

COMPANY POLICE

STUDY GUIDE

**NORTH CAROLINA
DEPARTMENT OF JUSTICE**

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INTRODUCTION

Company police agencies and officers can be found throughout North Carolina. At present, there are 51 company police agencies serving our state. Company police agencies range in size from those employing as few as one officer to those with as many as sixty officers.

Company police officers patrol and enforce the criminal laws of our state on private and public school property, county and state hospitals, shopping centers, apartment complexes, office buildings, golf courses, recreational lakes and train stations.

Company police agencies are a vital part of the criminal justice system's efforts in this state. Company police agencies supplement our state, municipal and county police agencies thereby relieving them of some of the calls-for-service that burden all law enforcement agencies.

Due to the specialized nature of company police agencies, it is important that state and local agencies and officers, as well as the general public, fully understand the role of a company police agency and the officers they have commissioned.

To be commissioned as a company police officer, an applicant must meet the minimum standards required for employment and certification as a law enforcement officer in North Carolina, including completion of the Basic Law Enforcement Training course. Additionally, an applicant must successfully complete an examination on the law and administrative rules governing company police with a minimum score of 80%. (If approved, an applicant will also receive law enforcement certification from the North Carolina Criminal Justice Education and Training Standards Commission.) Once the applicant has been officially sworn in by attesting to an oath of office, they will receive a commission from the Attorney General. This commission will give the company police officer the same subject matter jurisdiction as other sworn law enforcement officers to make arrests for both felonies and misdemeanors, as well as to charge for infractions. However, the authorities of company police officers are subject to strict territorial jurisdiction limitations.

This booklet was prepared to assist applicants, for company police officer commissioning, prepare for the company police program examination. In addition to a brief history of company police in North Carolina and a detailed overview of the law and rules currently governing company police, this booklet also contains a section on "Commonly Asked Questions." These questions were derived from inquiries received by the Attorney General's Office over the past few years including questions about the territorial and subject matter jurisdiction of company police officers.

HISTORY OF COMPANY POLICE

The history of company police in North Carolina spans almost one hundred and twenty five years. As special law enforcement problems arose which could not adequately be handled by existing officers, new law enforcement agencies were created to handle these problems. The officers of these agencies were called "special policemen" and were authorized for railroads in 1871, for electric or water power companies and construction companies in 1907 and for manufacturing companies in 1923. See, N.C. Code Ann. §§ 3484-3488 (Michie, 1935). In many

small towns and communities, the special policemen were often the only police officers available to assist the county sheriff and his deputies. The power to appoint these special police officers rested with the Governor until 1971, when the special and company police were transferred to the Department of Justice by the State Government Reorganization Act. N.C.G.S. § 143A-54.

THE POWERS OF THE ATTORNEY GENERAL

Chapter 74E of the North Carolina General Statutes, entitled the Company Police Act, established the Company Police Program in order “to ensure a minimum level of integrity, proficiency, and competence among company police agencies and company police officers.” As part of the Company Police Program, the Attorney General is given the authority to certify an agency as a company police agency and to commission an individual as a company police officer.

Pursuant to Chapter 74E-4, the Attorney General has the power to:

1. Establish minimum education, experience, and training standards and establish and require written or oral examinations for an applicant for certification as a company police agency, applicant for commission as a company police officer, or a commissioned company police officer;
2. Require a company police agency or a company police officer to submit reports or other information;
3. Inspect records maintained by a company police agency;
4. Conduct investigations regarding alleged violations of Chapter 74E or an administrative rule and to make evaluations as may be necessary to determine if a company police agency or a company police officer is complying with those provisions;
5. Deny, suspend, or revoke a certification as a company police agency or a commission as a company police officer for failure to meet the requirements of or comply with Chapter 74E or an administrative rule;
6. Appear in the name of the Company Police Program and apply to the courts having jurisdiction for injunctions to prevent a violation of Chapter 74E or administrative rules;
7. Delegate the authority to administer the Program;
8. Require that the Criminal Justice Standards Division provide administrative support staff for the Program; and
9. Adopt rules needed to implement the Company Police Act.

In accordance with these powers, the Attorney General has appointed Randy Munn as the Administrator for the Company Police Program and promulgated administrative rules to carry out the purpose of the Act.

The Attorney General is the legal custodian of all books, papers, documents, or other records and property of the Company Police Program. All papers, documents, and records submitted to the Company Police Administrator become property of the program and are placed in the company police officer's personnel file maintained by the Attorney General. These files are subject to the same restrictions concerning disclosure as set forth in Chapters 126, 153A, and 160A of the North Carolina General Statutes for other personnel records.

HOW A COMPANY POLICE AGENCY IS CERTIFIED

An entity wishing to become a company police agency may apply to the Attorney General to be certified as a company police agency. As part of the application process, a potential company police agency must submit an application form and the following to the Company Police Administrator:

1. Articles of incorporation or other agency originating documentation, which specifies the agency's law enforcement functions;
2. Names and addresses for all corporate officers and directors;
3. A copy of the company police agency's insurance policy, or if self insured, the certificate of self insurance (applicable to non-public entities only) (The policy or certificate of self insurance must provide not less than one million dollars of coverage per incident for personal injury or property damage, resulting from a negligent act of the applicant or an agent or employee of the applicant operating in the course and scope of employment or under color of law, and the form, execution, and terms of the liability insurance policy must meet the requirements of the Attorney General);
4. A criminal history record check on each corporate officer and director of the corporation through the clerk of superior court in each county where the individual resided or maintained a residence or place of business over a five year period prior to such application. (However, this administrative rule does not require the agency to submit a criminal history record check on currently commissioned company police officers);
5. The appropriate application fees;
6. A listing of the names and addresses of all employing businesses and institutions for which the company police agency has contracted with to provide services;

7. Notification form signed by the local District Attorney, Sheriff and if applicable, local Police Chief, for the location where the primary business will be conducted stating the agency's intent to operate as a company police agency; and
8. At least two affidavits signed by other individuals within the community who have personal knowledge stating that the corporate officers and directors of the corporation are of good moral character as defined in 12 NCAC 02I .0202(a)(9).

Upon completion of the application process, if the agency meets the minimum requirements, the Company Police Administrator issues a probationary certification to the agency for a period of six months. At the end of six months, if the agency has obtained at least one contract for services and at least one commissioned officer and has not otherwise violated any provisions of the rules or Chapter 74E, the agency shall be awarded agency certification.

A company police agency's certification expires on June 30 following the date it is issued, unless sooner suspended or revoked by the Attorney General. A company police agency may renew the certification upon payment of the appropriate fee if they remain in compliance with Chapter 74E and the administrative rules. If a company police agency's certification is denied or revoked, that agency is not eligible to re-apply for that certification for three years.

HOW AN INDIVIDUAL IS COMMISSIONED AS A COMPANY POLICE OFFICER

Once the company police agency is established and certified, the agency may make application for the commissioning of the Department Head/Chief and other company police officers. The Department Head/Chief must be commissioned as a company police officer pursuant to Chapter 74E-6 and 12 NCAC 02I .0104(10).

Every company police officer must meet the following requirements to obtain (and maintain) a company police commission:

1. Be a citizen of the United States;
2. Be a high school graduate or have passed the General Educational Development Test indicating high school equivalency (Refer to 12 NCAC 02I.0202 for exemption to this rule);
3. Have attained a score of not less than 80 percent on a written examination;
4. Meet the minimum standards for criminal justice officers established by the North Carolina Criminal Justice Education and Training Standards Commission;
5. Applicants who do not hold general certification as a law enforcement officer issued by the North Carolina Criminal Justice or Sheriffs' Education and Training Standards Commission, must

- submit to and successfully complete a polygraph examination administered by the State Bureau of Investigation;
6. Be at least 20 years of age;
 7. Have produced a negative result on a drug screen as specified in 12 NCAC 02I .0202 (7);
 8. Notify the Company Police Administrator in writing of all criminal offenses for which the officer is arrested for or charged with, pleads no contest, pleads guilty, or is found guilty of, as well as all Domestic Violence Orders (50B) which are issued by a judicial official; applicant/agency must provide true copies of warrants and dispositions;
 9. Be of "good moral character" as referred to in N.C.G.S. 17C-10(c);
 10. Not have committed or been convicted of a crime or crimes as specified in the rules governing company police, such that the applicant would be ineligible for commissioning as a company police officer; and
 11. Submit to a background investigation.

The application for a company police officer must contain:

1. A written request from the department head of the company, agency or institution requesting that a company police commission be issued to the applicant;
2. If the applicant holds general certification issued by the North Carolina Criminal Justice Education and Training Standards Commission or the North Carolina Sheriffs' Education and Training Standards Commission, the application must contain the following in original format and on current revisions:
 - a. Medical History Statement (Form F-1)
 - b. Medical Examination Report (Form F-2)
 - c. Personal History Statement (Form F-3) which is not more than three months old
 - d. Background Investigation Form (Form F-8)
 - e. Satisfactory proof of in-service firearms qualification (Form F-9A)
 - f. Authorization for Release of Records (CP-1))
 - g. Drug Screen Consent Form (CP-2)
 - h. Satisfactory proof of a negative drug screen (from a federally certified lab)
 - i. Application fee

- j. A current photo in “jpeg” format emailed to the Program Administrator: rmunn@ncdoj.gov
 - k. Two completed fingerprint cards
3. If the applicant has never been sworn, holds probationary certification or **is transferring from out of state (without a one year break in certification)**, the application must contain the following:
- a. Medical History Statement (Form F-1)
 - b. Medical Examination Report (Form F-2)
 - c. Personal History Statement (Form F-3) which is not more than three months old
 - d. Report of Qualification Appraisal Interview (Form F-4)
 - e. Background Investigation Form (Form F-8)
 - f. Satisfactory proof of in-service firearms qualification (Form F-9A)
 - g. Authorization for Release of Records (CP-1)
 - h. Drug Screen Consent Form (CP-2)
 - i. Satisfactory proof of a negative drug screen (from a federally certified lab)
 - j. Psychological Screening
 - k. Proof of satisfactory completion of a Criminal Justice Education and Training Standards Commission accredited basic law enforcement training course
 - l. Proof of High School graduation or GED
 - m. Application fee
 - n. A recent photo in “jpeg” format emailed to the Program Administrator: rmunn@ncdoj.gov
 - o. Two completed fingerprint cards
 - p. Conditional Offer of Employment
 - q. A syllabus of the basic law enforcement training from the state of transfer (must include topic and hours)
 - r. A letter from the former agency giving the beginning and ending dates of full time sworn service. (**full time sworn status must be noted in the letter.**)

Any company police agency contemplating the commissioning of an applicant as a company police officer **must** complete a background investigation on such applicant **prior** to employment. This investigation must examine the applicant's character traits and habits relevant to performance as a company police officer and must determine whether the applicant is of good moral character as referred to in N.C.G.S. § 17C-10 (c). Prior to the investigation, the applicant must complete a personal history statement to provide a basis for the investigation. **The**

department head must conduct the applicant's background investigation, document the results of the investigation, and include in the report of investigation:

1. Biographical data;
2. Family data;
3. Scholastic data;
4. Employment data;
5. Interviews with the applicant's references; and
6. A summary of the department head's findings and conclusions regarding the applicant's moral character as referred to in N.C.G.S. § 17C-10(c).

The agency may use the method of documenting the results of the background investigation it deems most appropriate to its needs. However, the Summary of Mandated Background Investigation, Form F-8, must be submitted and used as a guide for minimum information collected and recorded by the investigator.

In the event that an individual applying for commission as a company police officer is the department head, he shall not conduct his own background investigation. The investigation must be performed by a city or county agency in the county where the company police agency has residency, or by contract with a private investigator.

Any person who is commissioned as a company police officer must take the oath of office required of a law enforcement officer (i.e., the separate oaths required by Article VI, Section 7 of the Constitution of North Carolina and by N.C.G.S. § 11-11) before assuming the duties of or wearing a uniform as a company police officer.

A company police agency is required pursuant to 12 NCAC 02I .0501 to retain the following documents in the personnel files of each company police officer that has been appointed or employed by their agency:

1. Commission certificate;
2. Probationary or general certification;
3. Oath of office;
4. Firearms qualification (annual F-9A forms);
5. Annual state mandated in-service verification;
6. Notice of appointment (Form F-5A);
7. Notice of separation (Form F-5B).

A company police officer's commission expires on June 30 following the date it is issued, unless sooner suspended or revoked by the Attorney General. A company police officer may renew a commission upon payment of the appropriate fee if they remain in compliance with

Chapter 74E and the administrative rules. The Attorney General must immediately revoke the commission of a company police officer when any of the following occurs:

1. Termination of employment with the company police agency for which the officer is commissioned;
2. Termination, suspension, or revocation of the certification of the company police agency for which the officer is commissioned;
3. Failure to meet in-service training requirements as required by the Act or the administrative rules adopted under the authority of the Act;
4. Violation of the Act or an administrative rule adopted under the authority of the Act.

THE POWERS OF COMMISSIONED COMPANY POLICE OFFICERS

The Company Police Act establishes three distinct classifications of company police officers in N.C.G.S. § 74E-6. These three categories are:

1. "Campus Police Officers", which are those company police officers who are employed by any college or university that is a constituent institution of The University of North Carolina or any private college or university that is licensed or exempted from licensure as prescribed by N.C.G.S. § 116-15;
2. "Railroad Police Officers", which are those company police officers who are employed by a certified rail carrier and commissioned as company police officers under the Act; and
3. "Special Police Officers", which are all company police officers not designated as a campus police officer or a railroad police officer.

The powers of a commissioned company police officer depend on the officer's (or agency's) classification.

All company police officers, while in the performance of their duties of employment, have the same powers as municipal and county police officers to make arrests for both felonies and misdemeanors and to charge for infractions on:

1. Real property owned by or in the possession and control of their employer;
2. Real property owned by or in the possession and control of a person who has contracted with the employer to provide on-site company police security personnel services for the property; or

3. Any other real property while in continuous and immediate pursuit of a person for an offense committed upon property described in 1. or 2., above.

Campus police officers have additional powers under the Act which expand their territorial jurisdiction. (See separate document entitled Campus Police Study Guide for detailed information regarding Campus Police Officers)

Railroad police officers have the powers set forth above, and also have the powers and authority granted by federal law or by a regulation promulgated by the United States Secretary of Transportation. The limitations on the power to make **arrests**, above, are not applicable to railroad police officers commissioned by the Attorney General pursuant to the authority of the Act.

The statute governing the powers of company police officers and agencies (N.C.G.S. § 74E-6) states that the authority given to such officers and agencies is exclusive. Therefore, provisions of law that expand the power and authority of other law enforcement officers and agencies are not applicable to company police agencies and officers. What this means, for example, is that company police officers **do not have** the one mile extraterritorial jurisdiction of municipal police officers under N.C.G.S § 160A-286.

Special and Railroad company police **cannot** enter into mutual aid agreements pursuant to N.C.G.S. §§ 160A-288 and 288.2 or N.C.G.S. § 90-95.2.

LIMITATIONS ON COMPANY POLICE AGENCIES AND OFFICERS

In addition to the minimum requirements for commissioning as an officer and the territorial limits placed on such officers, company police agencies and officers are limited in other ways.

First, no individual commissioned company police officer can transfer his or her company police commission from one employing company police agency to another.

Limitations are also placed on the tenure of agency certification and an officer's commission. A company police agency certification or company police officer commission remains in effect until:

1. The Attorney General directs termination;
2. The company police officer ceases to be employed by the company police agency with whom he was commissioned;
3. The required liability insurance is terminated or suspended by the agency's insurance carrier;
4. The need for a commission no longer exists;

5. Evidence is presented that the person has committed an act which would have originally caused denial of the application or an act prohibited by the administrative rules; or
6. The Criminal Justice Education and Training Standards Commission suspends or revokes an officer's certification for cause.

In addition to any other act prohibited by the Act or the rules, certain other acts are **specifically prohibited** by the administrative rules governing company police and Chapter 74E. Violations of these provisions will result in revocation or denial of an officer's commission, civil or criminal action, or any or all of the foregoing. These acts are:

1. Use of excess force while in the performance of official duties;
2. Carrying a concealed weapon except:
 - a. when on the officer's own business property or at home, or
 - b. when employed as a company police officer, while on-duty and acting in the discharge of official duties and while within those property jurisdiction limitations specifically set forth and described under N.C.G.S. § 74E-6; and in compliance with N.C.G.S. 14-269 (b) (4) and;
 - c. When off duty if duly authorized by the superior officer in charge, and the officer complies with N.C.G.S. 14-269 (b) (5).
3. Activating or operating a red light in or on any vehicle in this state unless the vehicle is exempted from the provisions of N.C.G.S. § 20-130.1(b);
4. Activating, or operating a blue light in or on any vehicle in this state except when operating a vehicle used by the law enforcement officer in the performance of the officer's official duties. To be considered a law enforcement officer performing his or her official duties, a company police officer must be acting in the performance of his or her official duties and acting within the parameters of his or her territorial jurisdiction;
5. Activating or operating a siren when operating any motor vehicle used primarily by any company police agency in the performance of their official duties when outside of the property jurisdiction limitations specifically described under N.C.G.S. § 74E-6 unless in immediate and continuous pursuit of a person for an offense over

which the officer initially had subject matter and territorial jurisdiction when the offense was committed;

6. Representing in any manner at any time that the officer is a federal, state, county, or municipal law enforcement officer, unless the company police officer holds dual certification as one of these officers; an officer may act under the authority as a company police officer while on duty;
7. Impeding traffic, stopping motorists or pedestrians, or in any manner imposing or attempting to impose the officer's will upon another person in the form of police authority unless:
 - a. the officer is on the property specifically described under N.C.G.S. § 74E-6; or
 - b. when in immediate and continuous pursuit of any person for an offense over which the officer initially had subject matter and territorial jurisdiction when the offense occurred within the property jurisdiction limitations specifically described under N.C.G.S. § 74E-6;
8. Using or attempting to use authority granted under a company police commission outside the political boundaries of North Carolina; or
9. Violating the administrative rule governing badges, uniforms, vehicles and officer identification for company police agencies and officers.

Finally, Chapter 74E-7 and the administrative rules place certain requirements and limitations on company police agencies and officers regarding badges, uniforms, and vehicles.

All company police officers must, when on duty, wear a badge bearing the name of the certified company police agency and the general title of:

1. Railroad Police Officer;
2. Campus Police Officer;
3. Special Police Officer; or
4. Company Police Officer.

The badge is to be carried at all times by the company police officer. The badge shall always be worn in plain view, except in situations where the officer is on his territorial jurisdiction and the officer's weapon is concealed under the provisions set forth in the administrative rule governing prohibited acts. **No company police identification card shall be issued to or possessed by any company police officer except in the form of identification issued to the officer by the Attorney General.**

All company police officers must, when on duty, wear the uniform of the company police agency unless directed to wear other attire by the department head. When wearing civilian attire, the company police officer must comply with the provisions above regarding badges and identification. Those company police agencies which employ both commissioned company police and non-commissioned security personnel must issue the commissioned company police officers a uniform of a **different color** that clearly distinguishes the company police officers from other (i.e., non-commissioned) employees of the agency. The uniform of the company police officer must bear shoulder patches that contain the terms "Company Police Officer," "Railroad Police Officer," "Campus Police Officer," or "Special Police Officer," and the name of the company police agency.

Each marked vehicle used by a company police agency must display the agency name and one of the following agency classifications: "Company Police," "Railroad Police," "Campus Police," or "Special Police". The agency classifications required shall be of uniform size with any other writing on the company police vehicle. The department head must ensure that employees who have not been commissioned as company police officers **do not operate** any marked vehicle used by the company police agency and **do not operate** any company police vehicle with a blue light. Further, the department head must ensure that any marked company police agency vehicle is not operated outside of those property jurisdiction limitations set forth in N.C.G.S. § 74E-6, unless such operation is performed by an on-duty officer in the performance of his official duties and authorized by the department head.

The requirements contained in the administrative rule governing badges, uniforms, and vehicles do not apply to those agencies and commissioned officers who are regulated by the Tennessee Valley Authority, United States Nuclear Regulatory Commission, or the Railroad Police Certification Act of 1990.

PENALTIES FOR VIOLATIONS OF THE COMPANY POLICE ACT

Chapter 74E and the administrative rules establish the grounds for denial, suspension, or revocation of both a company police agency certification and a company police officer commission. In addition to the periods of denial, suspension, or revocation established by the rules, the Attorney General has the authority to summarily suspend an officer's commission.

A company police agency is subject to suspension, revocation or denial for the reasons set forth in 12 NCAC 02I .0211. A company police officer commission is subject to suspension, revocation or denial for the reasons set forth in 12 NCAC 02I .0212.

Further, Chapter 74E makes it a criminal violation for any private person, firm, association, corporation, public institution, agency, or other entity to engage in, perform any services as, or in any way hold itself out as a company police agency or engage in the recruitment or hiring of company police officers without having first complied with the provisions of Chapter 74E. Any person, firm, association, or corporation, or their agents and employees violating any of the provisions of Chapter 74E shall be guilty of a Class 1 misdemeanor.

COMMONLY ASKED QUESTIONS ABOUT COMPANY POLICE

1. **IS A COMPANY POLICE OFFICER COMMISSIONED UNDER CHAPTER 74E A “PUBLIC OFFICER” WITHIN THE MEANING OF N.C.G.S. 14-223, WHICH MAKES IT A CRIME TO RESIST A PUBLIC OFFICER?**

Yes. A company police officer, regardless of whether a campus, railroad, or special officer, is a “public officer” within the meaning of N.C.G.S. 14-223 when acting in the performance of his official duties and within his territorial jurisdiction. A person may be charged with resisting such officers

2. **IS A COMPANY POLICE OFFICER AN “OFFICER OF THE STATE” FOR PURPOSES OF N.C.G.S. 14-33(C) (4) WHICH MAKES IT A CLASS A1 MISDEMEANOR TO ASSAULT AN OFFICER OF THE STATE?**

No. N.C.G.S. 14-33(c) (4) makes it a Class A1 misdemeanor to assault an “officer . . . of the State.” Company police officers are not considered to be officers of the state unless employed by the State of North Carolina.

3. **IF A PERSON ASSAULTS A COMPANY POLICE OFFICER BY POINTING A FIREARM, IS THE PERSON GUILTY OF A CLASS E OR A CLASS F FELONY?**

Class E. The legislature amended N.C.G.S. 14-34.2 to include company police officers or campus police officers (i.e., officers certified pursuant to N.C.G.S. 116.40.5) in the statute making it a felony to assault a governmental officer or employee with a firearm or other deadly weapon. This offense is now a Class F felony. In 1995, the legislature added N.C.G.S. 14-34.5 which makes it a Class E felony to assault a law enforcement officer. These two statutes, read in conjunction with each other, could be interpreted to mean that it is only a Class F felony to assault a company police officer with a firearm. However, the first sentence of N.C.G.S. 14-34.2 states, “[u]nless . . . some other provision of law providing greater punishment . . .” N.C.G.S. 14-34.5 provides a greater punishment. Note, however, that assaulting a company police officer with “any other deadly weapon” would be a Class F felony.

4. **IS A COMPANY POLICE OFFICER AUTHORIZED TO USE BLUE LIGHTS AND SIRENS ON MOTOR VEHICLES USED BY THEM IN THE PERFORMANCE OF THEIR DUTIES?**

Yes, if the officer is acting within the territorial jurisdiction limitations imposed by N.C.G.S. § 74E-6. All company police officers may use blue lights and sirens on motor vehicles used by them in the performance of their duties **while on the real property owned by or in the possession and control of their employer, while on real property owned by or in the possession and control of a person who has contracted with the employer to provide on-site company police security personnel services for the property, and while in continuous and immediate pursuit of a person for an offense committed upon the real property specified by N.C.G.S. § 74E-6.**

5. **MAY ALL COMPANY POLICE OFFICERS MAKE ARRESTS AND CHARGE FOR INFRACTIONS ON PUBLIC ROADS OR HIGHWAYS PASSING THROUGH OR IMMEDIATELY ADJOINING THEIR EMPLOYER'S PREMISES BUT ARE NOT PART OF THEIR EMPLOYER'S PREMISES?**

No. Only campus company police, and possibly railroad police, have the power to make arrests and charge for infractions on public roads or highways passing through or immediately adjoining their employer's premises.

6. **WHEN AN ARREST IS MADE BY A COMPANY POLICE OFFICER ON THE REAL PROPERTY SPECIFIED BY N.C.G.S. § 74E - 6, MAY A COMPANY POLICE OFFICER TRANSPORT THE ARRESTEE FROM THE PREMISES TO A MAGISTRATE TO OBTAIN A WARRANT?**

Yes. Company police officers, while in the performance of their duties of employment, have the same powers as municipal and county police officers to make arrests for both felonies and misdemeanors and to charge for infractions on the real property specified by N.C.G.S. 74E-6. Possessing such authority, and having arrest power, it necessarily follows that company police officers would be required to comply with the provisions of N.C.G.S. 15A-501 regarding the procedure upon arrest without a warrant and the duties of an arresting officer. One of these duties is taking the arrestee before a magistrate (or other judicial officer) without unnecessary delay. Transport is a necessary part of performing this duty.

7. **MAY A COMPANY POLICE OFFICER CARRY A CONCEALED WEAPON ON THE PREMISES OF HIS EMPLOYER?**

Yes. N.C.G.S. §74E-6, permits a company police officer to carry a concealed weapon while on duty if duly authorized by his/her superior officer.

8. **MAY A COMPANY POLICE OFFICER CARRY A CONCEALED WEAPON OFF THE PREMISES OF HIS EMPLOYER?**

Yes. The answer to this question is governed by N.C.G.S. § 74E-6 and N.C.G.S. § 14-269(b) (4). Both these laws were amended by 2006 SL-259 s. 5. N.C.G.S. § 74E-6 now reads: "Company police officer shall have, if duly authorized by the superior officer in charge, the authority to carry concealed weapons pursuant to and in conformity with G.S. 14-269(b)(4) and (5)." Additionally, N.C.G.S. § 14-269(b)(4) was amended to read, "Officers of the State, or of any county, city, town, or company police agency charged with the execution of the laws of the State, when acting in the discharge of their official duties."

9. **IF A COMPANY POLICE OFFICER WISHES TO OBTAIN A PERMIT TO CARRY A CONCEALED HANDGUN, MUST THE OFFICER TAKE THE FIREARMS SAFETY AND TRAINING COURSE?**

No. Pursuant to N.C.G.S. 14-415.10(4) & (5) and 14-415.12A, company police officers are exempt from the firearms safety and training course requirement. However, the officer must comply with all other provisions of N.C.G.S. 14-415.12(a).

10. MAY AN OFF-DUTY COMPANY POLICE OFFICER CARRY A CONCEALED WEAPON STATEWIDE PURSUANT TO N.C.G.S. 14-269?

Yes. N.C.G.S. 74E-6(c) has been amended to provide that “Company police officers shall have, if duly authorized by the superior officer in charge, the authority to carry concealed weapons pursuant to and in conformity with G.S. 14-269(b)(5) [the off-duty officer exemption to the concealed weapons statute.]

Both this statute and the administrative rules governing company police officers carrying concealed weapons (i.e., 12 NCAC 2I .0304 (2)) exempt anyone -- including a company police officer -- who carries a concealed weapon on their own premises (e.g., home, business, motel room, etc.). Further, nothing prohibits a company police officer from obtaining a concealed handgun permit pursuant to Article 54B of Chapter 14 of the General Statutes (i.e. N.C.G.S. 14-415.10, *et. seq.*) like any other resident of North Carolina.

11. DO COMPANY POLICE OFFICERS HAVE THE AUTHORITY TO MAKE ARRESTS AND CHARGE FOR INFRACTIONS ON PROPERTY RENTED, EITHER SHORT OR LONG TERM, BY THEIR EMPLOYER?

No, unless the employer has both possession **and** control of the premises. The territorial jurisdiction of a company police officer is “property owned by or in the **possession and control** of their employer.” N.C.G.S. 74E-6(c) (emphasis added).

12. DOES A COMPANY POLICE OFFICER HAVE JURISDICTION IF HIS ASSISTANCE IS REQUIRED BY A STATE, COUNTY, OR MUNICIPAL LAW ENFORCEMENT OFFICER OFF THE PREMISES OF HIS EMPLOYER?

No. A company police officer outside his territorial jurisdiction has no jurisdiction as a law enforcement officer. However, the company police officer could assist the other officer as a private citizen. As a private citizen, the company police officer would have the same jurisdiction as the requesting law enforcement officer, just as any other citizen who receives a similar request for assistance. N.C.G.S. 15A-405 provides that private citizens may assist law enforcement officers in effecting arrests and preventing escapes from custody when requested to do so by the officer; such private citizens are protected from civil and criminal liability for an invalid arrest unless the private citizen knows the arrest is invalid. Therefore, a company police officer who receives a request for assistance would not be assisting the other law enforcement officer as a law enforcement officer, but as a private citizen.

13. MAY A COMPANY POLICE OFFICER MAKE AN ARREST “OFF-DUTY”?

Yes. Company police officers may make an arrest off-duty if on their employer's premises and within their territorial jurisdiction. However, off-duty company police officers off their employer's premises would not have arrest authority and would therefore only have the detention powers of a **private citizen** as provided in N.C.G.S. 15A-404.

14. MAY ALL COMPANY POLICE AGENCIES ENTER INTO MUTUAL AID AGREEMENTS TO EXPAND THE TERRITORIAL JURISDICTION OF THEIR OFFICERS?

No. Only campus police agencies may have the benefit of a mutual aid agreement. N.C.G.S. 74E-6(d). Railroad police and special police are ineligible.

Even though the campus company police agency may be eligible, the **agency** cannot enter into the agreement. N.C.G.S. 74E-6(d) specifically provides that "[t]he board of trustees of any college or university that qualifies as a campus company police agency" may enter into a mutual aid agreement with the governing board of a municipality or, with the consent of the sheriff, the governing board of a county.

The board of trustees may only enter into a mutual aid agreement with the governing board of a city or county. The board may not enter into a mutual aid agreement with the board of another institution having a campus police agency.

15. DO COMPANY POLICE OFFICERS HAVE THE ONE MILE EXTRA-TERRITORIAL JURISDICTION GIVEN TO MUNICIPAL POLICE OFFICERS BY N.C.G.S. 15A-402 AND N.C.G.S. 160A-286?

No. Although N.C.G.S. 74E-6(c) states that all company police officers have the same powers as "municipal . . . police officers", this same subsection then defines the territorial jurisdiction of company police officers. N.C.G.S. 74E-6(g) provides that the authority granted to company police officers in Chapter 74E is limited to the provisions of the Chapter.

16. MAY COMPANY POLICE OFFICERS CHARGE FOR INFRACTIONS?

Yes. N.C.G.S. 74E-6(c) specifically provides that company police officers have the power to "make arrests for both felonies and misdemeanors and to **charge for infractions . . .**" (emphasis added).

17. MAY A COMPANY POLICE OFFICER ARREST WITH A WARRANT (I.E. "SERVE AN ARREST WARRANT") ON THEIR EMPLOYER'S PREMISES?

Yes. Under N.C.G.S. 15A-304, an order for arrest on a warrant is directed to a law enforcement officer. A company police officer under Chapter 74E is a law enforcement officer and may execute the warrant within his territorial jurisdiction.

- 18. MAY SPECIAL POLICE AND CAMPUS POLICE ARREST WITH A WARRANT OFF THEIR EMPLOYER'S PREMISES, WHILE NOT IN CONTINUOUS AND IMMEDIATE PURSUIT OF A PERSON FOR AN OFFENSE COMMITTED WITHIN THE OFFICERS' TERRITORIAL JURISDICTION, AND NOT ON PUBLIC ROADS OR HIGHWAYS PASSING THROUGH OR IMMEDIATELY ADJOINING THE EMPLOYER'S PROPERTY?**

No. Only railroad police are exempted from the limitations on the power to make arrests contained in 74E-6(c). Additionally, special police officers may not arrest with a warrant on a public road or highway passing through or immediately adjoining the employer's property.

- 19. MAY COMPANY POLICE OFFICERS SERVE CRIMINAL PROCESS ON THEIR EMPLOYER'S PREMISES?**

Yes. Under N.C.G.S. 15A-301, a criminal summons must be directed to the person summoned to appear and delivered to that person, and may be served by **any** law enforcement officer having authority and territorial jurisdiction to make an arrest for the offense charged.

- 20. MAY ALL COMPANY POLICE OFFICERS INVESTIGATE MOTOR VEHICLE ACCIDENTS WHICH OCCUR ON PUBLIC STREETS AND ROADS (I.E. CITY STREETS, COUNTY ROADS, OR STATE ROADS) WHICH PASS THROUGH THEIR EMPLOYER'S PREMISES?**

No. With the exception of campus company police, company police officers may not investigate motor vehicle accidents on public streets and roads which pass through their employer's premises. Public roads are not "owned by or in the possession and control of" their employer. N.C.G.S. 74E-6(d) specifically gives this authority to campus company police. However, all company police may investigate motor vehicle accidents which occur on private streets and roads owned by or in the possession and control of either their employer or a person who has contracted with the employer to provide on-site company police security personnel services for the property. Note that not all motor vehicle provisions apply to offenses occurring on public vehicular areas. Some offenses only arise on streets or highways.

- 21. MAY COMPANY POLICE OFFICERS ENFORCE THE COMPANY OR CORPORATE POLICIES OR REGULATIONS OF THEIR EMPLOYER?**

No. N.C.G.S. 74E-6(a) requires that all company police officers take the oath of office required of all law enforcement officers. All law enforcement officers are sworn to uphold the criminal law. **Although a company police agency may be employed by a private entity, company police officers should not enforce private policies. For example, campus company police officers should not enforce school policies.**

- 22. MAY COMPANY POLICE OFFICERS ENFORCE STATE WILDLIFE LAWS ON THE PREMISES OF THEIR EMPLOYER?**

Yes. Under N.C.G.S. 74E-6, all company police officers have full subject matter jurisdiction. Therefore, company police officers may enforce state wildlife laws, as well as any other criminal law, in the territory proscribed in N.C.G.S. 74E-(c) and (d).

23. MAY COMPANY POLICE OFFICERS CARRY THE COMPANY OR CORPORATE IDENTIFICATION OF THEIR EMPLOYER?

Yes, but only if the identification does not make the representation that the officer is a law enforcement officer. 12 NCAC 2I .0306(a)(3) specifically prohibits all company police officers from being issued or possessing any identification except the identification issued by the Attorney General. However, company police officers may carry the company or corporate identification of their employer if the identification denominates the officer as “staff,” “employee,” or other similar term.

24. MAY A COMPANY POLICE AGENCY USE A NON-COMMISSIONED EMPLOYEE ON CONTRACTED PROPERTY FOR SECURITY?

No, unless the non-commissioned employee is certified as a security guard by Private Protective Services (PPS). If the non-commissioned employee is providing services which fit within the definition of a security guard according to PPS he/she must be certified /registered with PPS. Information on PPS requirements may be obtained by contacting their office at **(919) 875-3611** or by visiting the Department of Justice website at: www.ncdoj.gov and clicking on **Private Protective Services**.

25. MAY TWO COMPANY POLICE AGENCIES CONTRACT WITH ONE ANOTHER TO FULFILL ONE OF THE AGENCY’S CONTRACTS?

No. Allowing two agencies to subcontract with one another is not permitted under the Company Police rules or North Carolina law. To allow otherwise would amount to a mutual aid agreement which is prohibited by North Carolina law. Specifically, N.C.G. S. § 160A-288 and 288.2, as well as N.C.G.S. §90-95.2, excludes company police agencies from entering into mutual aid agreements. The exception to this rule is with Campus Police agencies as specified in N.C.G.S.§74E(6)(d). (Refer to commonly asked question #14)

26. WHAT CHARGES CAN BE MADE ON A PUBLIC VEHICULAR AREA?

N.C.G.S. § 20-4.01(32) and 20-219.4 set out what is considered to be a Public Vehicular Area. The following is a list of offenses which may be charged when they occur on a PVA. Your agency should consult with your local District Attorney about these charges.

- | | |
|------------|--|
| 20-10.1 | Operating a moped by person under 16 years old |
| 20-16.3(a) | Passing stopped school bus |
| 20-29 | Failure to produce license and exhibit for examination |
| 20-37.6(e) | Unlawful parking in a handicapped space |
| 20-127(d) | Color/Tinted windows |
| 20-129(c) | Without burning headlamps on motorcycle |
| 20-129(d) | Without burning rear lamp on motorcycle |

- 20-135.4 Automobile safety standards
- 20-138.1(a) Driving while impaired
- 20-138.2 Impaired driving a commercial vehicle
- 20-138.2A Operating commercial vehicle after consuming alcohol
- 20-138.2B Operating school bus, school activity bus, or childcare vehicle after consuming alcohol
- 20-138.2C Possession of alcoholic beverage while operating a commercial motor vehicle
- 20-138.3 Provisional licensee
- 20-138.7 Open container after consuming
- 20-140 Careless and reckless
- 20-140.2 Operating overloaded or overcrowded vehicle
- 20-140.4(a)(1) Motorcycle with greater number of passengers than designed to carry
- 20-140.4(a)(2) Operating a motorcycle without wearing safety helmet
- 20-141.(a) Exceeding safe speed
- 20-141.4(a1) Death by vehicle (Felony)
- 20-141.4(a2) Death by vehicle (Misdemeanor)
- 20-141.5 Speeding to elude arrest
- 20-154(a) Unsafe movement
- 20-162(b) Parking in a fire lane
- 20-163 Leaving unattended vehicle with engine running
- 20-166 Hit and Run
- 20-166.1 Failure to notify law enforcement agency of an accident
- 20-183.8 Inspection sticker
- 20-217(a) Passing stopped school bus
- 20-218(b) Exceeding school bus speed limit
- 20-218.2 Exceeding non-profit activity bus speed limits
- 20-313 Motor vehicle without insurance
- 18B-401(a) Consumption by driver of malt beverage or unfortified wine

27. IF YOU HAVE BEEN HIRED TO WORK BY A COMPANY POLICE AGENCY AND HAVE NOT BEEN COMMISSIONED BY THE COMPANY POLICE ADMINISTRATOR IN ACCORDANCE WITH N.C.G.S. § 74E, MAY YOU WEAR A UNIFORM THAT HAS PATCHES, BADGES OR AGENCY ID READING “SPECIAL POLICE, COMPANY POLICE OR RAILROAD POLICE” DURING TRAINING?

No. N.C.G.S §14-277(a)(2) prohibits the impersonation of a law-enforcement officer by a person who “displays any badge or identification signifying to a reasonable individual that the person is a sworn law enforcement officer.” Additionally, no identification card indicating a person is a company police officer shall be issued to or possessed by any company police officer except in the form of identification issued to the officer by the Attorney General after receiving their Company Police Officer Commission. Company Police Agencies which employ both commissioned company police officers and noncommissioned security personnel shall provide the commissioned company police officers with a uniform of a different color that would distinguish the company police officer from other employees of the agency. Therefore, wearing a Company Police

Uniform prior to receiving a Company Police Commission could constitute not only a violation of the administrative code, but also of state criminal law.

28. MAY COMPANY POLICE OFFICERS SERVE INVOLUNTARY COMMITMENT ORDERS PURSUANT TO CHAPTER 122C?

No. N.C.G.S. §122C-261(e) provides that a law enforcement officer shall take the respondent into custody within 24 hours after the order is signed and proceed according to N.C.G.S. §122C-263. Law Enforcement officer is defined for purposes of Chapter 122C as “sheriff, deputy sheriff, police officer, State highway patrolman, or an officer employed by a city or county under N.C.G.S. §122C-302. This definition does not include company and campus police officers.