



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

October 3, 1977

ATTORNEY GENERAL OPINION NO. 77- 319

Mr. Ronald E. Broetzmann
Chief of Police
Goodland Police Department
Goodland, Kansas 67735

Re: Cities--Police--Reserve Officers

Synopsis: Reserve city police officers derive their law enforcement authority pursuant to law from the same appointive process as regular full-time paid city police officers. When such reserve officers act within the scope of authority as prescribed by the chief of police or city governing body, such reserve officers exercise the same law enforcement authority as regular officers.

* * *

Dear Chief Broetzmann:

We have your letter of September 22, concerning the status of reserve city police officers.

You advise that the City of Goodland has a reserve force of fifteen officers. They are not paid by the city for their services, although they may be paid by, e.g., the school district for duties performed at athletic events, by businesses for special guard duty, and the like. All money paid them is deposited in a special fund which is used for the purchase of their uniforms and equipment. The reserve force is governed by a city ordinance, no. 872, a copy of which you enclose. It establishes a city police reserve unit, its members to be appointed by the chief of police, with the approval of the city

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governing body. They are made subject to the control and direction of the chief of police, and to any rules and regulations which you adopt, subject to the approval of the governing body. You advise that two of the reserve officers have received training at the law enforcement training center, because of prior employment as police officers.

You advise that as a matter of policy, the reserve officers have exercised full powers of arrest in traffic and criminal situations while on scheduled duty in uniform and while on plainclothes duty. Primarily, they ride with and assist regular full-time paid officers, although at times, they are not accompanied by regular officers, and occasionally issue traffic citations, and make arrests.

There are no Kansas statutes which deal specially or specifically with reserve city police officers. K.S.A. 22-2202(11), of the Kansas code of criminal procedure, defines "law enforcement officer" as

"any person who by virtue of his office or public employment is vested by law with a duty to maintain public order or to make arrests for violation of the laws of the state of Kansas or ordinances of any municipality thereof"

The law enforcement authority which is exercised by regular city officers is vested in them, in cities of the second class, pursuant to K.S.A. 13-527, which provides that the mayor, with the consent of the council, may appoint a chief of police, policemen, and "such other officers and employees as they may deem necessary." The law enforcement authority of regular city officers derives from their appointment pursuant to this provision. If reserve police officers are permitted or authorized to issue citations and to make arrests, they may do so only in the exercise of law enforcement authority vested in them pursuant to law, i.e., by the same appointive process which is applicable to regular city officers. Thus I suggest that section 1 of the ordinance be amended to provide that reserve officers may be appointed by the mayor, with the consent of the governing body, upon recommendation of the chief of police.

Once so appointed, they have the same law enforcement powers of regular officers, when such reserve officers are acting within

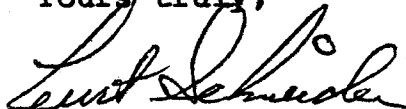
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the scope of their authority as prescribed and restricted by yourself, as chief of police, and under rules and regulations which you may adopt pursuant to section 3 of Ordinance No. 872, with the approval of the governing body. You ask if it is necessary to list specific duties of reserve officers in policy form. It is highly advisable that a written and formal policy be adopted, setting forth the authority of the reserve officers, as, e.g., when they are authorized to carry and use firearms, the extent to which they are authorized to exercise their law enforcement powers when not accompanied by regular officers, and the like.

You ask whether there are special limitations on the authority of a reserve officer when on authorized duty alone, as distinguished from his authority when on duty and accompanied by a full-time paid officer. There are no statutory limitations. However, as chief of police, you might well find it desirable to establish appropriate limitations in written policies governing the reserve unit, and in appropriate rules and regulations.

Lastly, you ask what special liability problems could be encountered in the utilization of reserve officers, and concerning their coverage under a general liability policy issued to the city. I suggest that you pursue the question of insurance coverage with the insurer which has issued the general liability policy held by the city. So long as a reserve officer is acting within the scope of his or her authority as defined by city policies and rules and regulations, reserve officers should stand in the same position as regular officers as respects acts and omissions arising in the conduct of his or her official duties.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:jj