



# Commander's Log

LEGAL UPDATE FOR MARYLAND CORRECTIONAL OFFICERS

July 2016

**QUESTION:** Can the Maryland Correctional Training Commission revoke an officer's certification based upon conduct that occurred before the officer's certification?

**ANSWER:** Yes. The Commission may revoke a correctional officer's certification once it determines that the employee does not meet the Commission's standards, no matter when the misconduct occurred.

**CASE:** *Shania Miller v. Dept. of Public Safety & Correctional Services*  
Court of Special Appeals of Maryland  
Decided June 29, 2016

**The Authority of the Maryland Correctional Training Commission to Decertify**

This case raised the question of whether the Maryland Correctional Training Commission may revoke a correctional officer's certification (which the officer must have to work) after that officer has been recertified pursuant to an administrative order. For the purposes of this publication, the sole focus is the authority of the Correctional Training Commission ("the Commission").

The Commission is tasked with ensuring that each correctional officer is prepared for his or her duties. Correctional Services Article (CS) § 8-208. When a correctional officer is hired, he or she must meet minimum qualifications established by the Commission and apply for certification. CS §§ 8-209; 8-209.1. The Commission ordinarily will only certify correctional officers upon satisfactory completion of the training requirements. Correctional officer candidates must obtain certification from the Commission within one year of appointment. CS § 8-209 (allowing probationary appointment of correctional officers for no more than one year "for the



purpose of enabling the individual seeking permanent appointment to take a training course prescribed by the Commission."). The Commission also has the power to revoke a certification. CS § 8-209.2. This power to revoke extends to an officer's original or reinstated certification. When the Commission revokes the correctional officer's certification, the result is that the officer may no longer perform his or her job functions and must be terminated. CS § 8-209.2(a); COMAR 12.10.01.06D(2).

## The Case

In this case, one of the issues considered was whether any "misdeeds" committed by a correctional officer *before* certification were essentially waived by the Commission upon certification. Put another way, the officer argued that, after issuing a certification, the Commission could not later go back and use an event known or knowable before certification as grounds for future decertification. Even more concisely, the Commission was prohibited from revoking an officer's certification based on something the officer did before certification. The Court of Special Appeals of Maryland rejected this argument, holding instead that the Commission may revoke a correctional officer's certification once it determines that the employee does not meet the Commission's standards, no matter when the misconduct occurred.

## Note

In sum, the Commission is empowered not only to set the standards for certification, but also to review the methods of training correctional officers and review correctional officers' certifications. If the Commission discovers that a correctional officer does not meet the

established standards, the Commission has the authority to revoke that officer's certification even if the failure to meet those standards arose from conduct occurring prior to certification.

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