

STATE OF NORTH DAKOTA

ATTORNEY GENERAL'S OPINION 94-F-10

Date issued: March 31, 1994

Requested by: William H. Broer, Jr.  
Director, Bureau of Criminal Investigation

Colonel James M. Hughes  
Highway Patrol

- QUESTION PRESENTED -

May the North Dakota Superintendent of the Highway Patrol and the North Dakota Attorney General enter into an agreement whereby some members of the Criminal Justice Training and Statistics Division of the Office of Attorney General will be located within the Law Enforcement Training Center and the director of the Training Center will share in the supervision of that staff.

- ATTORNEY GENERAL'S OPINION -

It is my opinion that the North Dakota Superintendent of the Highway Patrol and the North Dakota Attorney General may enter into an agreement whereby members of the Criminal Justice Training and Statistics Division of the Office of Attorney General will be located within the Law Enforcement Training Center and the director of the Training Center will share in the supervision of that staff.

- ANALYSIS -

North Dakota state statutes place the responsibility for training peace officers with both the Attorney General and the Superintendent of the Highway Patrol. The Superintendent of the Highway Patrol is responsible for the operation, maintenance, and administration of the Law Enforcement Training Center located next to the Bismarck State College campus, Bismarck, North Dakota. Pursuant to state law, the superintendent has appointed a director of the Training Center who is responsible for coordinating peace officer training in North Dakota. See N.D.C.C. ? 39-03-13.1.

The Attorney General serves as superintendent of Bureau of Criminal Investigation (BCI) and "shall perform all duties

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incident to the proper and efficient conduct of that office". N.D.C.C. ? 54-12-01(14). The BCI is required by statute to "provide assistance . . . in conducting police schools for training peace officers in their powers and duties, and in the use of approved methods for detection, identification, and apprehension of criminals and require attendance at such police schools." N.D.C.C. ? 12-60-07(7).

All peace officer training conducted at the Law Enforcement Training Center must meet standards established by the Peace Officer's Standards and Training Board (POST Board). N.D.C.C. ? 39-03-13.1. The POST Board is created pursuant to N.D.C.C. ? 12-62-03 under the law enforcement training and statistics division within the Office of Attorney General. The POST Board consists of the director of the Law Enforcement Training Center and six members appointed by the Attorney General. The Attorney General also appoints the chairperson of the POST Board. The director of the Criminal Justice Training and Statistics Division serves as an ex officio nonvoting member. N.D.C.C. ? 12-62-03.

The Criminal Justice Training and Statistics Division was created by N.D.C.C. ? 12-62-01 under the Attorney General "to certify and conduct the training of peace officers, local correctional officers, and sheriffs, to conduct training for state's attorneys and defense attorneys, and to gather, analyze, and disseminate information regarding the state's criminal justice system." N.D.C.C. ?12-62-01.

Consequently, under the statutory scheme, the POST Board, composed of a representative of the Highway Patrol and representatives of the Attorney General, establishes the training standards. Training for peace officers is to be conducted by the Criminal Justice Training and Statistics Division. The director of the Law Enforcement Training Center is responsible for coordinating basic and advanced peace officer training and BCI is to assist in conducting the training.

As shown by the various statutes concerning training of peace officers, the Legislature intended that the Highway Patrol and the Office of Attorney General work together to provide training for North Dakota's peace officers.

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The Attorney General and the Superintendent of the Highway Patrol have determined that the location of some members of the Criminal Justice Training and Statistics Division of the Office of Attorney General at the Law Enforcement Training Center will reduce duplication and increase the efficiency of the delivery of training services to peace officers in North Dakota. Based upon the statutory requirement for the Attorney General to perform all duties incident to the proper and efficient conduct of the BCI, and the statutory scheme for training of peace officers, it is my opinion that the Attorney General and the Superintendent of the Highway Patrol have the authority to enter into an agreement for some members of the Criminal Justice Training and Statistics Division to be located at the Law Enforcement Training Center and for the director of the Training Center to share in the supervision of such staff.

- EFFECT -

This opinion is issued pursuant to N.D.C.C. ? 54-12-01. It governs the actions of public officials until such time as the question presented is decided by the courts.

Heidi Heitkamp  
ATTORNEY GENERAL

jfl  
Assisted by: Beth Baumstark  
Assistant Attorney General