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Detention Officer Certification – Who Must be Certified?

DATE: November 2024

ISSUE: Who within a Sheriff's office is required to be certified as a detention officer?

ANSWER: All persons who, on a full-time, part-time, permanent, or temporary basis, have control, custody, care, or supervision of inmates in the county jail or other similar confinement facilities as well as jail administrators.¹

Due to the wide variety of organizational structures, titles, and jail designs throughout the one hundred Sheriffs' offices, providing a one-size fits all answer is impossible. The determining factor as to whether someone needs to be certified as a detention officer is whether they are in control, custody, care, or supervision of inmates or are a jail administrator.² They must meet the certification requirements set by the North Carolina Sheriffs' Education and Training Standards Commission.³

This guidance is meant to clarify who needs to be certified and who does not but is not an official opinion of the Office of the Attorney General. It should not be relied on as a guide to best practices in the jail or as a guide to reducing civil liability or relied upon as legal advice. For specific legal advice, you need to consult with the legal advisor for your agency.

Duties of a Detention Officer

Examining the authority and duties of the Sheriff and jailers over the county jail is helpful in defining the meaning of control, custody, care, or supervision of inmates, thereby providing guidance on which personnel must be certified. Sheriff is a constitutional office that is both the highest law enforcement authority in the county and the authority vested with the care and custody of the county jail.⁴ The Sheriff has common law and statutory authority to appoint deputies and the keepers of the jail.⁵ The position of deputy and jailer, while often held by the same person, are distinct positions with distinct

¹ It should be noted this guidance only applies to Sheriffs' offices. Other detention facilities which may not be controlled by the sheriff, such as city lockups and regional confinement facilities, must also have certified detention officers.

² 12 NCAC 10B .0103(13); see also 10A NCAC 14J .0101(37).

³ 12 NCAC 10B .0401(a).

⁴ N.C. Const. art. VII, § 2; N.C.G.S. § 162-22.

⁵ N.C.G.S. §§ 162-22 and 24; State v. Jones, 41 N.C. App. 189, 190–91, 254 S.E. 2d 234, 235–36 (1979); Gowens v. Alamance C'tnty, 216 N.C. 107, 3 S.E. 2d 339 (1939).

powers and duties.⁶

Among other duties, jailers and the Sheriff have the duty and authority to:

- Receive and discharge inmates,
- Ensure inmates remain in custody and do not escape,
- Ensure inmates receive adequate medical care,
- Ensure the jail is in adequate condition,
- Provide adequate supervision of inmates so they can provide protection in case of fire, assaults by other inmates, illness, or other emergencies or dangers,⁷ and
- Ensure the security of the jail by maintaining security, order, and discipline within the facility and preventing the entry of contraband and weapons.⁸
- Also, when legally authorized, jailers may use force against inmates to preserve internal discipline and order.⁹

Under North Carolina law, detention officers occupy the position of the jailer in the county jail. The duties above provide content to the phrase control, custody, care, or supervision of inmates. If someone is performing some or all of the tasks in the following non-exhaustive list, they will almost certainly need to be certified as a detention officer:

- Deciding who is admitted or discharged from the jail,
- Ensuring that the jail is secure and inmates do not escape,
- Observing inmates to ensure they are safe, in good health, and abiding by jail rules,
- Giving inmates orders on a regular basis,
- Enforcing jail rules and/or being involved in frontline in-person discipline of inmates,
- Conducting searches of the jail, inmates, or visitors,
- Restraining inmates,
- Occupying a position where they may need to use force against inmates in a non-self-defense situation,
- Working in such close proximity to inmates that they are likely to have to perform these functions, or
- Performing duties specifically required of officers under 10A NCAC 14J or other provisions of law.

Persons Who May Not Need Certification

Reviewing these duties and other provisions of law, some personnel in the Sheriffs' office may

⁶ Gowens v. Alamance C'ty, 216 N.C. 107, 3 S.E. 2d 339 (1939).

⁷ N.C.G.S. §§ 14-239 and 153A-224; Sutton v. Williams, 199 N.C. 546, 155 S.E. 160 (1930); State ex rel. Hayes v. Billings, 240 N.C. 78, 81 S.E. 2d 150 (1954); Woodhaus v. Virginia, 487 F. 2d 889 (4th Cir. 1973); Knight v. Vernon, 23 F. Supp. 2d 634, 645 (M.D.N.C. 1998) rev'd on other grounds by 214 F. 3d 544 (4th Cir. 2000); N.C. Dep't of Justice, Office of the Att'y Gen., Advisory Opinion: Jails; Sheriffs; Supervision of Local Confinement Facilities (May 2, 1988).

⁸ N.C. Dep't of Justice, Office of the Att'y Gen., Advisory Opinion: Jails; Sheriffs; Supervision of Local Confinement Facilities (May 2, 1988).

⁹ See Kingsley v. Hendrickson, 576 U.S. 389, 135 S. Ct. 2466 (2015); Wilkins v. Gaddy, 559 U.S. 34, 130 S.Ct. 1175 (2010).

not need to be certified as detention officers. They include:

- The Sheriff,
- Deputies who do not work in the detention center,
- Sworn law enforcement officers of other law enforcement agencies who are bringing people to and from the jail or interviewing inmates as part of their normal duties,
- Administrative personnel who do not work in the jail and are not involved in the management of inmates,
- Telecommunicators who do not work in the jail,
- Personnel or contractors providing a service to the jail like maintenance workers, plumbers, or electricians, and
- Personnel or contractors providing services to inmates, such as medical personnel and chaplains, who are not in custody, control, or supervision of inmates.

Categorizing Other Personnel

Intermediate Supervisors

While it is clear detention officers working in the jail and jail administrators need to be certified¹⁰, it will vary on whether supervisors between the jail administrator and the Sheriff need to be certified. The more they are present in the jail or involved in jail management or supervision of inmates, the more likely they need to be certified. As a practical matter, many will not need to be certified, but some may. An organizational restructuring could possibly remove the need for a supervisor to obtain certification.

Support Staff and Administrators

These staff members can be invaluable to jail operations and help reduce costs, but their roles must not be relied upon to perform the duties of detention officers. As a practical matter, in smaller jails, it will be harder to have the staffing, specialization, and physical separation from inmates to allow personnel to avoid performing at least some of the duties of a detention officer. One very important consideration is that non-certified personnel will not have the same authority to use force against inmates.¹¹ Also, the personnel may not be relied upon to perform the duties specifically delegated to detention officers pursuant to 10A NCAC 14J or other provisions of law.

Personnel who are in an administrative or support role and not performing the duties of a detention officer need not be certified. Below are examples of positions that could fall into this category:

- A receptionist who answers phone calls to the jail and serves as an initial point of contact with members of the public who have business at the jail but does not decide who is admitted to the jail and is not responsible for observing visitation,
- An administrator who calculates how much time inmates have served and provides projected release dates for inmates subject to final approval by a certified detention officer or the Sheriff,

¹⁰ 12 NCAC 10B.0401 and 12 NCAC 10B.0103(6), N.C.G.S. §153A-219.

¹¹ N.C.G.S. §§ 14-51.3 and 15A-401; N.C. Dep't of Justice, Office of the Att'y Gen., Advisory Opinion: Private Prisons (Apr. 12, 2000).

- An administrator involved in reviewing grievances so long as they are under adequate supervision,
- An employee acting as a hearing officer for grievances under adequate supervision,
- An administrator who manages the canteen, handles inmate accounts, and performs human resources functions for personnel working in the detention center,
- Workers in a warehouse that is separate from the inmate population that supports the jail,
- Private contractors working in areas such as the kitchen or laundry who manage inmates in the operations of those area but who are supported by a present certified detention officer who is in charge of maintaining discipline and order, and
- Private contractors that manage the jail canteen and do not have authority over inmates.

It is important to remember that even though an employee's primary duties may fit into the examples described above if they are also in control, custody, supervision, or care of inmates, they need to be certified. The layout of a particular jail and its operations may make it impractical to have non-certified personnel in the jail in these positions. The more contact that an employee has with inmates and the closer their workspace is to inmates, the more likely they will need to be certified.

Personnel Working in the Control Room

Some agencies want to have non-sworn personnel work in the area of the jail where the video surveillance screens, the controls to cells and housing units, and communications for the jail are located. This area may not be called a control room in every jail and in some counties it may be located inside the jail and in others, outside the area of the jail where inmates are kept.

Having a non-sworn person performing duties like observing inmates on video screens, dispatching detention officers to deal with problems, or locking and unlocking doors will usually be problematic. Watching the inmates, protecting them from harm, and locking and unlocking the doors of the jail are the core of custody and control of inmates. The fact that the detention officer may have final legal and operational authority to tell the non-sworn control room personnel to open a door is of little importance when the non-sworn have the physical ability to open the door, and no detention officer is present to stop them.

Merely having one's workstation in the central control room is unlikely to require certification. However, leaving non-sworn personnel alone in the control room will often put them in control of inmates, so jails will need to consider the feasibility of having non-sworn personnel work in their control room.

Conclusion

This is a complex issue that can give rise to significant legal liability. Looking for loopholes in this guidance that will allow non-certified personnel to perform more functions in a jail is likely to lead to a violation of Commission regulations. It is critical to consult with your training manager and legal representation if you have questions about particular positions in your office. You may also reach out to the North Carolina Sheriffs' Education and Training Standards Commission for further guidance.

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