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#94076
NO.
STATE OF NEBRASKA
OFFICIAL
SEP 22 1994
DEPT. OF JUSTICE

DATE: September 19, 1994

SUBJECT: Reserve Law Enforcement Officers

REQUESTED BY: Allen L. Curtis, Executive Director
Nebraska Commission on Law Enforcement and Criminal Justice

WRITTEN BY: Don Stenberg, Attorney General
Linda L. Willard, Assistant Attorney General

You have asked for an opinion on whether reserve law enforcement officers may work more than one hundred hours a year. You note that Neb. Rev. Stat. § 81-1401(3)(a) (1987) defines law enforcement officer to mean:

> any person who is responsible for the prevention or detection of crime or the enforcement of the penal, traffic, or highway laws of the state or any political subdivision of the state for more than one hundred hours per year and is authorized by law to make arrests and includes but is not limited to:
>
> (i) A full or part-time member of the Nebraska State Patrol;
>
> (ii) A county sheriff;
>
> (iii) A full or part-time employee of a county sheriff's office;
>
> (iv) A full or part-time employee of a municipal or village police agency; or . . .

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Reserve officer is not defined by statute. However, Neb. Rev. Stat. § 81-1438 (1987) provides for establishment of a law enforcement reserve force by any governmental body of any county or city of the state other than cities of the metropolitan or primary class. Neb. Rev. Stat. §§ 81-1439 through 81-1446 (1987) provide standards for qualifications and training, eligibility for pension and retirement funds, and rights and duties. Neb. Rev. Stat. § 81-1443 specifically addresses rights and duties of reserve officers while on duty or authorized as a reserve officer. Neb. Rev. Stat. § 81-1443(3) specifically states that law enforcement reserve officers shall be subordinate to regular force officers and shall not serve as a peace officer unless under the direction of regular officers. None of these statutes contain a limitation on the number of hours that reserve officers can work.

Neb. Rev. Stat. § 81-1445 (1987) provides, "(1) The governing body shall not reduce the authorized size of a law enforcement department because of the establishment or utilization of reserve officers. (2) Reserve officers shall act only in a supplementary capacity to the regular force and shall in no case assume the full-time duties of peace officers without first complying with all requirements for such regular peace officers." Those requirements would include any minimum standards and required training.

In the absence of anything indicating to the contrary, statutory language is to be given its plain and ordinary meaning. *See Application of Jantzen*, 245 Neb. 81, 511 N.W.2d 504 (1994); *Rosse v. Rosse*, 244 Neb. 967, 510 N.W.2d 73 (1994). Also, statutes relating to the same subject are in pari materia and should be construed together. *McGowen v. Nebraska State Bank*, 229 Neb. 471, 427 N.W.2d 772 (1988).

The statutes provide that a law enforcement officer is employed a minimum of one hundred hours a year, has specific training, and has certain powers and duties. A reserve officer, by statute, receives special training as a reserve officer and may not exercise the duties of a law enforcement officer, unless under the direction of regular officers, without complying with the requirements for regular force officers. The distinction between a law enforcement officer and a reserve officer is in training and duties or requirements for supervision and not in the number of

hours worked in any one year. It is our conclusion that reserve officers may legally be engaged in statutorily prescribed duties in excess of one hundred hours a year.

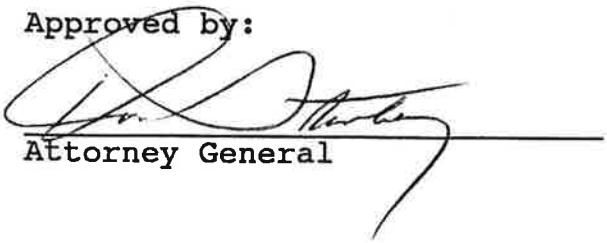
Sincerely,

DON STENBERG
Attorney General

Linda L. Willard
Assistant Attorney General

28-18-14.op

Approved by:



Attorney General