July 7, 1993

OPINION NO. 93-013

Colonel Thomas W. Rice, Chairman
Ohio Peace Officer Training Council
P. O. Box 309
London, Ohio 43140

Dear Colonel Rice:

You have requested an opinion on the following questions:

1. In determining whether to issue a certificate under R.C. 109.75(C), does the Ohio Peace Officer Training Council or the Executive Director have the authority to consider whether an applicant possesses any required qualifications as the holder of a public office under Ohio Const. art. XV, §4, and therefore of an elector under Ohio Const. art. V, §1?

2. If the answer to (1) is yes, is a municipal peace officer commissioned by a home rule city (Ohio Const. art. XVIII), who serves in the classified service of the municipality, the holder of a "public office" within the meaning of Ohio Const. art. XV, §4?

Your letter specifically asks whether the executive director's power to issue certificates under R.C. 109.75(C) authorizes him, in determining whether to issue such a certificate, to consider whether an applicant possesses the qualifications required by Ohio Const. art. XV, §4 to hold public office. Information accompanying your opinion request indicates that your concern has arisen with respect to certification of a person who wishes to serve as a municipal police officer. This opinion will, therefore, focus on certification under R.C. 109.75(C), as applicable to persons seeking to serve as municipal police officers.

Executive Director's Authority Under R.C. 109.75(C)

R.C. 109.71 creates the Peace Officer Training Council in the office of the Attorney General. R.C. 109.73(B) requires the Council to appoint an executive director, with the approval of the Attorney General; the director "shall hold office during the pleasure of the council." Your first question concerns the scope of the executive director's certification authority under R.C. 109.75(C),

which requires the executive director to "certify peace officers[1] and sheriffs *who have satisfactorily completed basic training programs and to issue appropriate certificates* to these peace officers and sheriffs" (emphasis and footnote added).

As stated in *Slingluff v. Weaver*, 66 Ohio St. 621, 627, 64 N.E. 574, 576 (1902): "Statutes... should be read and understood according to the natural and most obvious import of the language, without resorting to subtle and forced constructions for the purpose of either limiting or extending their operation." According to the plain language of R.C. 109.75(C), the certificates issued thereunder by the executive director certify that the recipient has satisfactorily completed an appropriate basic training program, *e.g.*, a program for peace officers under R.C. 109.77 or a program for sheriffs under R.C. 109.80.[2] A person's qualification to hold a public office, as prescribed by Ohio Const. art. XV, §4 and art. V, §1, to the extent it may be applicable to a particular peace officer position,[3] is not, however, a prerequisite to satisfactory completion of an approved basic peace officer training program. Thus, the executive director has no reason to consider such qualifications in determining whether to issue a certificate under R.C. 109.75(C).

The argument has been raised that, in deciding whether to issue a certificate under R.C. 109.75(C), the executive director of the Peace Officer Training Council must determine whether the person seeking certification is qualified under Ohio Const. art. XV, §4 to hold public office, since possession of such qualifications may be necessary for appointment to a particular peace officer position. *See*, note 3, *supra*. Examination of the definition of peace officer, set forth in R.C. 109.71(A), however, leads to the conclusion that certification by the executive director of the Peace Officer Training Council under R.C. 109.75(C) attests only to the person's satisfactory completion of a basic peace officer training program, and not to possession of any other qualifications that might be needed for appointment to a particular peace officer position.

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[1] As used in R.C. 109.71 - .77, the term "peace officer" encompasses numerous positions, including a "member of the organized police department of a ... municipal corporation." R.C. 109.71(A)(1).

[2] R.C. 109.78 provides for the issuance of various other types of certificates. R.C. 109.78(A) authorizes the issuance of certificates to persons "who have satisfactorily completed approved training programs designed to qualify persons for positions as special policemen, security guards, or persons otherwise privately employed in a police capacity." R.C. 109.78(B) concerns firearms qualification and requalification training programs. R.C. 109.78(D) prohibits certain entities from employing persons in positions involving the carrying of firearms while on duty, with certain exceptions, unless the person has "received a certificate of having satisfactorily completed an approved basic peace officer training program." This statute does not apply, however, to the certification of municipal police officers, the group with which you are concerned.

[3] The qualifications set forth in Ohio Const. art XV, §4 apply only to public officers. This opinion does not address whether a person must possess such qualifications in order to be appointed to any of the various peace officer positions described in R.C. 109.71(A).

R.C. 109.71(A) defines the term "peace officer," as used in R.C. 109.71 -.77, as meaning:

> (1) A deputy sheriff, marshal, deputy marshal, member of the organized police department of a township or municipal corporation, member of a township police district or joint township police district police force, member of a police force employed by a metropolitan housing authority under [R.C. 3735.31(D)], 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 this state, ordinances of a municipal corporation, resolutions of a township, or regulation 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 [R.C. 4973.17 -.22];
> (3) Employees of the department of taxation engaged in the enforcement of [R.C. Chapter 5743] and designated by the tax commissioner for peace officer training for purposes of the delegation of investigation powers under [R.C. 5743.45];
> (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 [R.C. Chapter 4301];
> (6) An employee of the department of natural resources who is a park officer designated pursuant to [R.C. 1541.10], a forest officer designated pursuant to [R.C. 1503.29], a preserve officer designated pursuant to [R.C. 1517.10], a game protector designated pursuant to [R.C. 1531.13], or a state watercraft officer designated pursuant to [R.C. 1547.521];
> (7) An employee of a park district who is designated pursuant to [R.C. 511.232 or R.C. 1545.13];
> (8) An employee of a conservancy district who is designated pursuant to [R.C. 6101.75];
> (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 [R.C. 4973.17 -.22];
> (10) Ohio veterans' home policemen designated under [R.C. 5907.02];
> (11) A police officer who is employed by a qualified nonprofit corporation police department pursuant to [R.C. 1702.80];
> (12) A state university law enforcement officer appointed under [R.C. 3345.04];
> (13) A special policeman employed by the department of mental health pursuant to [R.C. 5119.14] or the department of mental retardation and developmental disabilities pursuant to [R.C. 5123.13];
> (14) A member of a campus police department appointed under [R.C. 1713.50].

This definition encompasses numerous positions in the service of a variety of employers, including

departments of state, county, and local government. Thus, the qualifications necessary to hold these positions will vary. For example, municipal ordinances, statutes, or constitutional provisions may govern appointment to particular positions. Nothing in the language of the statutes governing the operation of the Peace Officer Training Council indicates that the General Assembly intended to impose upon the Council the burdensome task of certifying that each person who seeks to serve in any capacity as a peace officer under R.C. 109.71(A) meets all of the particular qualifications necessary to hold that position. Rather, since the Peace Officer Training Council oversees only the basic training requirement for service as a peace officer, it follows that the certificate issued by the Council attests only to the recipient's satisfactory completion of basic training. Thus, neither the Peace Officer Training Council nor its executive director is authorized, when determining whether to issue a certificate under R.C. 109.75(C), to consider whether an individual holds the qualifications required by Ohio Const. art. XV, §4 and art. V, §1 to hold public office.[4]

In light of the answer to your first question, it is not necessary for this opinion to address your second question concerning whether a municipal peace officer is a public officer for purposes of Ohio Const. art. XV, §4.

Conclusion

Based on the foregoing, it is my opinion, and you are hereby advised, that R.C. 109.75(C) does not authorize either the Peace Officer Training Council or its executive director to consider whether a person possesses the qualifications needed to hold public office, as established by Ohio Const. art. XV, §4 and art. V, §1, in determining whether to issue that person a certificate of satisfactory completion of an approved basic peace officer training program.

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[4] Further support for this conclusion may be found in the following rule concerning certification of peace officers:

> (A) Upon certification by the commander showing that a peace officer has satisfactorily completed the basic course, a written certificate of satisfactory completion shall be issued to such peace officer by the executive director....
> (B) *Receipt of the certificate by a peace officer shall be considered as fulfillment of only one of the conditions of probation and shall not be construed as a limitation of the discretionary power of the appointing officer to terminate the services of an otherwise unsatisfactory probationer.* (Emphasis added.)

1 Ohio Admin. Code 109:2-1-07. As with the language of R.C. 109.75(C), the plain language of rule 109:2-1-07(A) acknowledges that certification by the executive director attests only to satisfactory completion of a basic peace officer training program. Similarly, the language of rule 109:2-1-07(B) acknowledges that certification attests to only one criteria, *i.e.*, satisfactory completion of a basic peace officer training program, needed for permanent appointment to a position as a peace officer.

Respectfully,

LEE FISHER
Attorney General

July 7, 1993

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Ohio Peace Officer Training Council
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SYLLABUS: 93-013

R.C. 109.75(C) does not authorize either the Peace Officer Training Council or its executive director to consider whether a person possesses the qualifications needed to hold public office, as established by Ohio Const. art. XV, §4 and art. V, §1, in determining whether to issue that person a certificate of satisfactory completion of an approved basic peace officer training program.