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STATE OF ALABAMA

90-00086

January 5, 1990

Honorable Bryant Mixon
Sheriff
Dale County
Ozark, AL 36360

Law Enforcement Officers - Law
Enforcement - Reserve Police
Officers - Weapons

A reserve law enforcement
officer cannot carry a
concealed weapon without
obtaining a pistol permit.

Dear Sheriff Mixon:

This opinion is issued in response to your request for an
opinion from the Attorney General.

QUESTION

May a reserve law enforcement officer carry
a weapon without a pistol permit if the
reserve officer has completed a firearms
qualification as required by the Peace
Officers Standards and Training Commission
and works under the supervision of a sworn
law enforcement officer?

FACTS AND ANALYSIS

It was concluded in an opinion of the Attorney General to
Honorable Howard Shell, Mayor of Atmore, dated May 4, 1989,
that an auxiliary peace officer having no arrest powers other
than those of an ordinary citizen cannot carry a weapon as a
police officer unless he has complied with the Alabama Peace
Officers Standards and Training Act.

Code of Alabama 1975, § 13A-11-73 requires a license to
carry a pistol in a vehicle or concealed on one's person.
Exceptions to this requirement are found at § 13A-13-74 which
states in pertinent part:

"The provisions of section 13A-11-73 shall not apply to marshals, sheriffs, prison and jail wardens and their regularly employed deputies, policemen and other law enforcement officers of any state or political subdivision thereof, . . ."

There is no exception listed in this provision for reserve law enforcement officers. Thus, a reserve law enforcement officer is in the same position as a private citizen.

Furthermore, the fact that the individual has completed a firearms qualification required by the Peace Officers Standards and Training Commission does not make any difference. It is necessary for him to complete the entire course required by the Peace Officers Standards and Training Commission and become a sworn law enforcement officer in order to carry a concealed weapon without a pistol permit.

A reserve or auxiliary police officer has the same right as that of a private citizen to carry an unconcealed pistol on public-owned property and public highways. Opinion to Honorable Billy Townsend, Sheriff of Lauderdale County, dated September 2, 1987. However, as previously stated, the reserve peace officer cannot carry a weapon as a police officer unless he has complied with the Peace Officers Standards and Training Act.

CONCLUSION

A reserve law enforcement officer cannot carry a concealed weapon without obtaining a pistol permit.

I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

DON SIEGELMAN
Attorney General
By:



LYNDA K. OSWALD
Assistant Attorney General