding was based on facts unrelated to the present issue of courthouse security, and it was controlled in part by a statute unrelated to courthouse security. Further, it does not change the clear language of the statutory ban upon weapons in courthouses. A court cannot change or amend a statute. Burns v. Gagnon, 283 Va. 657, 675 (2012) (citing Tazewell Cnty. Sch. Bd. v. Brown, 267 Va. 150, 162 (2004) (quoting Coca-Cola Bottling Co. of Roanoke, Inc. v. Cnty. of Botetourt, 259 Va. 559, 565 (2000))) (A court “cannot change or amend a statute, under the guise of construing it.”).

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parts of the Fauquier County Courthouse, including those areas occupied by constitutional officers and county employees, subject to the exception for certain public officers and officials set forth in § 18.2-283.1.¹¹

With kindest regards, I am

Very truly yours,


Mark R. Herring
Attorney General

¹¹ I acknowledge that the ultimate authority over courthouse security is the judiciary. Courts have inherent authority to ensure the security of their courtrooms. *Payne v. Commonwealth*, 233 Va. 460 (1987), holding at 466 that, “The trial judge has overall supervision of courtroom security.” That authority also extends to the entire courthouse, because, “it would be folly to claim the circuit judge has the power to ensure courtroom security, but not courthouse security.” *Epps v. Commonwealth*, 46 Va. App. 161, 176 (2005).