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ARIZONA ATTORNEY GENERAL
November 20, 1981

James G. Ricketts, Ph.D.
Director
Department of Corrections
321 West Indian School Road
Phoenix, Arizona 85013

Re: 183-130 (R83-053)

Dear Dr. Ricketts:

You have asked about the extent of the authority of Arizona Department of Corrections ("Department") personnel who have been appointed as peace officers under A.R.S. § 41-1604.B.2(j), which provides:

The director may:

* * *

(j) Appoint certain employees of the department to peace officer status for the purposes only of guarding, transporting or pursuing persons under the jurisdiction of the department. Personnel appointed by the director pursuant to this section are not eligible to participate in the public safety personnel retirement system except as otherwise provided in Title 38, Chapter 5, Article 4.

It is our opinion that A.R.S. § 41-1604.B.2(j) applies only to such officers as have been specifically assigned the narrow duties of guarding in any manner, transporting by any means or pursuing inmates who have escaped from the custody of

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the Department. Moreover, the authority of those appropriately appointed and qualified peace officers is strictly limited to authority over only those persons committed to the Department for incarceration or confinement. Section 41-1604.B.2(j) is not intended to extend authority as a peace officer over the general public.

To more specifically answer your questions, A.R.S. § 41-1604.B.2(j) applies to any Department officer whose duties include guarding inmates and need not necessarily apply only to those peace officers assigned to towers, cellblocks or work details if there are other positions in the agency whose duties qualify them for such status. Peace officer status does not apply only to Department officers assigned to perimeter patrol. Department peace officers cannot detain, arrest or book into county jail anyone other than an inmate committed to the custody of the Department, whether the other persons be civilians or department personnel.

With regard to transporting inmates, Department peace officers cannot use their peace officer status under A.R.S. § 41-1604.B.2(j) as authority for detaining, arresting and booking persons who attempt to free inmates while being transported or anyone who interferes with such transportation.^{1/}

With regard to pursuing inmates, pursuit has been defined as "the act of following eagerly in order to overtake or obtain." State v. Guffey, 262 S.W.2d 152, 155 (Mo. App. 1953). Because the Legislature specifically excluded the authority to investigate,^{2/} it is our opinion that Department peace officers appointed under A.R.S. § 41-1604.B.2(j) are authorized only to pursue escaped inmates in the narrow sense of the word, i.e., to chase them vigorously with the intent to apprehend. That

1. Of course, any Department officer may use the authority of a citizen's arrest to effectuate such a detention and arrest whenever necessary. See A.R.S. §§ 13-3889 et seq. And they may continue to enlist the aid of local, county and state law enforcement officials as has been done in the past.

2. The words "or investigating" were eliminated from House Bill 2261 which was passed by the Second Session, 34th Legislature, 1980, and became A.R.S. § 41-1604.B.2(j).

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authority would not extend, however, to obtaining and serving search warrants or conducting investigations in the community relating to the escape.

Lastly, Department investigators are not authorized to be appointed to the status of peace officer under A.R.S. § 41-1604.B.2(j) unless their specifically assigned duties are to guard, transport or pursue inmates and, if so, their authority as peace officers is limited to such duties in the same manner as described herein.

Sincerely,



BOB CORBIN
Attorney General

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