

**THE BILL BLACKWOOD  
LAW ENFORCEMENT MANAGEMENT INSTITUTE OF TEXAS**

A Feasibility Study to Determine the Legal-and Liability Issues when  
Volunteers are used to Supplement School District Police Departments

A Policy Research Project  
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## **ABSTRACT**

School districts are under a great deal of pressure from society and the courts to provide a safe school environment for our children. Around the country school districts have found it necessary to employ police officers to ensure their campuses are free from crime and violence. Each year the needs for additional officers to handle the increasing crimes on our school campuses strain the budget of even the most wealthy districts.

County and municipal governments have found they can increase their police services and improve community relations at very little cost by using well-trained volunteers as police reserves. (Wallace and Peter 23) The Texas Local Government Code authorizes these agencies to commission reserve officers. School district police are commissioned under the authority of the Texas Education Code and there are no provisions for commissioning reserves.

Police reserves can provide school districts with an inexpensive solution to the continuing demands for greater police service. Administrators of school district police agencies that incorporate volunteers as reserves must first understand both the legal and liability issues that can impact the use of reserves. Without a clear understanding of these issues, the benefits can be completely eliminated by negative effects.

Texas legislators passing laws authorizing school districts to commission reserve police officers will give them the same options as other government agencies. Those districts who decided to utilize reserves can inexpensively maintain or even increase police services. This will allow school districts to spend more of our local tax dollars on education and less on police services.

## **Introduction**

The purpose of this paper is to examine the feasibility of using volunteers as reserve police officers to supplement the full-time officers in a school district police department. "A reserve police officer is a non regular, sworn member of a police department who has regular police powers while functioning as a department representative, and who is required to participate in a department's activities on a regular basis." (Aragon 269)

The fundamental mission of a school district police department is to uphold the Constitution of the United States of America. Within jurisdiction, school district police enforce all applicable federal, state, local government, and school district laws and regulations. Their goal is to insure a positive learning environment which is free of crime and violence for all students and employees of the district.

The main purpose of a school district is to educate children. Local tax dollars supplement state monies to pay the costs and salaries of those in the education chain. School police on the other hand, are classified as support personnel, and do not qualify for state funds. The total budget of school district police departments is normally paid by local tax dollars.

With the continuing rise in juvenile crime, both on and off campus, the cost to school districts to provide the number of officers required to achieve their goals soars. Each year the need for additional police officers to handle the increasing number of calls for service, strain the budget of even the most wealthy districts. With tax dollars shrinking at an accelerated rate, more and more public agencies are turning to volunteers to augment existing staffs. (Wallace and Peter 20)

The intended audience for this research project will be Texas Law Makers, school boards and school district administrators. It can also be used by policy developers, police training coordinators, and anyone exploring the option of using non paid volunteers to supplement their police departments.

Sources of information will include a review of Texas Statutory laws and current case law that govern the establishment, duties, liabilities, and training of volunteer, part time reserve police officers. Books and periodicals will be reviewed to determine the success and pitfalls of other police agencies that have encountered using reserves. The objective of this research project is to examine the issues involved in establishing a reserve force in a school district police department.

The intended outcome of this project will be to identify the pros and cons involved in using volunteers as reserve police officers. Ultimately the data will be used to lobby the Texas Legislature to pass laws enabling school districts to commission and use reserve police officers.

### **Historical, Legal or Theoretical Context**

Volunteers have played a role in policing throughout American history. During the Colonial period, the New England "Watch and Ward Society ," an early version of citizen patrols, marked the beginning of American volunteers in criminal justice. Several years later, the Western "posse" became the popular image of volunteerism. (Garry 1980)

Volunteers in policing can generally be divided into two categories, either "self defense or organized auxiliary." The self-defense type volunteers developed out of dissatisfaction with the government in providing security for the citizens. The organized police auxiliaries are normally developed by police agencies and involve citizens

working for police agencies, and will be the subject of this paper. "Generally these volunteers are trained and uniformed, and many times perform duties similar to and supplement regular police officers." (Sundeen and Siegel 53)

Law enforcement administrators face a distinct set of legal issues when using volunteers as reserve peace officers to supplement and assist full-time police officers. Customarily, reserve police officers receive no monetary compensation for their services, although some police departments pay for uniforms and other incidental costs.

Compensating reserve officers, even on an occasional basis may raise legal questions about their volunteer status. Generally, however, reserve officers may be paid expenses and reasonable benefits without losing their status as volunteers. U.S. Department of Labor Rules clearly stipulate that volunteers are not employees. Therefore, no minimum wages or overtime is required when using volunteers for humanitarian, public service, or religious reasons. Unions and workers' compensation represent additional legal issues for law enforcement administrators to consider before using volunteers. Administrators must also be aware of possible legal ramifications of allowing volunteers to perform police duties without sufficient training. Training received by reserves should be equal in quality and quantity to the training given full-time officers. (Wallace and Peters 23)

Agency administrators may also be confronted with crucial questions regarding workers' compensation benefits for reserve officers injured in the line of duty. Extending these benefits to reserve officers demonstrates the agency's concern for their welfare, and boosts morale. (Wallace and Peters 22)

Reserve officers being volunteers, engage in law enforcement activities sporadically. This part-time status raises issues of validity and effectiveness of any post academy training. Courts have found municipalities liable for failure to train its officers in a variety of situations, such as; the use of force, Davis V. Mason County, 927. F.2d

1443 (9th Cir.1991); high speed pursuits, Frye v. Town of Akron, 759. F. Supp. 1320, 1325 (N.D. Ind. 1991); constitutional limits of strip searches, Doe v. Calumet City, 754. F Supp. 1211, 1225 (N.D. Ill. 1990); and the importance of confidentiality with respect to sexually transmitted diseases. Doe v. Borough of Barrington, 729. F. Supp. 376 (D.N.J. 1990). Although, none of the cases cited above involved volunteers, each of them will apply to those commissioned as peace officers.

In 1969, the Texas Legislature passed the Private Investigators and Private Security Agencies Act. The stated purpose of this law was to regulate and license the private security industry. Since 1969, ..."individuals who make their living as peace officers have been exempted and allowed to pursue security type work without a Private Security or Private Investigator license. This exemption does not include reserve peace officers." (Holmes)

Reserve Police Officers in Texas are licensed and regulated by the Texas Commission on Law Enforcement Standards and Education (TCLEOSE). Reserve officers must receive the same 560 academy hours of training as regular officers, however, the curriculum is divided into three sections. After a cadet has completed section one, consisting of 228 hours, he or she can be issued a conditional license. This license allows the reserve to work as a reserve police officer as long as he meets the standards set by TCLEOSE. These standards include completion of Section two, consisting of 190 hours within 2 years from the date of the Conditional license, and Section three consisting of 142 hours. Texas Commission on Law Enforcement Standards and Education. (Austin 1995)

Currently the laws of the State of Texas do not authorize the establishment or use of reserve police officers by school districts. Section 341.012 of the Texas Local Government Code provides general guidelines for police agencies when establishing and

using reserve peace officers. General aspects of the requirements are addresses, from training to the scope and limits of a reserve officers duties. The Local Government Code provides general guidelines for the governing body of a municipality for the establishment of a reserve police force in section 141.007, (2) a county sheriff to appoint reserve deputies in section 85.004, and (3) a constable to appoint reserve deputies in section 86.012. In order for a school district police department to establish a reserve peace officer force, changes must be made to Chapter 37, Texas Education Code. The Texas Education Code authorizes the commissioning of school district police officers. (Texas Local Government Code, Sec. 341.012, 141.007,85.004, and 86.012)

### **Review of Literature or Practice**

Reserve officers around the country augment county and city police agencies by providing law enforcement services. These services cover a wide spectrum, from patrol, and crime prevention to dispatching, and administration. If trained properly, a reserve force can be invaluable in the event of a disaster. These services when provided by reserves are at little or no expense to the governmental body. In most departments reserves receive no salary or benefits for their services. (Aragon 271)

All 50 states have police agencies who supplement their full-time officers with volunteers, but California is clearly the leader in reserve law enforcement. Depending on the time and day of the week, a citizen has a 15 to 50 percent chance of having one of California's 13,836 reserve officers respond to their call In addition to county and city agencies, reservists can be found working for the Department of Justice, Fish and Wildlife and numerous other state agencies. In general California reservists are praised as "dedicated volunteers and budget savers". Most California reserves do not receive a salary and are required to buy all uniforms and equipment (Casey 21).



A telephone survey of 26 Texas county and city agencies of all sizes and demographics suggest that reserves are being used throughout the state. Of the 26 agencies contacted, 42 percent use reserve police officers. (Pierson 97) These reserves are being used in all areas of law enforcement, including patrol, criminal investigation, civil warrants, search and rescue, aquatic patrol, and administration. Many of the full time officers in these agencies were at one time members of the reserve.

The management and supervision of a reserve force can be a drain on time and manpower. To combat this problem, the reserve component in many police agencies have their own structure, complete with supervisors, an operations guide, and an evaluation system. The use of a full time officer to coordinate the activities and training greatly increases the possibility of having a successful reserve program. It is imperative that procedures are developed defining the jurisdiction and scope of a reserve officers' duties. Special attention must be given to the selection process when selecting applicants. Extensive background investigations should be completed with emphasis placed on the applicant's commitment to the community. With training the reserve supervisors can select and recommend applicants. Members of the reserve force should be trained and used as instructors for new reserves. (Mason 31)

As a means of motivating and instilling pride in their reserve forces, Police agencies provide various kinds of formal recognition such as certificates, pins, plaques, newspaper photos, and banquets. To determine the motivations and feeling about having a volunteer status, data was collected from 16 reserve officers affiliated with Tallahassee, Florida Police Department. "It was determined that volunteer officers are motivated primarily by self-interest." The majority served to maintain certification, enhance their job status or regain the excitement of police work. (Sundeen and Siegal 55)

Scheduling reserve officers must be paid special attention. Volunteers who have other employment should be limited to working no more than 24 hours per month. Allowing reserves to work additional hours can result in burnout and retention problems. (Breg and Doerner 86)

A study investigating the use of reserve police officers by law enforcement agencies affiliated with educational institutes was conducted in 1987. No evidence was found indicating the use of reserves by public or private school districts. Several districts, however, use reserve officers commissioned by county or municipalities to provide police services. It was found that these officers were generally paid by their respective agencies at the same rate as the full-time officers. These police services are generally by agreement between the school district and municipality providing the officers. The school district reimburses the county or city for the officers wages and expenses. Questionnaires were gathered from 564 directors of law enforcement agencies affiliated with public and private universities in the United States and Canada. It was found that reserve officers are not widely used to complement the regular police force. (Sundeen and Siegel)

A proposal to initiate a reserve police force program by a law enforcement agency may be met with outcries from the regular officers with concerns over working conditions and wages. Specifically, regular officers may argue that the use of reserve forces reduces the number of overtime hours available to them. One way to gain support from the regular officers is to meet with them prior to the initiation of any formal plans, to discuss the use of reserve officers and how it affects them. (Wallace and Peters 21)

While there are strong reasons supporting the use of volunteers in police services, reserves are not without critics or potential problems. Some police officer unions and associations have opposed the establishment of a reserve force, categorizing the

volunteers as "do-gooders, scabs, and vigilantes". In addition, the use of volunteers presents a number of potential problems to local governments, including "limited availability, uncertain dependability, high turnover, the need for regular supervision, and friction between staff and volunteers". (Sundeen and Siegal 50)

"The impact of the use of volunteers on police departments is neither uniformly *nor* clearly perceived by agency administrators." (Sundeen and Siegel 59) Some department representatives claim that reserves decrease crime, increase productivity, and improve services. However, no measurable evidence was located to support these perceptions, except in terms of the number of hours worked by reserves.

### **Discussion of Relevant Issues**

The number of school district police departments in Texas has grown from a handful in 1980 to almost 90 today. These departments vary in size from 1 or 2 officers to a few with more than 100 officers. Most of the departments created in the 1980s have evolved into fully functional police agencies.(TCLEOSE) The school district police administrators that manage these agencies are given the responsibility of ensuring that the students and employees of their districts have a safe environment in which to learn and work. With juvenile crime on the increase each year, administrators are required to ask for additional officers and equipment in order to maintain the current level of service. In addition to the ever increasing service calls, school police provide an assortment of time-consuming duties. As police administrators become accustomed to the special needs of their districts, they have discovered new ways of employing their officers. At the same time, school officials continuously find ways for officers to be involved in the overall operation of the schools. Officers perform a variety of duties, including, but not limited to, monitoring students, picking up money at schools, counseling students and employees, presentations to employees, students and parents, and in some cases

management of crossing guards and communications centers. Specially trained officers teach G.R.E.A.T. and D.A.R.E., handle canines, and provide in-service training to the other officers. The officers within these departments must provide around the clock service to their districts. Depending on the number of officers, some agencies provide continuous patrol, while others require their officers to respond to calls to service from an on-call status. It is common for officers to be called into service as many as 3 or 4 times when on-call overnight. If agencies are going to continue to provide the quality and quantity of service school districts have become accustomed to, new ways must be explored to provide more and better services without additional funds.

In all 50 states, county and Municipal police agencies use reserves to augment their full-time officers. These reserves provide a wide range of police services at little or no cost to the government body. Forty-two percent of the Texas police agencies surveyed are using reserves to provide their departments with an inexpensive solution to the continuing demands for greater and better police services. (Pierson 97) Members of agencies with reserve units make claims of decreasing crime, better police services and less overtime wages paid. The use of volunteers as reserve peace officers is one way to combat the skyrocketing costs of today's budgets.

Currently there are no laws in Texas authorizing the commissioning of reserve police officers by school districts. Prior to establishing a reserve force, changes must be made in Chapter 37, Texas Education Code, authorizing their use.

School district law enforcement administrators considering incorporating reserves must understand the legal issues and liabilities involved in using volunteers as peace officers. Without a clear understanding in both these areas, any of the benefits gained by using reserves can be wiped out by one negative incident. Once the decision has been

made to establish a reserve force, a policy manual should be drafted describing the scope of the reserve's duties and the limitation of his /her police powers.

The issues of compensating reserves are extremely important. When administrators consider the use of reserves they must decide to what extent reserves will be compensated. Reserves can be "paid expenses, given reasonable benefits, a nominal fee, or any combination of the three without losing their status as a reserves". (Wallace and Peter 21)

In order to gain support from the full-time officers, administrators should confer with officer groups before initiating any formal plans. The officers are more likely to support a reserve program if they can be represented in the planning phase. Many of their concerns about loss of overtime and extra jobs can be talked about openly and up front. If administrators make plans secretly, officers will feel threatened and their support will be more difficult to obtain.

When a reserve is working as a volunteer, he is not covered by workman's compensation by any other employer. Although private insurance is available to individuals, it is expensive and can affect retention. The extension of workers' compensation benefits to reserve officers is an effective way to limit the civil liability that can result when a reserve is injured while on duty. It is also a solution for work-related injuries.

The courts have held police agencies and their local governments liable for failure to meet the minimum training in several areas. Reserve officers must receive the same basic training as full-time officers in order to limit civil liability. However a reserve officer's basic training may be divided into three sessions. After compilations of the first session a reserve can be issued a conditional license by Texas Commission of Law Enforcement Officer Standards and Education. One hundred percent of the Texas police

agencies surveyed do not send reserve applicants to a basic police course. (Pierson 97)

All of these agencies require applicants to be qualified, including basic training, for licensing as a condition of being considered. The quality and quantity of a reserve's training should meet the same standards as the full-time officers. Equal training can limit civil liability for the agency and provide equal protection for the officer. Professional officers properly trained can improve police and community relations and officer morale. In order to determine the cost and potential savings when using volunteers as reserves, administrators must analyze their individual department needs. Decisions must be made regarding the benefits reserves receive, who will provide the uniforms and equipment, and how they will be used. Once the reserves' duties have been established, administrators will be able to make decisions on vehicle needs and training requirements.

### **Conclusions/Recommendations**

In the 1980's and 1990's school districts have been under a great deal of pressure from communities and the courts to provide a safe environment conducive to learning for our children. Around the country school districts have found it necessary to employ police officers to ensure their campuses are free from crime and violence. The law enforcement budget for a school district is funded almost entirely by local tax dollars. Each year the increases in crimes on our campuses strain the budget of even the most wealthy districts.

County and municipal police agencies have been successfully utilizing reserves for many years. These local governments have found that they can control their law enforcement budgets by hiring well-trained reserve police officers to augment their full time officers. These officers generally have full police powers when acting as a representative of the agency. (Argon 272) The purpose of this research was to determine

the feasibility of using reserve police officers to supplement the full-time officers in Texas school districts police departments.

Currently Texas law does not authorize the commissioning of reserve police officers by school districts. County and municipal police agencies obtain their authority from the Texas Government Code. (Texas Government Code) School districts full-time police are commissioned under the authority of the Texas Education Code but there are no provisions for commissioning reserve officers. (Texas Education Code)

Police reserves can provide school districts with an inexpensive solution to the continuing demands for greater police service. Administrators of school district police agencies that incorporate volunteers as reserves must first understand both the legal and liability issues that can impact the use of reserves. Without a clear understanding of these issues, the benefits can be completely eliminated by negative effects.

Texas legislators passing laws authorizing school districts to commission reserve police officers will give them the same options as other government agencies. Those districts who decided to utilize reserves can inexpensively maintain or even increase police services. This will allow school districts to spend more of our local tax dollars on education and less on police services.

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