



Fire Police Squads

Rights and Responsibilities with respect to
The Division of Criminal Justice Services



STATE OF NEW YORK
Division of Criminal Justice Services
Office of Public Safety

Copyright Notice

Copyright © 2010, 2012, 2013 by the New York State Division of Criminal Justice Services. You are hereby granted a non-exclusive license to use the enclosed materials for non-commercial use, and to reproduce copy and/or distribute these materials for educational purposes. The materials contained in this publication may be included in a non-commercial derivative work with proper attribution to the New York State Division of Criminal Justice Services. These materials may not be posted on a commercial or non-commercial Internet site without the prior written permission of the Division. This non-exclusive license will be governed and construed in accordance with the laws of the State of New York.

THE 2013 EDITION IS PUBLISHED BY THE:

New York State Division of Criminal Justice Services
Office of Public Safety
80 South Swan Street, 3rd Floor
Albany, New York 12210
<http://www.criminaljustice.state.ny.us>

VERSION January 2013

PRINTED IN THE UNITED STATES OF AMERICA

Contents

The Fire Police	4
The Authority to Organize Fire Police Squads.....	4
Appointment of Fire Police	4
Oath of Office	4
The Peace Officer Registry.....	5
Training	6
Scope of Authority	6
Division of Criminal Justice Services Forms.....	7
Questions	7

The Fire Police

This document shall serve as a resource for fire departments and companies that have established fire police squads. Members of fire police squads are peace officers under state law, thus the fire department or company has certain responsibilities with respect to the registration of such persons.

Chapter 843 of the Laws of 1980 established Article 2 of the Criminal Procedure Law in order to consolidate the various designations of peace officer previously scattered throughout state law into a single statute and established the Central State Registry of Peace Officers under Executive Law. The registration and training of peace officers is the purview of the Division of Criminal Justice Services (DCJS) and is administered by the Office of Public Safety.

The Authority to Organize Fire Police Squads

Pursuant to General Municipal Law §209-c, fire departments or companies may organize fire police squads consisting of members of their departments or companies. Criminal Procedure Law §2.10(41) designates members of fire police squads as peace officers.

Appointment of Fire Police

In order to be appointed as a member of a fire police squad, a person must be 18 years of age, a citizen of the United States, resident of New York State, a member of a volunteer fire department or company and entitled to vote at the time of appointment.

Oath of Office

Pursuant to General Municipal Law §209-c, all members of a fire police squad must take an oath of office upon appointment. The content of such oath is set forth in General Municipal Law §209-c. The oath shall be filed in the office of the city clerk in the

case of a city fire department or company, in the office of the village clerk in the case of village fire department or company, and in the office of the town clerk in all other cases.

There is some confusion regarding who may administer the oath of office to members of a fire police squad. According to of the Public Officers Law §10, an oath of office may be administered by: a judge of the court of appeals, the attorney general, or by any officer authorized to take the acknowledgment of the execution of a deed of real property, or by an officer in whose office the oath is required to be filed or by his duly designated assistant, or may be administered to any member of a body of officers, by a presiding officer or clerk, thereof, who shall have taken an oath of office.

To clarify this, a 1987 Opinion by the State Comptroller concluded Town Law §178 authorizes the fire district secretary to act as clerk of the board of fire commissioners, therefore may administer any necessary oath in any matter or proceeding lawfully before him, or in connection with any paper to be filed with him as such officer.

In a 1957 Opinion, the Attorney General indicated that a village clerk may administer the oath of office to village officers pursuant to Village Law §334-a.

The Peace Officer Registry

Executive Law §845 requires DCJS to collect information to maintain a registry of all peace officers in New York State. The registry is simply a list of all persons authorized to exercise the powers of a peace officer. Inclusion in the registry does not confer peace officer authority. The authority of a peace officer is granted to members of a fire police squad upon lawful appointment (swearing in) by the fire department or company.

Subsequent to administering the oath of office to new members (swearing in), the chief of the department or company and/or his or her designee must submit a *Peace Officer Registry Entry/Certification of Initial Appointment* form to DCJS for each new member. Since members of a fire police squads are not members of the classified [civil] service, fire departments or companies are not required to complete Section III of the form, nor do they need to obtain the signature of the personnel officer or civil service officer.

Additionally, the chief of the department or company and/or his or her designee must annually transmit to DCJS no later than January 15th a list of those peace officers who are members of the fire police squad or those who have ceased to serve in the previous twelve months.

It has been the practice of DCJS to send each department or company an *Annual Peace Officer Registry Data Validation* form in the fall. The validation form contains all information “as provided” to DCJS and is intended to assist departments and companies in remaining compliant with the Executive Law. Responses to the validation form are considered fulfillment of the January 15th reporting date.

Training

Pursuant to General Municipal Law §209-c, a member of a fire police squad will have satisfied any requirement for peace officer training upon satisfactory completion of a training course offered by the New York State Office of Fire Prevention and Control, or an equivalent course as approved by the Office of Fire Prevention and Control.

Specific questions related to the training of fire police squads should be referred to the Office of Fire Prevention and Control or your county fire coordinator.

Scope of Authority

When a fire police squad is activated by order of the chief or by their department or company or when engaged in a call for mutual aid, they shall have the powers of peace officers and render service as peace officers.

The powers of a peace officer are enumerated in §2.20 of the Criminal Procedure Law. Outside of the requirement that the squad be officially activated, neither General Municipal Law nor Criminal Procedure Law place any limitations on the exercise of peace officer authority on members of fire police squads; however, the special nature of the duties of fire police squads will not likely necessitate the use of peace officer powers granted by law. According to a 1996 Attorney General Opinion, fire police squads are created for the purposes of traffic direction and control to protect a fire scene or other firemanic operation their department or company may be involved in.

This does not prohibit a fire department or company from utilizing firefighters to provide traffic direction and control; however, such firefighters are not considered peace officers and do not have the powers of a peace officer unless they are also members of the fire police squad.

It is important to note, at no time do fire police squads have authority over police officers at a fire scene or other firemanic operation. Outside of actual firefighting duties, fire police squads are subject to and subordinate to *all* police officers. This includes, but is not limited to: State Troopers, ENCON Police Officers, State Park Police Officers, SUNY University Police Officers, Railroad Policemen, county sheriff deputies or police officers, or police officers of a city, town, village or police district.

Division of Criminal Justice Services Forms

Forms for the initial registration and modification of fire police personnel (peace officers) are located on our website at:

<http://www.criminaljustice.ny.gov/ops/docs/index.htm>.

DCJS recommends fire departments and companies retrieve registry forms from the website to ensure they are utilizing the latest version. If you do not have access to the internet, please contact our office using the address and telephone number below and we will be happy to provide you with paper versions.

DCJS requires that all submissions contain the original signature of the chief or his or her designee, so we ask that you submit your registry documentation by U.S Mail.

Questions

If after reviewing this guide, fire departments or companies have any questions or concerns regarding the registration of or the powers of peace officers, please do not hesitate to contact DCJS.

NYS Division of Criminal Justice Services
Office of Public Safety
Alfred E. Smith State Office Building
80 South Swan Street, 3rd Floor
Albany, NY 12210
(518) 457-4135
ops.recordsmgt@dcjs.ny.gov