

OPINION NO. 88-071

Syllabus:

A county dog warden, appointed pursuant to R.C. 955.12, is not a peace officer under R.C. 109.71(A) and is thus not required by R.C. 109.77 to obtain certification from the Peace Officer Training Council.

To: Wilfrid G. Dues, Preble County Prosecuting Attorney, Eaton, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, October 13, 1988

I have before me your request for my opinion as to whether a county dog warden is a peace officer and thus must obtain certification from the Peace Officer Training Council.

R.C. 109.77 provides that, generally, no person shall be appointed as a peace officer unless the person first is awarded a certificate by the executive director of the Ohio Peace Officer Training Council attesting to the person's completion of an approved peace officer basic training program. "Peace officer" is defined for purposes of R.C. 109.77 in R.C. 109.71, which provides:

As used in sections 109.71 to 109.77 of the Revised Code:

(A) "Peace officer" means:

(1) A deputy sheriff, marshal, deputy marshal, member of the organized police department of a municipal corporation, member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, or township constable, who is commissioned and employed as a peace officer by a political subdivision of this state or by a metropolitan housing authority, and whose primary duties are to preserve the peace, to protect life and property, and to enforce the laws of Ohio, ordinances of a municipal corporation, or regulations of a board of county commissioners or board of township trustees, or any such laws, ordinances, or regulations;

(2) A policeman who is employed by a railroad company and appointed and commissioned by the governor pursuant to sections 4973.17 to 4973.22 of the Revised Code;

(3) Employees of the department of taxation engaged in the enforcement of Chapter 5743. of the Revised Code, and designated by the tax commissioner for peace officer training for purposes of the delegation of investigation powers under section 5743.45 of the Revised Code;

(4) An undercover drug agent;

(5) Liquor control investigators in the enforcement division and the intelligence division of the department of liquor control engaged in the enforcement of Chapter 4301. of the Revised Code;

(6) An employee of the department of natural resources who is a park officer designated pursuant to section 1541.10, a forest officer designated pursuant to section 1503.29, a game protector designated pursuant to section 1531.13, or a state watercraft officer designated pursuant to section 1547.521 of the Revised Code;

(7) An employee of a park district who is designated pursuant to section 511.232 or 1545.13 of the Revised Code;

(8) An employee of a conservancy district who is designated pursuant to section 6101.75 of the Revised Code;

(9) A police officer who is employed by a hospital that employs and maintains its own proprietary police department or security department, and who is appointed and commissioned by the governor pursuant to sections 4973.17 to 4973.22 of the Revised Code;

(10) Ohio veterans' home policemen designated under section 5907.02 of the Revised Code.

In order to qualify as a peace officer as defined in R.C. 109.71(A), the person must hold one of the specific positions enumerated therein. 1984 Op. Att'y Gen. No. 84-008 (syllabus, paragraph one). See also 1987 Op. Att'y Gen. No. 87-057. County dog wardens are appointed by boards of county commissioners pursuant to R.C. 955.12. I recognize that R.C. 955.12 confers some police powers on dog wardens. However, the position of county dog warden is not one of the specific positions enumerated in R.C. 109.71(A). Thus, a county dog warden is not a "peace officer" as defined in R.C. 109.71(A). Consequently, county dog wardens are not required by R.C. 109.77 to obtain certification from the Peace Officer Training Council.

Therefore, it is my opinion and you are advised that a county dog warden, appointed pursuant to R.C. 955.12, is not a peace officer under R.C. 109.71(A) and is thus not required by R.C. 109.77 to obtain certification from the Peace Officer Training Council.