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The Municipal Police Force

The Code of Alabama gives the municipal council the authority to organize and establish a police force under the general supervision of the chief of police. Section 11-43-55, Code of Alabama 1975. Many municipalities have their own police department, and many rely on the Sheriff's Department for law enforcement. A county is not responsible for police protection within municipalities, located within the county, that have established their own police force. Further, the sheriff does not have a duty to enforce municipal ordinances. AGO 1998-0188.

Alabama law gives sheriffs and their deputies law enforcement authority over the entirety of their respective counties. This authority is not limited or restricted inside the city limits of a municipality that is located within the sheriff's respective county. A county sheriff is not required to obtain permission or prior approval of a municipal government or police department before it may perform law enforcement operations within the limits of a municipality. However, the sheriff may not provide law enforcement services in an adjacent county unless an agreement to provide reciprocal services has been entered into by both counties and is executed as provided for in Sections 11-102-2 and 11-102-3, Code of Alabama 1975. The sheriffs and county commissions of both counties must consent and be parties to the agreement. If a speed limit is set by state statute or by the Alabama Department of Transportation, a citation could be prosecuted as either a municipal offense (where state offenses are adopted by reference) or a state offense. But if the posted speed limit was set or altered by municipal ordinance, the case would have to be initially prosecuted as a municipal offense. AGO 2008-0063.

Section 11-43-16, Code of Alabama 1975, authorizes municipalities to hire deputy sheriffs as part-time police officers. Absent a county personnel rule prohibiting such service, a deputy sheriff may serve as a part-time police chief while he is off duty from the county. AGO 1994-0023. A deputy sheriff does not hold an office of profit because a deputy does not exercise some portion of the sovereign power of the state. A person may be employed as a deputy sheriff and serve as a mayor of a town. AGO 2009-0048. There is also no prohibition against the County employing a full-time police officer of the City as a part-time deputy sheriff. AGO 2015-0045. A municipality may not contract with a sheriff to provide police protection where the contract delegates to the sheriff the municipality's police power. AGO 1991-0317. A municipality may not contract with a sheriff to provide police protection in a portion of the police jurisdiction if the contract would, in essence, delegate the municipal police power to the sheriff. AGO 2000-0050.

A municipality may authorize its chief of police to enter into a contract with other municipalities for the creation of a unified investigative agency to investigate major felonies occurring within the municipalities which are parties to the contract. AGO 1988-0334. Except as otherwise provided or prohibited by law, any county or incorporated municipality of the State of Alabama may enter into a written contract with any one or more counties or incorporated municipalities for the joint exercise of any power or service that state or local law authorizes each of the contracting entities to exercise individually. Section 11-102-1 *et. seq.,* Code of Alabama 1975. The county sheriff and his or her deputies may enforce municipal ordinances provided the contract between the municipality and the sheriff provides for such enforcement. AGO 2016-0005. Although municipalities may contract with each other for the performance of law enforcement duties, no such authority exists for a contract between a municipality and a private entity. AGO 2013-0041.

Municipalities have no authority to impose a fee for providing police protection. AGO 1993-0164. A city cannot appropriate funds to subsidize a contract between a detective agency and the City Merchants Association. However, the city may contract with the detective agency to provide police protection. AGO 1982-0583. A city may organize a reserve police force of private citizen volunteers who have no powers of arrest other than those of private citizens generally. However, the city may be liable for the torts of its reserve police officers under the doctrine of respondeat superior. AGO to Hon. Morgan Reynolds, November 3, 1976.

Pursuant to Section 15-10-7, Code of Alabama 1975, a private person may arrest another for any public offense and take him without unnecessary delay before a judge or magistrate or deliver him to a state or local law enforcement officer, who must take the arrestee immediately before a judge or magistrate. Unless the person to be arrested is currently committing

the offense, the arresting person must inform him or her of the cause of the arrest. However private citizens who make such arrests do not enjoy the immunity from tort liability that covers a law enforcement officer. *See*, Section 6-5-338, Code of Alabama 1975.

Section 16-1-44.1 permits contracts between local boards of education and police chiefs with city council consent to provide school resource officers for the school board to employ. A school resource officer is a person who is certified by the Alabama Peace Officers' Standards and Training Commission as a law enforcement officer, whose certification is in good standing, and who has the power of arrest. Additionally, Act 2025-46 allows police chiefs with the approval of the city council to contract with a nonpublic school to provide the school with school resource officers as defined by Section 16-1-44.1. A nonpublic school is any private, church, parochial, or religious school offering educational instruction in grades K-12. The term also includes home-schooling entities. Any contract entered pursuant to Act 2025-46 must include the minimum provisions provided in the act.

Basic Authority

The creation of a police department is at the discretion of the municipal governing body. The basic authority for municipalities to establish a police department is found in Section 11-43-55, Code of Alabama 1975, which states that "… the council shall have power to establish a police force and to organize the same under the general supervision of the chief of police, and to provide one or more station houses and to require all things necessary for the maintenance of an efficient police department."

"The mayor shall be the chief executive officer and shall have general supervision and control over all other officers and affairs of the city or town, except as otherwise provided in this title…" Section 11-43-81, Code of Alabama 1975. The council may not assume direct control over the police department. AGO to Hon. A.J. Cooper, May 6, 1977. The city council may give city police officers the duty of serving as watchmen in the city jail. AGO 1979-0220. A city may require all of its police officers to reside within the limits of the municipality. AGO 1982-0018. A city may purchase a mobile home in order to provide living quarters for the police/fire chief and his family so that the city may provide adequate police and fire protection to its citizens. The provision of living quarters will be deemed a portion of the compensation of the police/fire chief. AGO to James O. Powell, November 1, 1976. A city and a member of the City Police Department, may enter into a rental agreement allowing the officer to live rent-free in a mobile home owned by the city and located on city property in exchange for the officer providing security for the city property during the officer's off-duty hours, when the arrangement is subject to a rental agreement made a part of the officer's employment contract with the city, and clearly sets out the obligations of all parties concerned; and further, where a public interest is served. AO NO. 2007-06.

Act 2025-375 allows the municipal council of two or more municipalities, by resolution and with the initial consent of their respective mayors, to establish a regional law enforcement training facility authority for the purpose of constructing, maintaining, and operating a regional law enforcement training facility. A municipality which desires to join an existing regional law enforcement training facility authority, by resolution and with the initial consent of the mayor, may request participation in the existing regional law enforcement training facility authority. The regional law enforcement training facility authority, by resolution, may approve the requesting municipality's participation in the authority and, if approved, the municipality shall participate with all rights and obligations of the original municipalities participating in the regional law enforcement training facility authority. Section 11-75-1, Code of Alabama 1975.

Police Chief

Section 11-43-5, Code of Alabama 1975, authorizes the municipal governing body to provide for the appointment of a chief of police and to prescribe the duties of the chief. Ordinances and resolutions relating to the establishment and organization of a police force take precedence over the executive power of the mayor in policy matters. AGO 1984-0153. A mayor cannot prevent a police chief from performing his duties as a law enforcement officer by ordering him not to arrest a person or by ordering him to "drop charges" against certain persons. The mayor does have the legal authority to remit fines and costs, commute sentences, and grant pardons following conviction for violation of municipal ordinances. AGO to Hon. Hayden R. Battles, March 29, 1976.

The mayor may appoint the police chief where the ordinance is silent as to appointing powers. The council may appoint the police chief if power is retained. AGO to James E. Hart, March 29, 1973. If there is no civil service or merit system provision to the contrary, a municipality may contract with a corporation for the services of an individual to perform the duties of police chief. AGO 2001-0104. Where the council is the appointing authority, Section 11-43-160 of the Code of Alabama 1975 gives the council the authority to remove any officer in the several departments including the police chief.

The term "officer" includes all those positions specifically set forth in the Code of Alabama as "officers," as well as any position created by the city council pursuant to ordinance. AGO 2012-0039.

The chief of police holds an office of profit. *See*, AGO to Hon. Larry Moody, November 18, 1975. A councilmember may not serve as a police officer for the municipality he or she serves, even if there is no compensation for acting as a police officer. AGO 1997-0115. A person may not serve on the city council or as mayor pro tem for one municipality while also serving as police chief for another municipality. AGO 2002-0109. The council may abolish the position of police chief and create the Department of Public Safety by ordinance, so long as the police chief is not an elected official. AGO to Hon. Ted Northington, December 13, 1973.

Certified Law Enforcement Officers

The Alabama Legislature has prescribed minimum standards for police officers, and these are codified in Sections 36-21-40 through 36-21-51, Code of Alabama 1975. The Alabama Peace Officers Standards and Training Commission (APOSTC) supervise the certification of Alabama law enforcement officers. Nothing requires police officers to be sworn in before making arrests, provided they have undergone the proper training. AGO 1991-0314. APOSTC requires law enforcement officers to be at least 19 years old. Section 36-21-46, Code of Alabama 1975. They must complete 480 hours of Minimum Standards training and a minimum of 12 hours of agency-approved continuing education annually. In 2023 the Legislature passed Act 2023-354, which beginning January 1, 2024, requires certified law enforcement officers to complete one hour of training on interacting with individuals with sensory needs or invisible disabilities every other year in addition to the annual 12 hours of continuing education. Municipal police chiefs must receive a minimum of 20 hours of APOSTC approved executive training annually. Section 36-21-51, Code of Alabama 1975; Alabama Peace Officers Rule 650-X-4-.01. Any chief of police or law enforcement officer who fails or refuses to comply with these requirements is subject to their certification or authority as a law enforcement being revoked by the commission. Section 36-21-51, Code of Alabama 1975. The appointment of a police officer who serves over 9 months without completing the required training is null and void. *See*, AGO to Hon. Leon T. Waits, September 22, 1975 and AGO 1983-0547 (to Hon. T. Walter Oliver, Jr., September 10, 1982) (NOTE: the law now provides that they have 6 months to complete the training). The certification or authority of any law enforcement officer certified by the Alabama Peace Officers Standards and Training Commission or otherwise exempt from the minimum standards pursuant to subsection (b) of Section 36-21-46 of the Code of Alabama 1975, shall be revoked by the commission when a law enforcement officer is convicted of a felony. If the conviction is reversed or a new trial granted, the certification or authority of the law enforcement officer shall be restored. Section 36-21-52, Code of Alabama 1975; Rule 650-X-6-.02.

The training mandated by Sections 36-21-40 through 36-21-51, Code of Alabama 1975, is required to be reimbursed by a municipality who hires an officer within 36 months after another municipality has paid for that training. The costs of any extra training the municipality elects to provide are not required to be reimbursed by the hiring municipality. AGO 1991-0195. The 36-month period for reimbursing police training costs in Section 36-21-7, Code of Alabama 1975, is computed from the time an individual completes the APOSTC training. AGO 1997-0117. The Fair Labor Standards Act requires all covered employers to pay their employees at least the federal minimum hourly wage every workweek. A policy requiring city police officers to contract to repay training expenses if they voluntarily leave their employment before completing a minimum time of service does not limit the employee's right to receive minimum wage. The city may withhold wages as long as the employee receives at least minimum wage in his final paycheck. The city may then seek repayment of the training debt as an ordinary creditor. *Gordon v. City of Oakland*, 627 F.3d 1092 (9th Cir. 2010). For more information regarding reimbursement of training costs see Selected Reading Article number twenty-seven titled *State Mandated Training for Municipal Personnel*.

Law enforcement officers are granted specific due process rights pursuant to Sections 11-43-230 through 232, Code of Alabama 1975. Section 11-43-231, Coode of Alabama 1975, defines the term "law enforcement officer" as an official who is certified by the Alabama Peace Officers' Standards and Training Commission who has authority to make arrests and who is employed by any municipality in the state as a permanent and regular employee with law enforcement duties, including police chiefs and deputy police chiefs. The term does not include any person elected by popular vote, any person who is serving a probationary period of employment, or any person whose term of office has expired. If a city employee meets the definition of a law enforcement officer as set forth in this statute, a city must afford that person certain due process rights and the city must establish written due process procedures applicable to any pre-disciplinary hearing. Every municipality must provide a pre-disciplinary hearing prior to the suspension or termination of its law enforcement officers; however, nothing shall preclude a municipality from placing a law enforcement officer on leave with pay until the person or body holding the hearing has made a decision on the matter. Pursuant to Section 11-43-232, Code of Alabama 1975, these statutes do not apply to any municipality with an established due process procedure for law enforcement officers already in place on July 14, 2001, so long as the municipality has maintained that due process procedure.

Additionally, each municipality with a population of 5,000 and above according to the most recent federal decennial census must establish a merit system for certified law enforcement officers pursuant to Sections 11-43-180 through 11-43-190 of the Code. The chief of police and the deputy chief may be exempted from this merit system. These provisions do not apply to municipalities that had established merit systems as of August 23, 1976.

Impersonating a Peace Officer

Originally, impersonating a peace officer and doing any act in that capacity was the only way to be convicted of the crime of impersonating a peace officer pursuant to Ala. Code Section 13A-10-11. In 2025, the Alabama Legislature extended the crime to include additional specific scenarios. Now an individual can be convicted of the crime by accepting an appointment as a peace officer while knowing that they are not eligible to serve as a peace officer under the laws of this state or while knowing that their certification with the Alabama Peace Officers Standards and Training Commission has been revoked or suspended. The crime is also extended to the appointer if they know the person appointed is prohibited from serving as a peace officer. Impersonating a peace officer is a class C felony. Section 13A-10-11, Code of Alabama 1975.

Law Enforcement Officer Employment Database

In 2021, the Alabama Legislature passed Act 2021-0268 which mandated the creation of a database by APOSTC to track the employment and disciplinary history of any certified law enforcement officer in the state of Alabama. Within 30 days after disciplinary action against a law enforcement officer is final, a law enforcement agency shall report information regarding the disciplinary action or reassignment of a law enforcement officer to the database. This information shall include the name of the law enforcement officer; the date of the disciplinary action; the type of disciplinary action imposed; a description of the conduct upon which such disciplinary action is based; and the name of the person alleging the complaint. This information shall be reported even if the law enforcement officer separates from the investigating law enforcement agency prior to serving any suspension.

Within 30 days after any use of force complaint against a law enforcement officer is adjudicated and the law enforcement agency's decision regarding the complaint becomes final, a law enforcement agency shall report to the database information relating to the use of force complaint. The information should identify the complainant and the law enforcement officer; the date of the complaint; the substance of the complaint; and the outcome of any investigation and any internal appeal regarding the complaint. This information shall be reported even if the law enforcement officer separates from the investigating law enforcement agency prior to serving any recommended suspension.

A law enforcement agency shall preserve and maintain any information that is required to be reported to the database for a period of 12 years. Information maintained in the database shall be confidential and may only be disclosed as provided by law, for official law enforcement purposes, or pursuant to a court order. In no instance may the information be disclosed pursuant to public records' requests under Section 36-12-40, Code of Alabama 1975. A person who knowingly discloses information in the database without authorization or in violation of this section shall be guilty of a Class A misdemeanor.

The law also requires that for the purpose of evaluation of candidates for employment or appointment as a law enforcement officer with a law enforcement agency, a law enforcement agency shall access the information contained in the database prior to employment.

Reserve Police Officers

Authority for establishing a reserve police force is granted by Section 11-43-210, Code of Alabama 1975. A city may organize a reserve police force of private citizen volunteers who have no powers of arrest other than those of private citizens generally. The city is liable for the torts of its reserve police officers under the doctrine of respondeat superior. AGO to Hon. Morgan Reynolds, November 3, 1976.

Reserve police officers generally serve without pay and perform some of the tasks ordinarily performed by trained police officers. However, reserve officers are not an alternative to a fully-trained force. State law limits the duties of reserve officers. But by allowing volunteers to perform the permitted functions, trained officers are free to concentrate more on the tasks they were trained to perform.

Obviously, each municipality will have to decide for themselves if reserve officers are a realistic option. Many factors will vary locally. Other considerations, though, must be examined by all municipalities with reserve police forces. This summary is intended as a guide through some of the benefits and potential pitfalls of creating a reserve police force. A suggested ordinance for the creation of a reserve police force is below:

AN ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF _____, ALABAMA AS FOLLOWS:

SECTION 1. ESTABLISHMENT. As provided by Section 11-43-210, Code of Alabama, 1975, a police reserve force, hereinafter called reserve, is hereby established within the Police Department of the city [town] of _____, Alabama.

SECTION 2. QUALIFICATIONS. The reserve shall consist of not more than _____ members. Any person desiring appointment to the reserve must submit a written application to the chief of police [or appointing authority] of the city [town] of _____, Alabama, certifying that he or she is a resident of the city [town] of _____, Alabama, is at least 19 years of age, of good moral character and reputation and has never been convicted of a felony or of a misdemeanor involving force, violence or moral turpitude. Applicants must consent in writing to a fingerprint and background search. [Residency of reserve officers is an option of the municipality; the other qualifications are required by Section 11-43-210, Code of Alabama, 1975.]

SECTION 3. APPOINTMENT. Appointments to the reserve shall be made by the mayor [or other appointing authority] with the approval of the chief of police. Such appointments shall be for terms of ___ years. Members of the reserve serve at the pleasure of the chief of police [or appointing authority], and may be removed with or without cause and without hearing, by the chief of police with the approval of the mayor [or other appointing authority].

SECTION 4. SUPERVISION. The reserve shall function under the immediate direction of the chief of police, who shall provide for its organization and training. The chief of police is hereby authorized and directed to establish such rules and regulations as may be necessary for the efficient operation of the reserve.

SECTION 5. EQUIPMENT. Each member of the reserve shall be issued an identification card signed by the chief of police and the mayor. Members of the reserve shall carry this identification card with them at all times. Whenever a member of the reserve shall be called to active duty, he or she shall be issued a badge and a cap which shall be worn at all times while on active duty in the manner prescribed by the chief of police. Upon completion of each tour of active duty, members of the reserve shall turn in their badges and caps at police headquarters.

SECTION 6. DUTIES. The duties of reserve officers are confined to the following:

(1) Patrol operation performed for the purpose of detection, prevention and suppression of crime or enforcement of the traffic or highway laws of the state, provided the reserve law enforcement officer acts at all times under the direct control and supervision of a certified law enforcement officer.

(2) Traffic direction and control may be performed without direct supervision; provided, however, that supervisory control is exercised by a certified law enforcement officer whose total span of control would be considered within reasonable limits. [The municipality may wish to define in the ordinance the degree of control required.]

(3) Reserve officers may render crowd control assistance at public gatherings or municipal functions as directed by the municipality, provided supervisory control will be exercised by a certified law enforcement officer whose total span of control would be considered within reasonable limits. [The municipality may wish to define in the ordinance the degree of control required.]

For purposes of this section, the term "certified law enforcement officer" shall mean a municipal police officer who has completed the training requirements of the Alabama peace officers' standards and training commission as set out in Article 3, Chapter 21, Title 36, Code of Alabama, 1975.

SECTION 7. ARREST POWERS. No member of the reserve shall have any authority to exercise any power of arrest unless he or she has completed the training requirements of the Alabama Peace Officers' Standards and Training Commission as set out in Article 3, Chapter 21, Title 36, Code of Alabama, 1975.

SECTION 8. ACTIVE DUTY. Members of the reserve shall be called to active duty by the chief of police with the written consent of the mayor.

SECTION 9. WEAPONS. No member of the reserve shall carry a weapon while on active duty. [Municipalities may authorize reserve officers to carry weapons only if the member has obtained a properly issued permit for the firearm. For liability reasons, the League recommends that municipalities not permit untrained reserve officers to carry weapons. If reserve officers are authorized to carry weapons, the municipality should develop regulations governing the use of such weapons and provide training in the use of the weapons.]

SECTION 10. COMPENSATION. No member of the reserve shall receive compensation for time required by Reserve rules and regulations while not on active duty. Every member of the Reserve shall be paid at the rate of $_____ per hour for each hour in excess of _____ hours served on active duty in any one calendar month. Members of the reserve may be compensated for any reasonable expenses incurred in the performance of official duties while on active duty on approval of an expense voucher by the chief of police. Each member of the reserve may be compensated for official use of his privately-owned automobile at the rate of ___ cents per mile while on active duty. All vouchers for compensation for expenses shall be sworn to by the member of the reserve seeking reimbursement before it shall be considered for payment. [It is not necessary

to compensate reserve officers for their time while on active duty. However, if the municipality elects to compensate reserve officers beyond reimbursement of expenses, the Fair Labor Standards Act would require compensation at one and one-half (1-1/2) times the regular compensation for overtime worked. Additionally, compensation may remove the officers' tort liability protection as a volunteer under Section 6-5-336(d). An additional concern is that if payment brings the officer under the State Employees' Retirement System, payment may entitle the officer to hazardous duty pay under Section 36-27-59, Code of Alabama, 1975.]

SECTION 11. VIOLATIONS.

(1) It shall be a misdemeanor for any person not a member of the reserve to wear, carry or display a reserve identification card, badge, or cap, or in any way represent himself or herself to be connected with the reserve.

(2) It shall be a misdemeanor for any member of the reserve to loan, sell, lease, or otherwise permit any person not a member of the reserve to wear, carry or display a reserve identification card, badge or cap.

(3) It shall be a misdemeanor for any member of the reserve to assist any person who is not a member of the reserve to represent himself or herself as being connected with the reserve.

SECTION 12. PENALTY. Any person found guilty of violating the provisions of Section 11 of this ordinance shall, upon conviction, be fined in an amount not exceeding five hundred dollars ($500) or sentenced to imprisonment for not exceeding six (6) months; either or both, at the discretion of the court trying the cause.

Additionally, any member of the reserve charged with violating subsections (2) and (3) of Section 11 of this ordinance shall be suspended from the reserve pending a determination of guilt. Suspended reserve members must surrender their identification card, badge and cap to the chief of police. Reserve members who are convicted of violating subsections (2) and (3) of Section 11 of this ordinance shall immediately be removed from the reserve force. A person convicted of violating subsections (2) and (3) of Section 11 of this ordinance is not eligible for reappointment to the reserve.

SECTION 13. EFFECTIVE DATE. This ordinance shall become effective immediately upon its adoption and publication as required by law.

ADOPTED THIS THE ___ DAY OF _____, 20__.

_____ Mayor

ATTEST: _____ City Clerk

Duties of Reserve Officers

Section 11-43-210, Code of Alabama 1975, is very specific as to the duties reserve officers may perform. Reserve officers may patrol to detect, prevent and suppress crime or to enforce traffic laws, provided they operate under the direct supervision of a trained law enforcement officer. They may also direct traffic and render crowd control assistance at public gatherings and municipal functions.

Municipalities have no authority to grant reserve officers any additional powers. Reserve officers may not "fill in" for regular officers during off-duty hours. Unless certified by APOSTC, reserve officers have no powers of arrest beyond those possessed by all citizens. Only persons who have the training mandated by Section 36-21-46(3), Code of Alabama 1975, have authority to arrest, under color of law, while acting as a law enforcement officer.

Prior to the adoption of Section 11-43-210, the Attorney General had ruled that reserve police officers may perform routine traffic and crowd control functions at public gatherings, may assist regular police officers in security jobs such as checking doors on businesses and public buildings, and may assist regular officers in the performance of routine patrol and enforcement activities. AGO 1988-0356. Now, though, a reserve officer who is performing patrol duties must be physically accompanied by a certified law enforcement officer who maintains direct control and supervision over him or her at all times. Reserve officers whose only control and supervision by a certified law enforcement officer is by radio contact may not perform any patrol operations. AGO 1992-0350.

Eligibility and Training of a Reserve Officer

Section 11-43-210(b), Code of Alabama 1975, establishes the minimum standards for reserve officers appointed after April 12, 1990. Applicants must submit a written application certifying that they are at least 19 years old, of good moral character and reputation, and that they have never been convicted of a felony or a misdemeanor involving force, violence or moral turpitude. Applicants must also agree in writing to undergo a fingerprint and background search.

In addition to training reserves as to how to use a weapon, reserves should be trained regarding their duties. Adequate training is the best way for a municipality to protect itself from liability resulting from the actions of reserve officers. The better trained an officer is the less likely he or she is to negligently perform assigned duties.

APOSTC offers a training course for reserve officers. Municipalities have the option of whether or not to train their reserve officers. However, it should be noted that failure to train may be the basis for a cause of action against a municipality. In *Clanton v. Harris*, 489 U.S. 378 (1989), the United States Supreme Court held that inadequacy of police training may serve as the basis for municipal liability under Section 1983 if the failure amounts to deliberate indifference to the rights of persons with whom the police come into close contact. Training all officers, including reserves, will help prepare them for the varied situations they are likely to encounter while on active duty.

The fact that a reserve officer is a volunteer does not shield the municipality from liability. During the 1991 Regular Session, the Alabama Legislature passed Section 6-5-336(d), Code of Alabama 1975, which provides civil immunity to any public volunteer who serves without compensation. Under Section 6-5-336(d), supervisors and other volunteers are immune from civil liability for damage or injury caused when acting in good faith and within the scope of their official functions and duties and the damage or injury was not caused by their own willful or wanton misconduct. AGO 2020-0019. While this section protects reserve officers who serve without pay, the municipality remains liable for the actions of its reserve officers. AGO 1993-0085.

Municipal liability for reserves may be very broad. Probably the greatest potential for damages is caused by permitting a reserve officer to carry a weapon. According to Section 11-47-210(e), reserve officers may carry firearms if the required permits are obtained and the municipality consents. A reserve officer may use the weapon only to the extent allowed by municipal regulations. Municipal governing bodies should deliberate thoroughly before permitting reserve officers to carry weapons. Liability may ensue for any injury an officer causes to a third party, even if the injury is unintentional. Injuries resulting from the mishandling or accidental firing of a weapon are often severe. Damage awards are generally too hefty for this decision to be made lightly. Injuries cannot be foreseen and often result from unusual circumstances.

While space does not permit a full discussion of the potential liabilities of having reserve officers, there is no question that municipalities are liable for negligent actions committed by their reserve officers. This includes actions for state torts under Section 11-47-190, Code of Alabama 1975, and claims for civil rights violations brought pursuant to 42 U.S.C. Section 1983. For more information on the extent of municipal liability, please see the article entitled "Municipal Liability" included elsewhere in this publication.

Workers Compensation and Reimbursement

Municipalities should also ensure that their workers compensation carrier covers reserve officers. Otherwise, the municipality may be directly liable to the officer for any injury he or she suffers while on duty. The League's municipal workers compensation program covers reserve officers for an annual fee. However, some workers compensation companies do not cover reserves or volunteers.

Additionally, municipal officials should be aware that in some instances, reserve officers may be entitled to compensation from the state if they are killed in the line of duty. *See, e.g.,* Section 36-30-1, Code of Alabama 1975.

Reports by Municipal Police Departments

In 2023 the Legislature passed Act 2023-197, requiring every law enforcement agency, as defined in Section 15-5-62, Code of Alabama 1975, to file an annual report regarding certain sexual assault information. Specifically, the report is to include the following information:

1. The number of new sexual assault cases reported;
2. The number of new sexual assault cases reported where evidence from a medical forensic examination was submitted for forensic analysis;
3. The number of sexual assault cases reported where evidence from a medical forensic examination was not submitted for forensic analysis and the reason it was not submitted;
4. The number of sexual assault cases that were closed due to judicial or investigative reasons and the reasons the cases were closed.

The report is due by April 1 of each year and is to be filed with the Alabama State Law Enforcement Agency (ALEA).

Section 36-21-55.5 requires municipal law enforcement agencies to collect certain information with respect to each use of force complaint received by the agency. Agencies are required to collect a description of the type of force alleged and a description of the race or ethnicity of the law enforcement and any individual involved in an excessive force complaint.

The information shall be reported no less than annually to the Alabama Peace Officers Standards and Training Commission according to procedures established by the commission.

Section 41-9-625, Code of Alabama 1975, authorizes law enforcement agencies to collect biometric identifiers in addition to information required to establish a criminal history record for an individual that is arrested for an offense. The information collected may be submitted to the state biometric identification repository maintained by ALEA CJIS. Act 2026-374.

The Alabama Criminal Enterprise Database

In 2025, the Alabama Legislature crafted the framework for the development of a statewide inter-jurisdictional criminal intelligence system known as the Alabama Criminal Enterprise Database (ACED). Subject to the availability of funding, the Alabama Law Enforcement Agency (ALEA) is required to establish this database. Once the database is instituted, subject to rules established by the Secretary of ALEA, municipal law enforcement agencies are permitted both to submit information for inclusion in the database and to access the database for a legitimate law enforcement or criminal justice purpose. Any information submitted to the database must be relevant to an individual's suspected criminal conduct or activity and relevant to identifying an individual as a criminal enterprise member or identifying a criminal enterprise. Database information is confidential and is not subject to public disclosure. Section 13A-6-264, Code of Alabama 1975.

Designating Off-Road Vehicles as Authorized Emergency Vehicles

Act 2025-340 grants police chiefs the authority to designate certain off-road vehicles as authorized emergency vehicles as defined by Ala. Code Section 32-1-1.1(3). The publicly owned off-road vehicle designated as an authorized emergency vehicle must be within the jurisdiction of the designating agency, and the vehicle must meet certain criteria. Once properly designated and equipped, an off-road vehicle may be operated within the applicable jurisdiction on the streets and highways of the state for official purposes only, including emergency call responses and training operations. Such vehicles may only be operated by authorized personnel of the applicable local agency who have the requisite training requirements as determined by the head of the agency. The off-road vehicle must be covered under the applicable agency's insurance policy. Additionally, the vehicle is exempt from all other licensing, equipment, and other requirements provided by law for the operation of vehicles upon the streets and highways of this state.

Law Enforcement Officer Immunity—Act 2025-423

Standard

Act 2025-423 creates a new category of civil liability immunity for law enforcement officers. For municipal purposes, law enforcement officers include any peace officer, tactical medic, detention facility officer or public safety dispatcher. The act extends immunity from any claim that seeks to impose civil liability on a law enforcement officer for conduct performed within a law enforcement officer's discretionary authority. However, a law enforcement officer will not be immune if (1) the conduct constitutes a tort against the plaintiff that is actionable under the laws of this state and the law enforcement officer acted recklessly without law enforcement justification or (2) the conduct constitutes a tort against the plaintiff that is actionable under the laws of this state and the conduct violated a clearly established state statutory or constitutional right of the plaintiff of which every reasonable law enforcement officer would have known at the time of the law enforcement officers conduct. Section 6-5-338.2 extends immunity only to a law enforcement officer for conduct performed within a law enforcement officer's discretionary authority and to the law enforcement officer's employer or appointing authority. Ala. Code Section 6-5-338.4(c). No immunity is extended to any private non-governmental person or entity, including any private employer of a law enforcement officer during that officer's off-duty hours. *Id.*

Effect on Peace Officer Immunity under 6-5-338

Despite Ala. Code Section 6-5-338 being repealed by Act 2025-423, immunity under Section 36-1-12(c) remains available to law enforcement officers as defined by the act. *See* Section Ala. Code Section 6-5-338.2(c). Because Section 6-5-338 simply extended state agent immunity codified in Section 36-1-12(c) to municipal peace officers; practically speaking, the immunity provided by Section 6-5-338 remains available pursuant to Section 36-1-12 despite the repeal of Section 6-5-338. *See Ex parte City of Montgomery*, 402 So. 3d 810, 813 (Ala. 2024) ("The restatement of State-agent immunity as set out by this Court in *Ex parte Cranman* ... governs the determination of whether a peace officer is entitled to immunity under § 6-5-338(a)."); *see Ex parte Pinkard*, 373 So. 3d 192, n.14 (Ala. 2022) ("[T]he Legislature codified Cranman's restatement of State-agent immunity when it enacted § 36-1-12.); *see also Suttles v. Roy*, 75 So. 3d 90, n.3 (Ala. 2010) (citing Moore v. Crocker, 852 So.2d 89, 90 (Ala. 2002) ("[Alabama Code 1975, § 6–5–338], by its terms, extends state-agent immunity to peace officers performing discretionary functions within the line and scope of their law-enforcement duties.").

For further discussion on state agent immunity, please refer to the article in the League's *Selected Readings for the Municipal Official* titled "Municipal Liability" found on the League legal team's Selected Readings page here: *https://almonline.org/SelectedReadingsfortheMunicipalOfficial.aspx*.

Selected Cases and Attorney General's Opinions

- The Alabama Supreme Court held that a municipality could be held liable under state law for improperly training an officer that beat a prisoner incarcerated in the city jail. *Birmingham v. Thompson*, 404 So. 2d 587 (Ala. 1981).
- A police officer may not act as prosecutor in municipal court. AGO 1983-0336 (to Hon. H.A. Alexander, May 30, 1983).
- Pursuant to Rule 4.3, Alabama Rules of Criminal Procedure, a municipal police officer, after arresting a person without a warrant, has the authority to cite and release the person or release the person upon execution of a secured appearance bond in an amount set according to the established bail schedule. Security for the bond must be deposited with the court clerk. AGO 1992-0152.
- A municipal council may authorize the police chief to escort local school organizations, even if this requires travel outside the police jurisdiction. AGO 1995-0148.
- In municipalities with populations of 5,000 or more, the chief of police is responsible for complying with the provisions of the Community Sexual Offender Notification Act. The sheriff performs these functions in all other municipalities and in unincorporated areas. Under this Act, no criminal sex offender may reside with a child 18 years old or younger. There is no exception created for relatives or stepchildren. AGO 1996-0285.
- Other than contempt violations, municipal law enforcement officers may arrest for violations of municipal ordinances where a warrant has been issued, even if the warrant is not in the actual possession of the officer. AGO 1996-0322.
- Unpaid reserve police officers are not required to take a leave of absence to run for office pursuant to Section 17-1-7, Code of Alabama 1975, unless the council adopts a procedure requiring them to take leave to run. AGO 1997-0034.
- The United States Supreme Court has held that police officers who allow media members to accompany them into a residence while a warrant is executed violate the Fourth Amendment. *Wilson v. Layne*, 526 U.S. 603 (1999). *See also*, *Hanlon v. Berger*, 525 U.S. 981 (1998).
- A town is not required to pay a police officer, who voluntarily resigned, for appearing in court, when the officer was served a lawful subpoena to appear in court as a witness, after his resignation. AGO 2001-0195.
- By rules adopted by the Alabama Supreme Court, the law enforcement duties of municipal law enforcement officers have been extended beyond the corporate or police jurisdiction limits for the purpose of executing search warrants addressed to them, and the statute, providing for arrest in the county within which the municipality is located, has been reaffirmed. AGO 2003-0099.
- Where a private citizen is swearing out a complaint to a violation of Section 32-10-1 of the Code of Alabama 1975—which requires drivers of vehicles involved in accidents to remain at the scene—the driver must be charged on a Uniform Traffic Ticket and Complaint ("UTTC") where no physical injury occurs because the violation is a misdemeanor traffic violation that does not require custodial arrest. Where a law enforcement officer did not observe the commission of the offense, the complainant must have witnessed the violation. AGO 2003-0166.
- Uncompensated reserved police officers do not hold an "office of profit." AGO 2004-174.
- Municipal law enforcement officers may cite drivers in a municipal police jurisdiction for violating Section 32-5A-170 of the Code of Alabama 1975 ("Reasonable and Prudent Speed") but they must specify the hazardous conditions present in the "Facts Relating to the Offense" box on the Uniform Traffic Ticket and Complaint (UTTC) to distinguish the charge from the provisions specified in Section 32-5A-171 of the Code of Alabama 1975. AGO 2004-0061. NOTE: Municipalities are specifically prohibited from enforcing Section 32-5A-171 within the police jurisdiction.
- A municipal police officer is not required to take a leave of absence to be a candidate for the office of sheriff. AGO 2006-0067.
- A police chief may not prohibit a constable from performing a statutorily proscribed duty within the police jurisdiction where the jurisdiction of the police and the jurisdiction of the constable overlap. A constable may perform those duties granted him or her by statute within the county. AGO 2007-0018.

- A police officer's attempt to terminate a dangerous high-speed car chase that threatens the lives of innocent bystanders does not violate the Fourth Amendment, even when it places the fleeing motorist at risk of serious injury or death. *Scott v. Harris*, 550 U.S. 372 (2007).
- Any witness to a traffic offense may swear out a complaint using a uniform traffic ticket and complaint pursuant to Section 12-12-53 of the Code of Alabama. The law enforcement officer or the magistrate may furnish witness, with a uniform traffic citation with a note as to the duty of the witness to appear before the magistrate. This opinion gives a good discussion of the procedure that should be followed in serving a citation on a person witnessed by a bus driver violating Section 32-5A-154(a) of the Code. AGO 2008-0002.
- A provision of the 2002 Sarbanes-Oxley Act that criminalizes knowingly making false entries in records with the intent to impede or obstruct a federal investigation can apply to lies entered in a police use-of-force report. *U.S. v. Hunt*, 526 F.3d 739 (11th Cir. 2008).
- A municipality may limit its police department to providing only emergency services within its police jurisdiction if the revenue collected in the police jurisdiction "reflects reasonable compensation" to the town for the cost of the emergency services provided. The monies collected must do no more than recoup the costs of providing the emergency response services. AGO 2008-0007.
- Any minor found in possession of tobacco or tobacco products may be prosecuted under Section 28-11-14 of the Code of Alabama. Disposition of any violation of this statute shall be within the jurisdiction of the district or municipal court and not the juvenile court. Violation of this statute shall not be considered a criminal offense but shall be administratively adjudicated. AGO 2008-0047.
- As a municipal police officer with responsibility for the city jail, a law-enforcement duty within the meaning of immunity statute, a police department major was within the umbrella of protection provided to peace officers by the immunity statute when she conducted a body search of a city correctional officer to determine if she had stolen an inmate's money, and, thus, the major was immune from tort liability in correctional officer's action against her. If a municipal peace officer is immune pursuant to immunity statute, then the city by which he is employed is also immune. *Ex parte Dixon*, 55 So. 3d 1171 (Ala.2010)
- The town council may, by ordinance, permit or require the police department to escort funerals pursuant to the council's "power to establish, organize and set the policy for the municipal police department as authorized by Section 11-43-55, Code of Alabama 1975. AGO 2015-0061.
- The sheriff may not provide law enforcement services in an adjacent county unless an agreement to provide reciprocal services has been entered into by both counties and is executed as provided for in Sections 11-102-2 and 11-102-3, Code of Alabama 1975. The sheriffs and county commissions of both counties must consent and be parties to the agreement. AGO 2012-0034.
- Although municipalities may contract with each other for the performance of law enforcement duties, no such authority exists for a contract between a municipality and a private entity. AGO 2013-0041.
- The City of East Brewton may contract with the City of Brewton for the performance of policing duties within its jurisdiction. The contract must comply with the specifications set forth in Section 11-102-2 of the Code of Alabama 1975. Both municipalities must adopt an ordinance approving of the contract, and each municipality should adopt all ordinances, resolutions, and policies necessary to authorize law enforcement officers of the City of Brewton to carry out policing duties within the jurisdiction of the City of East Brewton. AGO 2013-0041.
- The city clerk-treasurer, police chief, and fire chief are "employees" of the City of Alabaster for which there is a term of office pursuant to Section 11-43-3 of the Code of Alabama 1975. The term of office for the city clerk-treasurer is four years. The council may establish the term of office for the fire chief and police chief. No term of office for any municipal officer may exceed the term of the mayor, which is four years. AGO 2013-0020.
- There is no statutory authority for the sheriff to transport prisoners charged with crimes in other states to and from those states. AGO 2012-0026.
- The Town of Butler ("Town") may not contract with a private entity to provide extra police protection to property owned by the private entity. AGO 2014-0077.
- The County can employ a full-time police officer of the City as a part-time deputy sheriff. AGO 2015-0045.

- State law does not prohibit the spouse of a police captain from serving as a court clerk and magistrate for the municipal court. If appointed, the magistrate should recuse himself or herself in matters where the police-officer spouse is involved in the matter being presented to the magistrate. AGO 2015-0005.
- The Sheriff of Shelby County and his or her deputies may enforce municipal ordinances of the Town of Wilsonville ("Town") provided the contract between the Town and Sheriff provides for such enforcement. AGO 2016-0005.
- Section 11-43-160 of the Code of Alabama gives the city council the authority to remove any officer in the several departments, but not employees. The term "officer" includes all those positions specifically set forth in the Code of Alabama as "officers," as well as any position created by the city council pursuant to ordinance. An officer is limited to a person that exercises some level of authority, presumably over employees, and performs some discretionary, policy-making functions. AGO 2012-0039.
- The hiring authority for the City of Geneva may appoint as a reserve law enforcement officer a person pardoned for a crime with all civil and political rights restored. AGO 2021-0040.
- City and police officer were entitled to state-agent immunity on state law claims asserted against them by dog owner, whose dog was shot and killed by police officer while officer was responding to a domestic disturbance at owner's home; dashboard-camera videos showed officer was not acting maliciously or in bad faith when he shot dog, and, in fact, immediately before the shooting dog attacked first officer and then advanced towards second officer, who shot it. *Ex parte City of Vestavia Hills*, 372 So. 3d 1143 (Ala. 2022).
- Police officer's use of stun gun on motorist when responding to accident in which motorist was involved, following motorist's refusal to get on gurney to go to hospital, was not excessive force under Fourth Amendment, even though paramedics and motorist's friend informed officer that motorist had suffered a seizure and that he would not be able to fully understand officer, where motorist attempted three times to go back to his vehicle and was successful at re-entering vehicle on one of those times, and officer tried to remove motorist from car verbally and physically before using stun gun. *Baker v. City of Madison*, 67 F.4th 1268 (11th Cir. 2023).
- Three police officers were entitled to peace officer immunity pursuant to Ala. Code Section 6-5-338 in a wrongful death lawsuit filed by the estate of a suspect. The suspect was shot and killed by one of the officers after the suspect struck the other two officers with her vehicle. The Supreme Court of Alabama found that all three officers were exercising their judgment and discretion, within the line and scope of their duties as peace officers at the time of the shooting, with at least one detective announcing that they were police officers, before shooting occurred, and estate did not argue that any exceptions to peace-officer immunity applied. *Ex parte City of Montgomery*, 402 So. 3d 810 (Ala. 2024).
- A chief of police may not serve simultaneously as a county commissioner because both positions are offices of profit. If the chief of police takes the oath of office as a county commissioner, he vacates the position of chief of police. AGO 2024-0037.
- Section 36-21-7 of the Code of Alabama, dealing with reimbursement of training expenses, only applies to law enforcement officers of the state or a political subdivision of the state if two criteria are met: 1) they are employed by a different agency after September 1, 2023, and 2) they completed their required training within the past thirty-six months. AGO 2024-0041.