

# MAINE STATE LEGISLATURE

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# STATE OF MAINE

Inter-Departmental Memorandum Date November 2, 1972

To Lt. Richard C. Jones Dept. Public Safety  
Administrative Assistant  
m William S. Brodrick Dept. Attorney General  
Assistant Attorney General  
Subject Law Enforcement Officers Retaking the Oath of Office

Q: 1. Do law enforcement personnel transferred to the new Department of Public Safety have to be resworn?

2. If so, who should administer the oath and in the future, who should administer the oath to all personnel?

A: 1. No. Extensive research reveals no reason why transferred law enforcement personnel should have to be resworn. The purpose of the oath is simply to place the officer under an obligation to their oath, thus making the officers more aware of their responsibilities. Indirectly, the oath provides an additional protection to the public against official abuse of power. Opinion of the Justices 3 Maine 481 (1822). The officers transferred to Public Safety have already taken the oath, their duties remain substantially the same and it is difficult to see how a reswearing would make them any more aware of their responsibilities or any more obligated to uphold the law. Substance controls here, not form, and a technical reshuffling can in no way vitiate every officer's sworn obligation to the law.

2. The oath of office taken by law enforcement personnel in the Department of Public Safety can apparently be administered by the head of the Department of Public Safety. The oath of office contained in Article IX, Section 1 of the Maine Constitution must be administered in certain prescribed ways. See, e.g., 5 M.R.S.A. §4 and 5 M.R.S.A. §5. However, enforcement personnel in Public Safety are not the type of "officers" covered by the constitutional oath since they are neither elected, commissioned or appointed by the governor. See Art. IX Section 1 of the Maine Constitution; Attorney General's Report, 1951-1954 at p. 56; Opinion of the Justices, 72 Me. 542 (1887). The statutes do not specify how the oath of office pertinent to enforcement personnel should be administered. See e.g. 25 M.R.S.A. §1504. Therefore, it seems logical and safe that this particular oath should be administered by the head of the department.

cb

Signature: William S. Brodrick

**NOT A FORMAL OPINION**

State of Maine  
STATE POLICE HEADQUARTERS  
Augusta, Maine

O A T H O F O F F I C E

"I do hereby acknowledge to have voluntarily enlisted this \_\_\_\_\_  
day of \_\_\_\_\_ 19 \_\_\_\_\_ as a State Police Officer of the State  
of Maine, under the conditions prescribed by law, and I solemnly swear  
that I will bear true faith and allegiance to the United States of  
America and the State of Maine. I do also solemnly swear that I will  
carry out the duties of my office to the best of my ability, and that  
I will obey the orders of the Governor of the State of Maine and of the  
officers appointed over me according to law and the rules and regulations  
of the State Police and that I will uphold the Constitution of the United  
States and the State of Maine, so help me God."

\_\_\_\_\_  
Signature of officer taking oath

\_\_\_\_\_  
Signature of officer administering oath

Date \_\_\_\_\_