

March 16, 2001

Chief Robbie Fox
Sevierville Police Department
300 Gary Wade Boulevard
Sevierville, TN 37862

Dear Robbie:

You recently asked a question regarding the legality of a city employee "volunteering" his/her time as a reserve police officer. As I understand the question, a street department employee is also an unpaid reserve police officer. Your question asks whether the hours worked as a police officer must be counted with the compensated hours worked with the street department.

As I indicated on the telephone, and have subsequently researched in the federal Fair Labor Standards Act, employees may volunteer their time as long as the activity is not the "same type of services." Obviously, the work performed by a street department employee is substantially different than the work performed as a police officer. The employee may volunteer his time as a reserve police officer.

I am including a copy of 29CFR553.100 through 553.106. The regulations define the volunteer issues of the Fair Labor Standards Act. Please pay close attention to 553.103, which defines, "same type of services." You will see an example of a parks employee volunteering as a volunteer fire fighter. I think that closely parallels your example of a street department employee volunteering as a reserve police officer. Conversely, the Department of Labor has generally ruled that a jailer in a law enforcement agency could not volunteer as a police officer or deputy because the two types of work are too closely aligned.

If you have any further questions, or if I can ever be of assistance, please do not hesitate to call.

Sincerely,

Rex Barton
Police Management Consultant