



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**CRAWFORD C. MARTIN  
ATTORNEY GENERAL**

November 5, 1971

Hon. David R. White  
County Attorney  
120 East North St.  
Uvalde, Texas 78801

Opinion No. M-990

Re: Liability of a County  
for acts of Reserve  
Deputy Sheriffs and  
related questions.

Dear Sir:

You have requested the opinion of this office concerning possible liabilities which may arise in connection with the appointment of reserve deputies under the provisions of Senate Bill 43, 62nd Legislature, Regular Session 1971, codified as Article 6869.1 Vernon's Annotated Civil Statutes. All references will be to the sheriff, deputy sheriff and reserve deputy sheriffs, but will be likewise applicable to constables, deputy constables and reserve deputy constables.

Your questions, restated, are as follows:

(1) What liability, if any, accrues to the county for acts committed by reserve deputy sheriffs in line of duty for the injuries to the person or property of others?

(2) What liability, if any, accrues to the county for acts committed by reserve deputy sheriffs in line of duty for injuries to their own person or property?

(3) What liability, if any, accrues to the sheriff for the acts of reserve deputy sheriffs while acting in the line of duty for injuries to the person or property of others?

(4) What liability, if any, accrues to the sheriff for the acts of reserve deputy sheriffs while acting in the line of duty for injuries to their own person or property?

(5) If the county chooses to provide workmen's compensation for its employees generally, must reserve deputy sheriffs be included in the workmen's compensation coverage?

The pertinent portion of Senate Bill 43, reads as follows:

"Section 1. (a) The Commissioners Court of any county in the State may authorize the sheriff of the county to appoint reserve deputy sheriffs, or any constable of the county to appoint reserve deputy constables, who shall be subject to serve as peace officers during the actual discharge of their official duties upon call of the sheriff, in the case of deputy sheriffs, or of the constable, in the case of deputy constables.

(b) The Commissioners Court may limit the number of reserve deputy sheriffs or reserve deputy constables who may be appointed.

(c) Such reserve deputy sheriffs shall serve at the discretion of the sheriff and may be called into service at any time the sheriff considers it necessary to have additional officers to preserve the peace and enforce the law; and such reserve deputy constables shall serve at the discretion of the constable and may be called into service at any time the constable considers it necessary to have additional officers to preserve the peace and enforce the law.

(d) Such reserve deputy sheriffs and deputy constables shall serve without pay but the Commissioners Court may provide compensation for the purchase of uniforms and/or equipment used by such individuals.

(e) Such reserve deputy sheriffs and deputy constables, prior to their entry upon duty and simultaneously with their appointments, shall file an oath and bond in the amount of Two Thousand Dollars (\$2,000), payable to the sheriff, in the case of reserve deputy sheriffs, and payable to the constable, in the case of reserve deputy constables, and filed with the county clerk of the county in which said appointment is made.

(f) Such reserve deputy sheriffs, while on active duty at the call of the sheriff and while actively engaged in their assigned duties; and reserve deputy constables, while on active duty at the call of the constable and while actively engaged in their assigned duties, shall be vested with the same rights, privileges, obligations and duties of any other peace officer of the State of Texas.

Section 2. The county and/or the sheriff or constable shall not incur any liability by reason of the appointment of any such reserve deputy sheriff or deputy constable who incurs any personal injury while serving in such capacity."

Article 6870, Vernon's Annotated Civil Statutes, provides as follows:

"Sheriffs shall be responsible for the official acts of their deputies, and they shall have power to require from their deputies bond and security; and they shall have the same remedies against their deputies and sureties as any person can have against a sheriff and his sureties."

Since reserve deputy sheriffs are vested with the same rights, privileges, obligations and duties as regular peace officers, it is the opinion of this office that the liability of the county with regard to any damage done to the person or property of others while such reserve deputies are on active duty would be governed by the same rules as cover the acts of regularly employed deputies.

Since the county is specifically exempt from incurring any liability by reason of the appointment of a reserve deputy, it is the opinion of this office that the county is not liable for any injury to the person or property of a reserve deputy.

Since reserve deputy sheriffs are vested with the same rights, privileges, obligations and duties as other peace officers (while on active duty) and since sheriffs are responsible for the official acts of their deputies, it is the opinion of this office that the liability of a sheriff for damage to the person or property of others committed by a reserve deputy sheriff is the same as the sheriff's liability for damage to the person or property of others caused by regularly employed deputy sheriffs.

Since the sheriff is specifically exempted from liability for personal injury incurred by a reserve deputy sheriff, it is the opinion of this office that the sheriff cannot be called accountable for injuries or damage to the person or property of a reserve deputy sheriff.

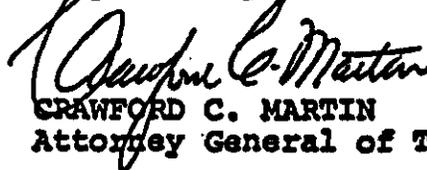
With regard to your inquiry on the subject of workmen's compensation, it is the opinion of this office that in view

of Section 2 of S. B. 43, above quoted, reserve deputies need not be included in a workmen's compensation plan adopted by the County.

S U M M A R Y

Counties are not liable for any injury to a reserve deputy sheriff or constable. Sheriffs and constables are not liable for any injury to a reserve deputy sheriff or constable. Counties are responsible to damage inflicted by reserve deputy sheriffs or constables only to the extent which they might be liable for such damage incurred by regular deputy sheriffs or constables. Sheriffs or constables are liable for damage inflicted by reserve deputy sheriffs or constables in the same manner and to the same extent as they are liable for damage inflicted by regular deputy sheriffs or constables. Reserve deputy sheriffs or constables need not be included in a county adopted workmen's compensation plan.

Respectfully submitted,

  
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Prepared by Howard M. Fender  
Assistant Attorney General

APPROVED:  
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