

OP. NO. 04-059

**CRIMINAL PROCEDURE: CONSERVATORS OF THE PEACE
AND SPECIAL POLICEMEN.**

Definition of 'private police officers.' Private police officers, who constitute special conservators of peace and meet training standards established by Criminal Justice Services Board, are exempt from registration and bonding requirements.

The Honorable Emmett W. Hanger Jr.
Member, Senate of Virginia
September 7, 2004

Issues Presented

You inquire as to the meaning and authority of a "private police officer." You also ask whether special conservators of the peace, who are part of a nongovernmental or private police force, are exempt from the registration process established under § 19.2-13(B) and the bonding requirement described in § 19.2-13(C).

Response

It is my opinion that the term "private police officers" in § 19.2-13(D) refers to the category of officers appointed for the purposes described in § 19.2-13(A). It is, therefore, my opinion that private police officers, who constitute special conservators of the peace and meet the training standards established by the Criminal Justice Services Board, are exempt from the registration and bonding requirements imposed by § 19.2-13.

Background

You relate that the Department of Criminal Justice Services, the agency charged with the regulation of special conservators of the peace in the Commonwealth, has advised a nongovernmental or private police force whose members are appointed as conservators of the peace that they are exempt from the registration and bonding requirements contained in § 19.2-13(B) and (C). Specifically, the Department has informed a Virginia nonstock corporation that employs police officers appointed as special conservators of the peace that its officers have met the compulsory training standards

established by the Criminal Justice Services Board. The Department of Criminal Justice Services considers these special conservators of the peace to be law-enforcement officers, and as such, they are not required to possess a registration or to be bonded, as required by § 19.2-13(B) and (C).

Applicable Law and Discussion

Section 19.2-13 authorizes the circuit court of any county or city to appoint special conservators of the peace¹ upon application of the sheriff or chief of police of a locality "or any corporation authorized to do business in the Commonwealth ... and the showing of a necessity for the security of property or the peace." Section 19.2-13(B) provides that effective September 15, 2004, persons seeking appointment as special conservators of the peace must register with the Department of Criminal Justice Services prior to being appointed by the circuit court. Special conservators also must satisfy the bonding requirement contained in § 19.2-13(C). Among the individuals designated by § 19.2-13(D) as "exempt from the requirements in subsections A through C," are those "individuals employed as law-enforcement officers or private police officers as defined in § 9.1-101^[2] who have met the minimum qualifications set forth in § 15.2-1705."

A "law-enforcement officer," for purposes of § 19.2-13, is a full- or part-time employee of a local police department or sheriff's office who is responsible for performing normal police functions, and includes certain state agencies with police powers.³ While not expressly defined by statute, private police officers long have been recognized in the Commonwealth by common law.⁴ Section 19.2-13(A) recognizes that police may be appointed, by order and at the discretion of the circuit court, upon application of the sheriff or police chief of a locality, any corporation authorized to conduct business in the Commonwealth, or owner or proprietor of any place in the Commonwealth, for the security of property or the peace. In particular, those appointed upon application of any corporation, or owner or proprietor of any place, in the Commonwealth, are commonly referred to as private police officers. Thus, the term "private police officers" in § 19.2-13(D) refers to the description of such officers appointed for the purposes described in § 19.2-13(A).

While such a factual determination is to be based on the manner and purpose of the particular appointment order at issue, the private police officers authorized to provide police services on the property of the Virginia nonstock corporation referenced in your inquiry appear to constitute special conservators of the peace as

provided in § 19.2-13. Thus, it is my opinion that "private police officers" exempted pursuant to § 19.2-13(D) include those officers at issue. The determination whether such officers have met the training requirements imposed pursuant to § 15.2-1705, however is within the statutory purview of the Department of Criminal Justice Services.

Conclusion

Accordingly, it is my opinion that the term "private police officers" in § 19.2-13(D) refers to the category of officers appointed for the purposes described in § 19.2-13(A). It is, therefore, my opinion that private police officers, who constitute special conservators of the peace and meet the training standards established by the Criminal Justice Services Board, are exempt from the registration and bonding requirements imposed by § 19.2-13.

¹Conservators of the police appointed or elected pursuant to § 19.2-12 are not the subject of this inquiry.

²Special conservators of the peace who are not exempt under § 19.2-13(D) are governed by §§ 9.1-150.1 through 9.1-150.4.

³Va. Code Ann. § 9.1-101 (LexisNexis Supp. 2004).

⁴See *McClannan v. Chaplain*, 136 Va. 1, 12, 116 S.E. 495, 497-98 (1923) ("The office of conservators of the peace is a very ancient one, and their common law authority ... extends throughout the territory for which they are elected or appointed, ... in private as well as in public places, and upon private as well as public property"); see *also* Va. Code Ann. § 15.2-1737 (LexisNexis Repl. Vol. 2003) (authorizing circuit courts to appoint special police officers).

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