

OP. NO. 05-022

**COMMONWEALTH PUBLIC SAFETY: RETIRED LAW ENFORCEMENT
IDENTIFICATION — DEPARTMENT OF CRIMINAL JUSTICE SERVICES –
GENERAL PROVISIONS**

**Retired law-enforcement officer, whether retired for service or disability,
may request photo identification card from employing department or
agency; no authority for department or agency to specify type of
retirement.**

The Honorable Robin P. Stanaway
Sheriff, Gloucester County
June 24, 2005

Issues Presented

You ask whether a law-enforcement officer that is injured and subsequently disabled in the workplace may compel the employing department or agency to issue a photo identification card indicating that he is a retired law-enforcement officer of that department or agency. You also ask whether, if so, the employing department or agency issuing the photo identification card may indicate on the face of the card that the officer is "disabled."

Response

It is my opinion that any law-enforcement officer, as defined in § 9.1-101, who retired, whether for service or disability, may request a photo identification card from his department or agency indicating that he is a retired law-enforcement officer. Moreover, it is my opinion that such employing department or agency has no authority to specify the type of retirement for which the photo identification card is issued.

Applicable Law and Discussion

Section 9.1-1000 provides that:

Upon the retirement of a law-enforcement officer, as defined in § 9.1-101, the employing department or agency shall, upon request of the retiree, issue the individual a photo identification card indicating that such individual is a retired law-enforcement officer of that department or agency. Upon request, such a card shall also be issued to any law-enforcement officer who retired before July 1, 2004.

You first ask whether under § 9.1-1000, a law-enforcement officer that is injured and subsequently disabled in the workplace may compel his employing agency to provide the photo identification card. A rule of statutory construction requires that, where no ambiguity exists in a statute, the statute is not to be construed but is to be given effect in accordance with its plain meaning and intent.¹ "It is well established that when the language of a statute is clear and unambiguous, courts

must accept its plain meaning and not resort to extrinsic evidence or the rules of construction."² Further, I note that use of the word "shall" in a statute ordinarily, but not always, implies that its provisions are mandatory.³

Under the plain language of § 9.1-1000, the employing department or agency of a retired law-enforcement officer shall, upon his request, issue a photo identification card indicating that he is a retired law-enforcement officer. The statute makes no distinction regarding retirement for service or retirement for disability. Thus, the plain language of the statute clearly provides that whether a law-enforcement officer is retired⁴ for service or disability,⁵ he may indeed compel the employing department or agency to issue such photo identification card.

You next inquire whether the department or employing agency, which issues a photo identification for an officer retired for disability, may specify on the face of the identification card that the officer is "disabled." Section 9.1-1000 makes no distinction regarding the photo identification card other than to serve to identify the individual as a retired law-enforcement officer of the issuing department or agency. The statute is silent on any further specifications or distinctions. Additionally, I find no other statute authorizing the issuing department or agency to specify the type of retirement.⁶

Conclusion

Accordingly, it is my opinion that any law-enforcement officer, as defined in § 9.1-101, who retired, whether for service or disability, may request a photo identification card from his department or agency indicating that he is a retired law-enforcement officer. Moreover, it is my opinion that such employing department or agency has no authority to specify the type of retirement for which the photo identification card is issued.

¹ See Op. Va. Att'y Gen.: 2002 at 140, 140; 1998 at 55, 55.

² Norfolk Airport Auth. v. Nordwall, 246 Va. 391, 394, 436 S.E.2d 436, 438 (1993); see also Compton v. Commonwealth, 239 Va. 312, 314, 389 S.E.2d 460, 461 (1990); Gonzalez v. Fairfax Hosp. Sys., Inc., 239 Va. 307, 310, 389 S.E.2d 458, 459 (1990); Va. Dept. of Labor v. Westmoreland Coal Co., 233 Va. 97, 99, 353 S.E.2d 758, 760 (1987); Ambrogio v. Koontz, 224 Va. 381, 386, 297 S.E.2d 660, 662 (1982).

³ See, e.g., Schmidt v. City of Richmond, 206 Va. 211, 217-218, 142 S.E.2d 573, 578 (1965) (noting that statute using "shall" required court to summon nine disinterested freeholders in condemnation case).

⁴ It is possible for a law-enforcement officer to be injured and subsequently disabled in the workplace, but not be retired. For example, the officer could be covered under the Virginia Sickness and Disability Program and receiving disability benefits, as opposed to disability retirement benefits, under that program until normal retirement age. See generally Va. Code Ann. tit. 51.1, ch. 11, §§ 51.1-1100 to 51.1-1140 (LexisNexis Repl. Vol. 2002 & Supp. 2004). In that case, § 9.1-1000 would not apply to that individual until actual retirement.

⁵ Under certain circumstances specified therein, Title 51.1 provides for a disability retirement benefit separate and apart from a service retirement benefit. See, e.g.,

§§ 51.1-156, 51.1-209, 51.1-210, 51.1-220, 51.1-308 (LexisNexis Repl. Vol. 2002) (relating to disability retirement). *Cf.* § 51.1-505(A) (LexisNexis Supp. 2004) (relating to annual salary adjustment of employees retired for service or disability for purposes of group life and accidental death and dismemberment insurance), § 51.1-506 (LexisNexis Repl. Vol. 2002) (providing that employees retired for service or disability are not required to contribute to cost of life insurance).

⁶In contrast, however, it does appear that the issuing department or agency could combine the photo identification card addressed in § 9.1-1000 with proof that the retired law-enforcement officer may carry a concealed handgun. See Va. Code Ann. § 18.2-308(B)(7) (LexisNexis Repl. Vol. 2004) (providing that law-enforcement officer, retired from specified agencies in the Commonwealth, who meets certain service-related disability criteria is deemed to have been issued concealed handgun permit provided officer carries proof of consultation with and favorable review of need to carry concealed handgun issued by chief law-enforcement officer of agency from which he retired). Section 18.2-308(B)(7), however, provides no authority to designate an individual as "disabled" on the photo identification card pursuant to § 9.1-1000 or on the written proof of consultation required by § 18.2-308(B)(7).

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