

January 19, 2024

OPINION
OF
RAÚL TORREZ
Attorney General

AG Opinion No. 2024-01

By: Jennifer N. Salazar
Assistant Attorney General

To: Belinda Garland
Executive Director
New Mexico Livestock Board

In Re: Opinion Request – Body Camera Use Obligations of New Mexico Livestock Board Inspectors

Question:

Is the Livestock Board a law enforcement agency subject to body-worn camera requirements of NMSA 1978, Section 29-1-18?

Conclusion:

No. The Livestock Board does not fall under the definition of a law enforcement agency for purposes of Section 29-1-18, and the agency is not subject to the statute’s body camera requirements.

Analysis

Whether New Mexico Livestock Board inspectors (livestock inspectors) are subject to the body-worn camera use and other requirements of NMSA 1978, § 29-1-18 (2023) depends on whether the New Mexico Livestock Board (the Board) is a law enforcement agency for purposes of that statute. As explained in more detail below, and based on the applicable law and information provided, we conclude that the Board’s inspectors are not subject to those body camera use requirements because the Board is not included in the statute’s explicit definition of a “law enforcement agency.”

Only certain law enforcement agencies are subject to body-worn camera requirements under Section 29-1-18(A). This statute provides that peace officers employed by a covered law enforcement agency and “who routinely interact with the public” are required to wear body cameras, except as otherwise provided by law. A “law enforcement agency” for purposes of this section is defined as “the police department of a municipality, the sheriff’s office of a county, the New Mexico state police or the department of public safety.” Section 29-1-18(D)(2). According

to your letter, the New Mexico Livestock Board has certain law enforcement functions, and livestock inspectors routinely respond to calls and conduct investigations of livestock-related crimes.

The question of whether the Board is considered a “law enforcement agency” for purposes of Section 29-1-18 is a matter of statutory interpretation. The primary purpose in construing a statute is to “determine and give effect to the intent of the legislature.” *State ex rel. N.M. Gaming Control Bd. v. Ten Gaming Devices*, 2005-NMCA-117, ¶ 6 (internal quotation marks and citation omitted). To discern the Legislature’s intent, “we are aided by classic canons of statutory construction, and we look first to the plain language of the statute, giving the words their ordinary meaning, unless the Legislature indicates a different one was intended.” *Marbob Energy Corp. v. N.M. Oil Conservation Comm'n*, 2009-NMSC-013, ¶ 9 (internal quotation marks and citation omitted). Furthermore, when the Legislature defines a term, a statute is construed according to that definition “because [statutory] definitions reflect legislative intent.” *State v. Monafó*, 2016-NMCA-092, ¶ 27 (internal quotation marks and citation omitted).

The New Mexico Legislature included a specific definition of “law enforcement agency” for purposes of construing the requirements of Section 29-1-18. Specifically, the Legislature narrowed the definition to include only “the police department of a municipality, the sheriff’s office of a county, the New Mexico state police or the department of public safety[.]” Section 29-1-18(D)(2). The Legislature did not include the Board in this definition and, consistent with the rules of statutory construction described above, we should “not read into a statute . . . language which is not there, particularly if it makes sense as written.” *Burroughs v. Board of County Comm'rs*, 1975-NMSC-051, ¶ 14. The Board’s absence from the definition of “law enforcement agency” evinces the legislative intent to limit the statute’s applicability to only certain law enforcement agencies, which would exclude the Board and its inspectors from the requirements of Section 29-1-18.

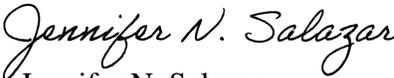
Conclusion

Our determination that the Livestock Board is not a law enforcement agency subject to body-worn camera requirements of Section 29-1-18 is based on the plain language of the statute. While the Board and its inspectors are not subject to this specific state law, this determination does not affect any separate legal obligations that may exist regarding the agency’s use of recording devices.

You have requested an opinion on this question presented to our office. The request and the opinion provided herein will be published on our website and made available to the general public. If you have any questions regarding this matter, or if our office may be of further assistance, please let us know.

Respectfully,

RAÚL TORREZ
ATTORNEY GENERAL



Jennifer N. Salazar
Assistant Attorney General