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Opinion No. 00-191

Authority to request the POST Commission to suspend or revoke the certification of a police officer

QUESTIONS

Who has the authority to request the POST Commission to suspend or revoke the certification of a police officer?

OPINIONS

Under the POST Rules, "[c]omplaints received by POST Commission are to be documented and if allegations are warranted, the proper investigating authority will be notified, and the proper action taken." While the rule places no restriction on who may file a complaint with the POST Commission, only the POST Commission itself may suspend or revoke the certification of a police officer.

ANALYSIS

Tenn. Code Ann. § 38-8-104 sets forth the powers and duties of the Peace Officers Standards and Training Commission. Among its duties is the promulgation of rules setting forth uniform standards for the employment and training of police officers, including preemployment qualifications and requirements for officer certification. Tenn. Code Ann. § 38-8-104(a)(4). The Commission has the duty to promulgate and enforce these minimum standards and requirements for certification. Tenn. Code Ann. § 38-8-104(b)-(d). The requirements for minimum standards are mandatory and binding upon any municipality, county or political subdivision of this state. Tenn. Code Ann. § 38-8-105(a).

The POST Commission set forth the minimum standards for every officer in its promulgated rules, specifically POST Rules §§1110-2-.01 through .03. The grounds for suspension or revocation of officer certification are also set forth at § 1110-2-.03. Significantly, under the POST Rule 1110-2-.04(2), *Suspension or Revocation of Certification,* "[c]omplaints received by POST Commission are to be documented and if allegations are warranted, the proper investigating authority will be notified, and the proper action taken." POST Rule 1110-2-.04 sets forth the decertification procedure POST must follow. Thus there is no requirement that the person filing the complaint be a law enforcement agency or have any particular standing. However, only the POST Commission, upon a finding that

the allegations against the officer are warranted and the minimum POST standard have not been met, may actually vote to suspend or revoke the certification of the officer.

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