

1979 WL 43465 (S.C.A.G.)
Office of the Attorney General
State of South Carolina
July 13, 1979

***1 RE: David Craven, Route 1, Box 56, Green Pond, S.C. John Craven, Route 1, Box 56, Green Pond, S.C.**

Honorable Peden B. McLeod
House of Representatives
State of South Carolina
522-C Blatt Building
Columbia, South Carolina 29211

Dear Representative McLeod:

In your letter of July 3, 1979 to this office you asked whether the above two 'special deputies' have the power of arrest, the authority to carry a pistol, and the authority to use a blue light on their vehicles. I was further informed through a conversation with an individual at the Colleton County Sheriff's Department that the 'special deputies' were appointed as reserve police officers pursuant to [Sections 23-28-10 et seq. of the 1976 Code of Laws](#), as amended.

By Section 23-28-20, a chief, who by definition may be the chief law enforcement officer of a county, i.e., the sheriff, '. . . may, in his discretion, appoint such number of reserve police officers as may be needed but not exceeding the number of regular full-time officers of his department.' Furthermore, [Section 23-28-10](#) defines reserves as '. . . persons given part-time police powers without being regularly assigned to full-time law enforcement duties.' As to the powers and duties of reserves, Section 23-28-20 states in part that '(t)he powers and duties of reserves shall be prescribed by the chief . . .'

Section 23-28-70 states further that reserves shall serve and function as law enforcement officers only on specific orders and directions of the chief.' Also, it is specifically stated in Section 23-28-70 that reserves shall in no case assume full-time duties of law enforcement officers without complying with all requirements for full-time officers.'

A previous opinion of this office, a letter dated February 21, 1979 to Representative Nunnery stated that: 'In the opinion of this Office, with reference to that authority granted by Sections 23-28-20 and 23-28-70, reserve police officers would have the power of arrest only when and to such extent such power is specifically ordered and granted by the chief. They do not have the power of arrest solely by virtue of their position as a reserve police officer.'

Therefore, the above-referenced officers would have the power of arrest only in those situations when such power is specifically ordered and granted by the sheriff.

As to your question concerning their authority to carry a pistol, while such authority is not clearly expressed, it is impliedly granted. Section 23-28-100 states:

'(t)he uniforms and equipment issued by the political entity shall remain the property of the entity but may, in the discretion of the chief, be entrusted to the care and control of the reserves. Reserves shall wear uniforms which will identify them as law enforcement officers. Handguns, if issued, shall be of a caliber approved by the chief.' (Emphasis added.)

It is also provided by Section 23-28-30 that reserves successfully complete a minimum of twelve (12) hours of firearms training prior to assuming any police function. Furthermore, it is generally provided by [Section 16-23-460 of the 1976](#)

Code of Laws that the prohibition of carrying a concealed weapon does not apply to ‘peace officers in the actual discharge of their duties.’

*2 A previous opinion of this office, a copy of which is enclosed, was addressed to the question of whether reserve police officers are permitted to carry pistols while off-duty. The opinion stated that:

‘. . . inasmuch as reserve officers are not ‘regular, salaried law enforcement officers’ . . . (pursuant to [Section 16-23-20 of the 1976 Code of Laws](#)) . . . they would not be permitted to carry weapons while off-duty unless of course they would meet one of the other exceptions provided in [Section 16-23-20](#)’

While reserve police officers are not ‘regular, salaried law enforcement officers’ at any time, and thus the question could be raised as to their lack of authority under [Section 16-23-20](#) to carry a pistol under any circumstances, it is the opinion of this office that pursuant to [Section 23-28-100](#), reserve officers may carry a pistol while actively carrying out their duties as part-time police officers.

As to the question of the authority of a reserve officer to use a blue light on his vehicle, [Section 56-5-4700\(c\) of the 1976 Code of Laws](#) provides that a police vehicle, when used as an authorized emergency vehicle, shall be equipped with dome-mounted, oscillating, rotating or flashing blue lights visible from a distance of five hundred feet. The statute further specifies that a vehicle so equipped should be one that is used primarily for law enforcement purposes. This statute further provides that ‘. . . it shall be unlawful for any person to use such documented flashing, oscillating or rotating blue light on any emergency vehicle except one used primarily for law enforcement purposes.’ (Emphasis added.) Thus, a vehicle used primarily for family purposes could not legally be equipped with a blue light. Therefore, in the opinion of this office, a reserve police officer is not authorized to use a blue light on his personal vehicle if in fact such vehicle is not ‘used primarily for law enforcement purposes.’

If there is anything further, do not hesitate to contact me.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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