

August 24, 2005
OPINION 05-0102

Mr. Michael A. Ranatza
Executive Director
Louisiana Commission on Law Enforcement
1885 Wooddale Blvd., Room 1230
Baton Rouge, Louisiana 70806-1511

60 Law Officers – Enforcement & Jurisdiction
LSA-R.S. 40:2402

The Louisiana State Museum Board lacks authority to create a law enforcement force under the statutory provisions governing that entity. However, state law creates the capitol police force which has police authority over state buildings; these officers are considered “peace officers” for purposes of R.S. 40:2402.

Dear Mr. Ranatza:

You have asked this office to advise you whether the Louisiana State Museum Police are “peace officers” as defined in R.S. 40:2402.¹

At the outset, note that we find no authority for the Louisiana State Museum Board to create a law enforcement force under the provisions governing that entity, R.S. 25:341, et seq. However, R.S. 49:149, et seq., creates the capitol police force which “shall be responsible for maintaining general order and exercising reasonable police power on the property of the state of Louisiana under the supervision of the superintendent of state buildings and grounds, and on the property comprising the state capitol complex.” See R.S. 149.1(A).

These officers are “peace officers” for purposes of R.S. 40:2402, as R.S. 49:149.2 states:

§ 149.2. Capitol police constituted as peace officers; bond; jurisdiction

When discharging their duties on said state property or on the state capitol complex, capitol police are hereby constituted as peace officers with the right to exercise the power of arrest and the power to transfer arrested persons to the sheriff of the parish wherein the arrest was made and shall have the authority to carry weapons at all such times. Such persons, officers, or guards shall be bonded in the amount of ten thousand dollars in the exercise of their functions and the premiums on such bonds shall be paid from the budget of the superintendent of state buildings and grounds.

¹ LSA-R.S. 40:2402 defines “peace officer” as follows:

(1)(a) “Peace officer” means any full-time employee of the state, a municipality, a sheriff, or other public agency, whose permanent duties actually include the making of arrests, the performing of searches and seizures, or the execution of criminal warrants, and is responsible for the prevention or detection of crime or for the enforcement of the penal, traffic, or highway laws of this state, but not including any elected or appointed head of the law enforcement department.

However, nothing herein shall be construed so as to limit the jurisdiction of the capitol police to only those buildings and grounds under the supervision of the superintendent of the state buildings and grounds or the state capitol complex, but such jurisdiction shall extend to all state owned or leased buildings and grounds when requested by a state agency in or on such property. (Emphasis added).

R.S. 49:149.2 states that the jurisdiction of the capitol police extends to all state owned buildings when requested by a state agency such as the State Museum.

Our conclusion is in accord with Opinion 80-892, in which we responded to a similar request:

You indicate in your letter that the State Museum has a need for additional security and is particularly interested in having a security force with law enforcement capabilities. Inasmuch as this office is of the opinion that the Museum does not have authority to create such a force pursuant to LSA-R.S. 56:1689, we direct your attention to LSA-R.S. 49:149-149.5.

LSA-R.S. 49:149 creates the capitol police force and provides that the members of that force are to be appointed by the superintendent of state buildings. Members of the capitol police force are peace officers who are "responsible for maintaining general order and exercising reasonable police power on the property of the state of Louisiana, . . . nothing herein shall be construed so as to limit the jurisdiction of the capitol police to only those buildings and grounds under the supervision of the superintendent of the state buildings and grounds, but such jurisdiction shall extend to all state-owned or leased buildings and grounds when requested by a state agency in or on such property." LSA-R.S. 49-149.2.

We suggest that you approach the office of the superintendent of state buildings with your request for security personnel.

We hope the foregoing is helpful to you. Should you have other questions in which we may provide assistance, please contact this office.

Very truly yours,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

BY:

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL

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