

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date October 1, 1976

To Capt. Albert Jamison

Dept. State Police

From Donald G. Alexander, Deputy

Dept. Attorney General

Subject Municipalities contracting for police services

SYLLABUS:

Municipalities may contract with county commissioners of their county or with the Bureau of State Police to provide municipal police services.

FACTS:

Municipalities which cannot afford or support a full-time law enforcement officer are utilizing or investigating contracting as a method of providing adequate municipal police services to their inhabitants. The two existing agencies that could provide this municipal police service are the county sheriff's departments and the Bureau of State Police of the Department of Public Safety.

QUESTIONS AND ANSWERS:

(1) May municipalities contract with the Bureau of State Police to provide municipal police services if the municipality is otherwise authorized to provide police services? Yes.

(2) May municipalities contract with the county commissioners of their county to provide municipal police services if the municipality is otherwise authorized to provide police services? Yes.

REASONS:

(1) 30 M.R.S.A. § 1953 reads in part as follows:

"Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this State may be exercised jointly with any other public agency of this State, . . . Any agency of State Government when acting jointly with any public agency may exercise all of the powers, privileges and authority conferred by this chapter upon a public agency."

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30 M.R.S.A. § 1952 defines public agency as follows:

"For the purposes of this chapter, the term 'public agency' shall mean any political subdivision of this State; . . . or any agency of State Government. . . ."

In Maine, a town or city is a municipality (30 M.R.S.A. § 1901(6)), either of which is an agency of the State. Opinion of the Justices, 133 Me. 532, 128 A. 613 (1935). Also see Baxter v. Waterville Sewerage District, 146 Me. 211, 79 A.2d 585 (1951). Under 30 M.R.S.A. § 2361, municipalities are given the power to appoint police officers who have general law enforcement authority with the municipality wherein they are appointed. Implicit in the authority of a municipality to appoint police officers is the power and authority to provide police services to the inhabitants of the municipality.

The Bureau of State Police, created in 25 M.R.S.A., chapter 191, is a state agency with general state-wide law enforcement responsibilities. 25 M.R.S.A. § 1502. Special emphasis is placed on the Bureau of State Police for law enforcement outside built-up areas within municipalities. 25 M.R.S.A. § 1502.

Municipalities and the Bureau of State Police are both public agencies within the meaning of 30 M.R.S.A. § 1952. Municipalities have the power and authority to provide police services to their inhabitants, and the Bureau of State Police has the authority to carry out general law enforcement activities within municipalities. Therefore, pursuant to 30 M.R.S.A. §§ 1951, et seq., municipalities may contract with the Bureau of State Police for municipal police services which the municipality is otherwise authorized to provide its inhabitants. Any such contract between the municipality and the Bureau of State Police must comply with the requirements set out in 30 M.R.S.A. § 1951, et seq.

(2) 30 M.R.S.A. § 63, enacted in 1975, provides that the county commissioners of each county may contract with municipalities within the county to provide services that either a county or a municipality may perform, subject to certain restrictions similar to those applied to § 1953.

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As previously noted, municipalities, if otherwise authorized, have the power and authority to provide police services to their inhabitants. Under both 30 M.R.S.A. § 63 and 30 M.R.S.A. § 1953, municipalities may contract with the county commissioners of their county to provide municipal police services.

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Deputy Attorney General

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