

1983 S.C. Op. Atty. Gen. 20 (S.C.A.G.), 1983 S.C. Op. Atty. Gen. No. 83-8, 1983 WL 142679

Office of the Attorney General

State of South Carolina

Opinion No. 83-8

March 31, 1983

***1 SUBJECT: Peace Officers-Reserve Police Officers**

Under Chapter 28 of Title 23, Code of Laws of South Carolina, the Reserve Police Officers Act, it is permissible for reserve police officers to be assigned to patrol duty, without having to ride with a full-time law enforcement officer.

TO: Jeanne R. Hertzog
Administrative Captain
Legal Coordinator
Lexington County Sheriff's Department

QUESTION:

You have inquired whether or not it is permissible for reserve police officers, who have complied with the necessary training and examination requirements of the statutes, to be assigned to patrol duty by themselves after they have been sworn in and certified, without having to be assigned to ride with a full-time, paid law enforcement officer.

OPINION:

It is permissible for such officers to be assigned to patrol duty the themselves, provided certain qualifications are met, and they are under the proper supervision, control, and direction of the Lexington County Sheriff.

In 1978 the General Assembly enacted Chapter 28, of Title 23 of the Code of Laws, establishing Reserve Police Officers. See, 1978 Act No. 481; §§ 23-28-10, et seq., [Code of Laws of South Carolina \(1976\)](#) as amended.

In that statute a reserve police officer is defined to mean a 'person given part-time police powers without being regularly assigned to full-time law enforcement duties'. [Section 23-28-10\(a\)](#).

In accordance with the statute, reserve officers may be appointed by the chief law enforcement officer of the political entity-here, the Lexington County Sheriff-and serve as a reserve force to assist him in providing effective law enforcement coverage to his geographical area of responsibility, with little additional expense to the taxpayers.

However, the statute sets forth certain conditions that must be met, for reserve officers to operate in the field; many of these conditions may be regarded as safeguards, to ensure that only individuals with some professional experience are placed in the field. They include:

1. Minimum training requirements as established by the Criminal Justice Academy, and the passing of an examination prepared by the Academy. Sections 23-28-30 and 23-28-40.
2. To maintain reserve status, minimum service time of twenty (20) hours per month, or sixty (60) hours per quarter must be logged by a reserve officer. Section 23-28-70.

3. Appointment of a full-time law enforcement officer as coordinator-supervisor, responsible directly to the sheriff. Id.
4. Reserve officers must be in 'proximate contact by radio or otherwise with the full-time law enforcement officer to whom he or she is assigned'. (emphasis added) Id.
5. Reserve police officers shall serve and function as law enforcement officers 'only on specific orders and directions of the sheriff.' Id.

In previous opinions issued by this office, it has been concluded that reserve police officers have the power of arrest, provided, that such power is effective only when and to such extent it is specifically ordered and granted by the sheriff. (Opinion dated February 21, 1979, to Representative Melvin Nunnery, State House). And due to the limitation of the powers and duties of reserve officers, and the specific requirement that reserves may in no case assume full-time duties of law enforcement officers without complying with all requirements of such officers, it has been concluded by this office that reserve officers may not carry pistols during their off duty hours. (Opinion dated August 23, 1978 to Edwin Hamilton, Chief of Police, Inman, South Carolina).

*2 It is apparent from the above opinions and an examination of the statutory scheme, that reserve police officers are limited in the exercise of their duties. However, the limitations contained in § 23–28–70, requiring them to be in proximate contact by radio 'or otherwise', with the full-time officer to whom they are assigned, does not preclude them from patrolling alone. The only requirement is that radio or other contact be maintained. Of course, it is clear from the intent of the statute, and the previous opinions of this office, that a reserve officer's ability to act, should be encounter a crisis situation while patrolling alone, would be limited to the specific orders and directions of the sheriff.

A similar definition of reserve police officer, with accompanying restrictions, is contained in [Wantroba v. Rusch](#), 371 N.E.2d 241 (Ill.App. 1977). In that case, the provisions of a municipal ordinance, allowing for the appointment of auxiliary policemen, required that said policemen were not to supplement the regular members of the municipal police force in the performance of their duty, except as specifically provided in the ordinance. Those provisions included regulation of traffic, assistance during natural disasters, and performance of regular police duties only when authorized by the chief of police. At all times it was required that auxiliary policemen be under the direction and control of the chief of police of the municipality.

In conclusion, therefore, it is the opinion of this office that there is no statutory provision prohibiting reserve police officers from patrolling alone, provided they are in proximate contact, by radio or otherwise, with a full-time law enforcement officer to whom they are assigned, and provided they meet the necessary educational and service time requirements as described above.

James G. Bogle
Assistant Attorney General

1983 S.C. Op. Atty. Gen. 20 (S.C.A.G.), 1983 S.C. Op. Atty. Gen. No. 83-8, 1983 WL 142679