



8-15-2003

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Recommended Citation

Barton, Rex, "Mental Evaluations for City Employees: Tennessee Enters Into a Consent Decree with the United States Department of Justice" (2003). *MTAS Publications: Hot Topics*.
http://trace.tennessee.edu/utk_mtastop/129

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August 15, 2003

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MENTAL EVALUATIONS FOR CITY EMPLOYEES

Tennessee Enters into a Consent Decree with the United States Department of Justice

By Rex Barton
Police Management Consultant

On July 15, 2003, the State of Tennessee entered into a consent decree with the U.S. Department of Justice, admitting that several existing state statutes requiring mental examinations for certain employees were in violation of the Americans with Disabilities Act (ADA). In the consent decree, the state agreed not to enforce those existing statutes. The statutes affecting cities include the minimum requirements for police officers and public safety dispatchers [*Tennessee Code Annotated (T.C.A.)* 38-8-106 and 7-86-201].

The effect of this consent decree on cities should be invisible. The state removed the mental evaluation for dispatchers during the 2000 legislative session. The Peace Officer Standards and Training Commission (POST) adopted a new rule, effective January 1, 2003, that conforms to the ADA. The existing statutes will not be enforced, **but the newly revised POST rule requiring the mental examination is in effect.**

The statute and the old rule required police officers to: *“Be free of all apparent mental disorders as described in the Diagnostics and Statistical Manual of Mental Disorders, Third Edition (DSM-II) of the American Psychiatric Association. Applicants must be certified as meeting these criteria by a qualified professional in the psychiatric or psychological fields.”*

The new rule relates any mental disorder to the essential functions of the job and requires police candidates to: *“Have been certified by a Tennessee Licensed Health Care Provider qualified in the psychiatric or psychological fields as*

*being free from any disorder, as set forth in the current edition of the DSM, that would, in the professional judgment of the examiner, **impair the subject's ability to perform any essential function of the job.***" (Emphasis added)

It is important that cities use the current POST form with the wording of the new rule when sending any police officer candidate for a mental examination. Cities should review current local policies and job descriptions concerning minimum qualifications for **all** jobs to ensure that the policies and job descriptions are not in conflict with the Americans with Disabilities Act.

Current POST Mental Evaluation forms may be obtained directly from the POST Commission office, (615) 741-4461.

For More Information

Please contact Rex Barton, MTAS Police Management Consultant or your Municipal Management Consultant for further assistance in this matter. Visit our Web site at www.mtas.utk.edu for further information and publications.

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E14-1050-000-111-04