S T A T E O F T E N N E S S E E
OFFICE OF THE
ATTORNEY GENERAL
425 FIFTH AVENUE NORTH
NASHVILLE, TENNESSEE 37243

May 22, 2000

Opinion No. 00-096

Authority of Public Housing Authority Law Enforcement Officer

QUESTIONS

1. According to Tenn. Code Ann. §13-20-419, can public housing authority officers attend basic and specialized schools at the Tennessee Law Enforcement Academy?

2. According to Tenn. Code Ann. §13-20-419, are public housing authority officers required to attend state or POST approved in-service training?

3. According to Tenn. Code Ann. §13-20-419, can public housing authority officers be regulated by the Tennessee POST commission?

4. According to Tenn. Code Ann. §13-20-419, are public housing authority officers required to attend basic police recruit training at a state or POST approved training academy?

5. According to Tenn. Code Ann. §13-20-419, can public housing authority officers legally transport their own prisoners to jail?

6. According to Tenn. Code Ann. §13-20-419, do public housing authority officers have jurisdiction on public roads and rights-of-way in and around public housing authority properties?

7. According to Tenn. Code Ann. §13-20-419, can public housing authority officers legally form mutual aid and other agreements with other law enforcement agencies?

8. According to Tenn. Code Ann. §13-20-419, can public housing authority officers be called "police" like campus security officers are (Tenn. Code Ann. §49-7-118)?

OPINIONS

1. Yes, public housing authority officers may attend basic and specialized schools at the Tennessee Law Enforcement Academy.

2. Yes, public housing authority officers are required to attend state or POST approved in-service training if they intend to have the same authority as a law enforcement officer and carry a handgun.

3. Yes, public housing authority officers will be regulated by the Tennessee POST commission if they have the same authority as a law enforcement officer and if they carry a handgun.

4. Yes, public housing authority officers are required to attend basic police recruit training at a state or POST approved training academy if they have the same authority as a law enforcement officer and carry a handgun.

5. Yes, public housing authority officers may legally transport their own prisoners.

6. Yes, public housing authority officers have jurisdiction on public roads and rights-of-way if they are located on the property of the public housing project.

7. Yes, public housing authority officers may legally form mutual aid and other agreements with other law enforcement agencies.

8. Public housing authority officers may also be called "law enforcement officers."

ANALYSIS

1. Tenn. Code Ann. § 13-20-419 allows for the creation of pubic housing authority officers:

> (a) In cities with a population of over one hundred thousand (100,000) according to the 1970 federal census or any subsequent federal census, each housing authority, managing and operating housing projects for persons of low income under this chapter may, if funds can be provided for this purpose, provide a security force for such project to assure the safety of the tenants and their property and the safety and the protection of the premises.
>
> (b) While acting in such capacity, an officer of such force has the same authority as a law enforcement officer as defined in § 39-11-106(a)(21), and may receive a written directive to carry a handgun under § 39-17-1315 if such officer meets the qualifications in § 38-8-106 and the training requirements of § 38-8-107(a). While

> acting in such capacity, such officer has the authority to make arrests for offenses committed on the property of such public housing project.

While Tenn. Code Ann. § 13-20-419 does not itself authorize public housing authority officers to attend a basic police school, the Tennessee Law Enforcement Training Academy was established "for the purpose of training police and law enforcement officers in the methods of maintaining law enforcement services in state, municipal, county and metropolitan jurisdictions." Tenn. Code Ann. § 38-8-201. According to Tenn. Code Ann. § 13-20-419, the public housing authority officers work for metropolitan jurisdictions and have "the same authority as a law enforcement officer . . . ." Thus, public housing authority officers acting as law enforcement officers pursuant to Tenn. Code Ann. § 13-20-419 may attend a POST approved recruit training program.[1]

The housing officers are *required* to attend a POST approved recruit training program if they intend to carry a handgun. Tenn. Code Ann. § 13-20-419(b) states in part that the housing officer "may receive a written directive to carry a handgun under § 39-17-1315 if such officer meets the qualifications in § 38-8-106 and the training requirements of § 38-8-107(a)." One of the requirements of Tenn. Code Ann. § 38-8-107 is that an applicant complete an approved recruit training program. Thus to carry a handgun, the officer must attend an approved recruit training program.[2]

2. Tenn. Code Ann. § 13-20-419(b) requires that housing authority officers who carry a handgun and perform law enforcement duties must meet the training requirements of Tenn. Code Ann. § 38-8-107. Part of those training requirements include the completion of in-service training. Therefore, if the housing officer wishes to carry a handgun, they must attend POST approved in-service training.

3. Housing authority officers who are permitted to carry a gun are regulated by the POST Commission. Tenn. Code Ann. § 13-20-419 states that in order to carry a handgun, the officer must comply with the pre-employment requirements of Tenn. Code Ann. § 38-8-106 and the training requirements of Tenn. Code Ann. § 38-8-107. The POST Commission oversees compliance with these statutes, and may revoke an officer's certification for failure to meet the criteria. Tenn. Code Ann. § 38-8-107(b). Since certification is granted and revoked exclusively by the POST Commission, housing officers carrying handguns will be regulated by the POST Commission.

---

[1]The Peace Officer Standards and Training Commission, or POST Commission, was created to develop, plan and implement training programs for all local law enforcement officers in Tennessee. Tenn. Code Ann. § 38-8-104. It is composed of eighteen peace officers and laypersons. Tenn. Code Ann. § 38-8-102.

[2] The requirement that armed public housing authority officers must meet minimum POST standards is similar to the training requirements for university security officers. While the Board of Regents establishes training requirements for unarmed university officers, "the qualifications for security officers permitted to carry firearms or other arms while on duty shall be at least equivalent to the certification requirements of the peace officers standards and training commission." Tenn. Code Ann. § 49-7-118(c).

4. See question one above.

5. According to Tenn. Code Ann. § 13-20-419, public housing authority officers, when on duty, have "the same authority as a law enforcement officer, as defined in § 39-11-106(a)(21)." Tenn. Code Ann. § 39-11-106(a)(21) defines "law enforcement officer" as a person who has a duty imposed by law to "[m]ake arrests for offenses." Pursuant to Tenn. Code Ann. § 38-3-108, such officers also have a duty to "arrest such person forthwith, and take such person before the court of general sessions." Thus law enforcement officers have the ability to transport the arrestees.

6. Tenn. Code Ann. § 13-20-419 limits the jurisdiction of public housing authority officers to "offenses committed on the property of such public housing project." Tenn. Code Ann. § 13-20-419(b). Thus, the public housing authority officer will only have jurisdiction on public roads and rights-of-way on the property of the public housing project. *Contrast* Tenn. Code Ann. § 49-7-118 ("The authority hereby granted [to university security officers] extends to all facilities or property owned, leased or operated by the board of regents or the board of trustees, *including any public roads or rights-of-way which are contiguous to or within the perimeter of such facilities or property")(emphasis added).*

7. Since Tenn. Code Ann. § 3-20-419 grants the public housing authority officers the same authority as law enforcement officers, public housing authority officers may enter into mutual aid agreements with other law enforcement agencies to the same extent as law enforcement officers. *See* Tenn. Code Ann. § 6-54-307(mutual aid agreements generally); § 8-7-110 (law enforcement officers assigned to drug task force).

8. There is no authority regulating who can be called a "police officer." However, since Tenn. Code Ann. § 13-20-419 does give the officers "law enforcement authority" while on duty, it follows that public housing authority officers can be called "law enforcement officers."

PAUL G. SUMMERS
Attorney General and Reporter

MICHAEL E. MOORE
Solicitor General

PETER M. COUGHLAN
Assistant Attorney General

Requested by:

Representative Tre' Hargett
Tennessee House of Representatives
97th Legislative District
106 War Memorial Building
Nashville, TN 37243-0197