



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

June 10, 2025

Wendell James, Esq.
Board Attorney, Smith County
P.O. Box 441
Raleigh, Mississippi 39153

Re: Auxiliary Deputy Sheriffs

Dear Mr. James:

The Office of the Attorney General has received your request for an official opinion.

Questions Presented

1. May an auxiliary deputy sheriff who works on a volunteer basis, does not have any type of certification, and has not completed the law enforcement academy make traffic stops when he is alone?
2. May an auxiliary deputy sheriff who works on a volunteer basis, does not have any type of certification, and has not completed the law enforcement academy write tickets for alleged violations?
3. Must an auxiliary deputy sheriff who works on a volunteer basis, does not have any type of certification, and has not completed the law enforcement academy be accompanied by certified law enforcement at all times?
4. May an auxiliary deputy sheriff who works on a volunteer basis, does not have any type of certification, and has not completed the law enforcement academy transport inmates alone?
5. May an auxiliary deputy sheriff who works on a volunteer basis, does not have any type of certification, and has not completed the law enforcement academy make arrests alone?

Brief Response

1. An auxiliary deputy sheriff is considered a part-time law enforcement officer and, therefore, must meet the training requirements and qualifications for part-time law enforcement officers, including the “authority to bear arms and make arrests, and whose primary responsibility is the

prevention and detection of crime, the apprehension of criminals and the enforcement of the criminal and traffic laws of this state or the ordinances of any political subdivision thereof.” Miss. Code Ann. § 45-6-3(d). Therefore, a person who has not been certified as a part-time law enforcement officer cannot serve as an auxiliary deputy sheriff.

2. See Response 1.

3. See Response 1.

4. See Response 1.

5. See Response 1.

Applicable Law and Discussion

“The sheriff is the chief law enforcement officer of the county whose duty is to keep the peace within his county.” MS AG Op., *Burch* at *1 (Sept. 21, 2023) (*citing* Miss. Code Ann. § 19-25-67). Unless a limited grandfather clause based on prior law enforcement experience applies, all sheriffs must complete law enforcement training upon their election as specified in Mississippi Code Annotated Section 19-25-3. Sheriffs “have power to appoint one or more deputies to assist him in carrying out the duties of his office[,]” and “[s]uch deputies shall have authority to do all the acts and duties enjoined upon their principals.” Miss. Code Ann. § 19-25-19. Among other powers, sheriffs and their deputies have the authority to make arrests pursuant to Section 99-3-1 and issue traffic tickets in accordance with Section 63-9-21. Pursuant to Section 19-25-23:

Each sheriff shall maintain and cause to be paid a sufficient number of regular deputies, properly trained and adequately equipped, to ensure the domestic tranquility within his county. *In addition thereto, each sheriff may maintain an adequate number of properly trained auxiliary deputy sheriffs to be equipped, trained and paid from the general county fund.* The number of said auxiliary deputies shall be approved by the board of supervisors and may be increased or reduced from time to time by said board.

(emphasis added). The term “auxiliary” is not defined in the statutes. However, the term is included in Section 45-6-3(d), which defines a part-time law enforcement officer as:

any person appointed or employed in a part-time, reserve or *auxiliary* capacity by the state or any political subdivision thereof . . . who is duly sworn and vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime, the apprehension of criminals and the enforcement of the criminal and traffic laws of this state or the ordinances of any political subdivision thereof. However, the term “part-time law enforcement officer” shall not mean or include any person or elected official who, subject to approval by the board, provides some criminal justice related services for a law enforcement agency. . . . [F]or a deputy sheriff or municipal law enforcement officer, the term “appointed or employed” means a deputy sheriff or municipal law

enforcement officer who is performing such duties at any time whether or not they receive any compensation for duties as a law enforcement officer provided that such compensation is less than Four Hundred Seventy-five Dollars (\$475.00) per week or Two Thousand Fifty Dollars (\$2,050.00) per month.

(emphasis added). Section 45-6-11(3)(a) provides that “[n]o person shall be appointed or employed as a law enforcement officer or a part-time law enforcement officer unless that person has been certified as being qualified under the provisions of subsection (4) of this section.” Further, Section 45-6-11(3)(c) prohibits a person from serving as a law enforcement officer in an auxiliary capacity “when that person’s certification has been suspended, cancelled or recalled.” Section 45-6-11(4) mandates that the Board on Law Enforcement Officer Standards and Training (“BLEOST”) establish “qualifications for the employment of law enforcement officers.” Additionally, BLEOST is required to “fix qualifications for the appointment or employment of part-time law enforcement officers to essentially the same standards and requirements as law enforcement officers[]” and “develop and implement a part-time law enforcement officer training program that meets the same performance objectives and has essentially the same or similar content as the programs approved by the board for full-time law enforcement officers.” Miss. Code Ann. § 45-6-11(4). This office has previously opined:

An individual must be a part-time or full-time certified law enforcement officer as defined in Section 45-6-3(c) and (d) of the Mississippi Code or a law enforcement trainee as defined in Section 45-6-3(e) to perform the law enforcement duties of a deputy sheriff, including the authority to bear arms and make arrests and the prevention and detection of crime, the apprehension of criminals and the enforcement of the criminal and traffic laws of this state and/or ordinances of any political subdivision thereof.

MS AG Op., *Woodson* at *1 (Jan. 3, 2012) (internal quotations omitted).

Accordingly, it is the opinion of this office that an auxiliary deputy sheriff is a part-time law enforcement officer and, therefore, must be certified and meet the law enforcement qualifications and training requirements outlined in Section 45-6-11(4). A person who does not meet the statutory requirements of a law enforcement officer cannot serve as an auxiliary deputy sheriff and, thus, cannot make traffic stops, write traffic tickets, transport inmates, or make arrests.

Notably, the language of Section 19-25-21, which references sheriffs’ “deputies who have law enforcement duties,” potentially suggests that there could be sheriffs’ deputies who do not have law enforcement duties. However, it is the opinion of this office, based on the above-cited definitions and certification requirements, that all sheriffs’ deputies must be certified and meet the law enforcement qualifications and training requirements. We note that previous opinions of this office state that an auxiliary deputy sheriff was not required to meet the law enforcement certification requirements if he or she worked part-time and did not have law enforcement duties. MS AG Op., *Austin* at *3 (May 28, 1986) and MS AG Op., *Norquist* at *1 (July 12, 1996). However, these opinions were issued prior to amendments to the above-cited Sections 45-6-3 and 45-6-11. *See* 1998 Miss. Laws Ch. 394 (S.B. 2227) (amending various sections of Title 45, Chapter 6 to require training for all law enforcement officers including auxiliary officers). To the extent

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that any prior opinions conflict with this one, this opinion is controlling on the issues presented in your request.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Beebe Garrard*

Beebe Garrard
Special Assistant Attorney General

OFFICIAL OPINION