

6015 February



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

October 11, 1996

Lieutenant T. D. Tokarsky
City of Goose Creek Police Department
Post Office Drawer 1768
Goose Creek, South Carolina 29445-1768

Re: Informal Opinion

Dear Lieutenant Tokarsky:

In a letter to this office you raised questions regarding your reserve police officer program which consists of full-time Department of Defense (D.O.D.) security officers that service concurrent jurisdictions as well as exclusive military areas. You stated that these D.O.D. reserve officers act as reserve officers when in concurrent jurisdictional areas without a Goose Creek officer physically accompanying them as permitted by S.C. Code Ann. Section 23-28-70. You indicated, however, that these officers are in proximate contact by radio as required by subsection (B) of such statute.

Your questions arise from the amendment to Section 23-28-70 by Act No. 304 of 1996. Pursuant to subsection (C) of such provision

A person appointed as an auxiliary or reserve police officer after January 1, 1996, shall perform his duties while accompanied by a full-time, certified South Carolina police officer or deputy sheriff for a minimum of two hundred forty hours and receive the approval of the chief or sheriff before he may work as provided in subsection (B). Reserve or auxiliary officers serving before January 1, 1996, and who have at least two hundred forty hours of logged service time are exempt from this provision.

You first questioned whether in calculating the two hundred forty hours of logged service required for D.O.D. reserve officers serving prior to January 1, 1996, can their entire work day of eight hours per day, forty hours per week be utilized? The term

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"logged service time" as utilized in the statute is not defined and there is no separate requirement of which I am aware which provides how the two hundred forty hours is to be accumulated.

However, pursuant to subsection (A) of Section 23-28-70, "(t)o maintain status, reserves shall maintain a minimum logged service time of twenty hours each month or sixty hours each quarter." You stated that the State Criminal Justice Academy, which certifies D.O.D. reserve officers, accepts the actual hours these officers work as hours toward the referenced required hours to maintain certification. I would agree, therefore, that for D.O.D. reserve officers serving prior to January 1, 1996, an entire work day of eight hours per day, forty hours per week could be utilized in meeting the requirements of two hundred forty hours of logged service.

You also questioned whether for D.O.D. reserve officers appointed after January 1, 1996, does any D.O.D. officer who has worked with a certified D.O.D. officer for more than two hundred forty hours meet the requirement of working with a certified South Carolina officer or deputy for the specified hours. Again, subsection (C) states that for reserve officers appointed after January 1, 1996, they shall perform their duties "while accompanied by a full-time, certified South Carolina police officer or deputy sheriff" for the specified time.

It appears that the term "certified South Carolina police officer" would refer to an officer certified in accordance with S.C. Code Sections Ann. 23-6-400 et seq. Pursuant to Section 23-6-400(D)(1), the term "law enforcement officer" is defined as "...an appointed officer or employee hired by and regularly on the payroll of the State or any of its political subdivisions, who is granted statutory authority to enforce all or some of the criminal, traffic, and penal laws of the State..." A deputy sheriff is an officer appointed pursuant to the provisions of S.C. Code Sections Ann. 23-13-10 et seq. A federal D.O.D. officer, therefore, would not be considered a "full-time, certified South Carolina police officer or deputy sheriff" for purposes of Section 23-28-70. Therefore, a D.O.D. reserve officer serving after January 1, 1996 who has worked with a certified D.O.D. officer for more than two hundred forty hours would not meet the requirements of Section 23-28-70.

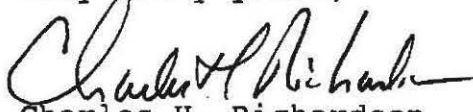
This letter is an informal opinion only. It has been written by a designated Senior Assistant Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not been personally scrutinized by the

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Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I am

Very truly yours,



Charles H. Richardson
Senior Assistant Attorney General

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