

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

for the calendar years  
**1951 - 1954**

March 25, 1952

To Col. Francis J. McCabe, Chief, Maine State Police

Re: Apprehension of Absentees and Deserters from the Armed Forces

This office is in receipt of your memo of March 7, 1952, in which you posed the three following questions:

1. "May members of the Maine State Police lawfully apprehend absentees and deserters from the armed forces?"

Any person authorized under regulations governing the Armed Forces to apprehend persons subject to the Uniform Code of Military Justice may apprehend an absentee or deserter from the Armed Forces and deliver him into the custody of the Armed Forces. Article 8 of the Uniform Code of Military Justice reads as follows:

"It shall be lawful for any civil officer having authority to apprehend offenders under the laws of the United States or of any State, District, Territory, or possession of the United States summarily to apprehend a deserter from the Armed Forces of the United States and deliver him into the custody of the Armed Forces of the United States."

State Police officers of the State of Maine come within the definition set up in Article 8 above quoted, and it is our opinion, therefore, that such police may lawfully apprehend absentees and deserters from the Armed Forces.

2. "If so, following such apprehension, may members of the Maine State Police lawfully utilize the facilities of local and county jails for the detention of such absentees and deserters pending the arrival of military police?"

It is our understanding that presently members of the Armed Forces have offices in your building and would be immediately or almost immediately available in the event your troopers apprehend a deserter or absentee. We feel that rather than lodge such persons in local or county jails, attempts should be made to deliver them to the closest Army or Navy installation to be held there in custody until picked up by Army personnel. We do not mean to say that you are precluded from lodging these offenders in county or local jails, but suggest that a better answer would be to have them delivered to the Army or Navy installations.

3. "Upon reasonable grounds, such as the admission of a subject that he is an absentee or deserter, may members of the Maine State Police lawfully detain and hold such man for confirmation of his military status?"

Members of the Maine State Police should take into custody only such persons as the police believe there is probable cause for holding. Probable cause would be notifications describing the deserter and, we believe, admissions by the person that he is a deserter or an absentee. A duly authorized officer who has probable cause for arresting a person as a deserter, is generally protected from actions by the person held; but the detaining of a person on admission only should be for not longer than a reasonable period of time.

JAMES G. FROST  
Assistant Attorney General