



# County Technical Assistance Service

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## Law Enforcement Personnel

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Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

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## Law Enforcement Personnel

**Reference Number:** CTAS-972

The regulations setting out the requirements of the § 7(k) exemption for law enforcement personnel are found at 29 C.F.R. § 553.211. To be eligible for the exemption for law enforcement officers, an employee must meet each of the following three criteria:

- be a uniformed or plain-clothed member of a body of officers and subordinates who are empowered by State statute or local ordinance to enforce laws designed to maintain public peace and order and to protect both life and property from accidental or willful injury, and to prevent and detect crimes,
- have the power to arrest, and
- be presently undergoing or have undergone or will undergo on-the-job training and/or a course of instruction and study that typically includes physical training, self-defense, firearm proficiency, criminal and civil law principles, investigative and law enforcement techniques, community relations, medical aid and ethics.

In order to qualify, a law enforcement employee must spend 80 percent or more of his or her time engaged in law enforcement activities, or activities that are incidental to or in conjunction with fire protection or law enforcement duties. This is sometimes referred to as the “80% rule” or the 20 percent limitation on non-exempt work, found in 29 C.F.R. § 553.212.

Employees who meet these tests are considered to be engaged in law enforcement activities regardless of their rank, or of their status as “trainee,” “probationary,” or “permanent,” and regardless of their assignment to duties incidental to the performance of their law enforcement activities such as equipment maintenance, lecturing, or support activities, whether or not such assignment is for training or familiarization purposes, or for reasons of illness, injury or infirmity.

Typically, employees engaged in law enforcement activities include deputy sheriffs, criminal investigators or detectives who are regularly employed and paid as such, and court marshals or deputy marshals. The term also may include rescue and ambulance service personnel if such personnel form an integral part of the county’s law enforcement activities.

The exemption also specifically covers security personnel in correctional institutions, which includes county jailers.<sup>[1]</sup> A correctional institution is any governmental facility maintained as part of a penal system for the incarceration or detention of persons suspected or convicted of having breached the peace or committed some other crime, and includes county jails and workhouses. Employees of correctional institutions who qualify as security personnel for purposes of the special rules are those who have responsibility for controlling and maintaining custody of inmates and of safeguarding them from other inmates or for supervising such functions, regardless of whether their duties are performed inside the correctional institution or outside the institution (as in the case of road gangs). These employees are considered to be engaged in law enforcement activities regardless of their rank (e.g., warden, assistant warden, guard) or of their status as “trainee,” “probationary,” or “permanent,” and regardless of their assignment to duties incidental to the performance of their law enforcement activities, or to support activities of the type described whether or not such assignment is for training or familiarization purposes or for reasons of illness, injury or infirmity.

Employees who do not meet the tests described above are not engaged in “law enforcement activities” and do not qualify for the exemption. Employees who normally would not meet these tests include (1) most building inspectors, (2) health inspectors, (3) animal control personnel, (4) sanitarians, (5) civilian traffic employees who direct vehicular and pedestrian traffic at specified intersections or other control points, (6) civilian parking checkers who patrol assigned areas for the purpose of discovering parking violations and issuing appropriate warnings or appearance notices, (7) tax compliance officers, and (8) building guards whose primary duty is to protect the lives and property of persons within the limited area of the building.

Also not included within the exemption are the so-called “civilian” employees of law enforcement agencies or correctional institutions who engage in such support activities as those performed by dispatchers, radio operators, apparatus and equipment maintenance and repair workers, janitors, clerks and stenographers. The exemption also does not include employees in correctional institutions who engage in building repair and maintenance, culinary services, teaching, or in psychological, medical or paramedical ser-

vices. This is true even though such employees may, when assigned to correctional institutions, come into regular contact with the inmates in the performance of their duties.

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[1] 29 C.F.R. § 553.211(f).

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