

Office of the Attorney General  
State of LOUISIANA

Opinion No. 79-1212  
March 31, 1980

FIREARMS & FIREWORKS 47

LAW OFFICERS 60 R.S. 14:95.1, 40:1379.1, 40:1379.3, 40:1783 and 40:2405

The carrying and use of guns or other firearms by commissioned law enforcement officers is regulated by the respective law enforcement agency or by state statute. Auxilliary police officers are permitted to carry a gun if they have been adequately trained

Ms. Irene W. Pressley  
Police Department  
Town of Westlake  
Post Office Box 635  
Westlake, LOUISIANA 70669

Dear Ms. Pressley:

Your request for an opinion of the Attorney General has been forwarded to the undersigned for disposition. Your questions as I appreciate them are:

1. Are there any laws prescribing when it is legal to carry a gun?
2. Are all law enforcement officers commissioned by a police or Sheriff Department permitted to carry guns?
3. Are auxilliary police officers permitted to carry guns, even if they have no special training?

In answer to your first inquiry I have attached Attorney General Opinion No. 78-795, 1978. It is the conclusion of this office that it is legal to carry a gun when it is exposed on one's person. The LOUISIANA Supreme Court has affirmed this conclusion. *State v. Fluker*, 311 So.2d 863 (1975). However, the legality of carrying even an exposed gun is subject to certain limitations of law. For instance, under LA. R.S. 14:95.1 persons who have been convicted of certain felonies are not permitted to possess a firearm, unless issued a special permit. The Deputy Secretary of the Department of Safety or the chief law enforcement officer of a respective parish may issue a concealed weapon permit to retail or wholesale merchants, (LSA-R.S. 40:1379.3); or to individuals within the parish and state (LSA-R.S. 40:1379.1(F)(G)). Generally, all firearms should be registe with the Department of Public Safety. LSA-R.S. 40:1783.

Your second and third inquiries are also answered partially by the LA. R.S. 14:95 proscription against the illegal carrying of weapons. Section (F) of this statute states:

"The provisions of this section except paragraph 4 of sub-section A shall

not apply to sheriffs and their deputies, state and city police, constables and town marshals, or persons vested with police power when in the actual discharge of official duties.' (Emphasis added)

This office has concluded therefrom the following:

1. A peace officer or any person vested with police power may carry a gun either openly or concealed on his person while in the actual discharge of his official duties.

Every police department, sheriff office, or other law enforcement agency makes its own reasonable regulations on the carrying of firearms and ammunition by police officers while on and off duty, as well as other matters within its authority. *Lally v. Department of Police*, 306 So.2d 65 (4th Cir. 1974). In *Lally* the court affirmed the dismissal of a police officer from the department for his failure to comply with regulations stating:

'[A] Police officer by voluntarily accepting a commission and becoming an employee consents to being subject to all reasonable regulations . . . Appellant has not shown that there is anything in these regulations which makes them arbitrary or unreasonable.'

State statute regulates the carrying of firearms by state police officers, agents, or employees, LA. R.S. 40:1382, and by university or college police officers, LA. R.S. 17:1805.

Finally, in answer to your third inquiry with reference to auxiliary police officers or others carrying guns, without undergoing any special training, the following authorities are illustrative: Pursuant to LA. R.S. 40:2405(A), all peace officers must be trained. This statute provides:

(A) Every peace officer, not later than one year after accepting employment as a peace officer or within one year after the effective date of this Chapter, whichever is later, shall successfully complete a basic law enforcement training course conducted by a training center accredited by the council [on Peace Officer Standards and Training].

The council shall retain the power to extend the one year period . . . allowed for completion of a basic law enforcement training course. A certificate of successful completion of such course . . . shall constitute presumptive evidence that the requirements of this Paragraph have been complied with. Persons having two (2) years full-time employment as peace officers at the effective date of this Chapter shall, in any event, be exempt from the requirements of this sub-section . . .

The lack of basic training of any peace officer may constitute just cause for dismissal or disciplinary action. See, *Martin v. City of St. Martinville*, 321 So.2d 532 (3rd Cir.1975). Presumably, an auxiliary police officer vested with police power should also be trained although this statute does not read so specifically.

Therefore, it is the opinion of this office that a gun may be carried legally if it is in open view; that the carrying of guns by commissioned law enforcement officers is regulated by the respective law enforcement agency or by state statute; and lastly auxiliary police officers are permitted to carry

guns if they are sufficiently trained.

I hope that this opinion has sufficiently answered your questions. If this office may be of further assistance to you, please feel free to contact us.

Sincerely,

William J. Guste, Jr.  
Attorney General

By: Patrick G. Quinlan  
Assistant Attorney General  
1980 WL 116801 (La.A.G.), 1978-79 La. Op. Atty. Gen. 139,  
La. Atty. Gen. Op. No. 79-1212, 1980 WL 116801 (La.A.G.)  
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