

MAINE STATE LEGISLATURE

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Counties' Sheriff's Housing
Counties' Compensation For Officials
30 M.R.S.A. 2
30 M.R.S.A. 908

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DEPARTMENT OF THE ATTORNEY GENERAL
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December 28, 1976

Honorable Donald H. Burns
Embden Pond Road
North Anson, Maine 04958

Dear Representative Burns:

This responds to your request for an opinion dated December 20, 1976, in which you pose the following two questions:

1. Must a County Sheriff live in a house or apartment connected to the County Jail?
2. If question number 1 is in the negative, may the Sheriff be paid an allowance for rent in addition to his salary?

We answer both of your questions in the negative. Sheriffs are not required to live in a house or apartment connected to the County Jail. However, if they choose not to, we do not read the law as imposing an obligation upon the County Commissioners to pay allowances, in addition to salary, for living quarters.

The provisions of law which apply to this matter, 30 M.R.S.A. § 2 (its most relevant parts being amended this year by P.L. 1975, c. 736) specify compensation for sheriffs and then indicates:

"The salaries mentioned in this section shall be in full compensation for the performance of all official duties by said officers and judges."

Section 2 then adds some exceptions not relevant here. This provision of law has been in effect for some time. (Cf. 30 M.R.S.A. § 2 [1964 ed.]). Similarly the provision relating to housing has been in the law for some period of time. (Cf. R.S. 1954, c. 89, § 149) That provision, 30 M.R.S.A. § 908, reads in relevant part:

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"The sheriffs of the several counties shall receive annual salaries as set forth in section 2, together with free rental of the house or living apartment connected with the county jail in each county, including the necessary light and fuel. . . . "

As § 908 and the general provision in § 2 which indicates that § 2 compensation is the exclusive compensation have both been in the statute for a considerable period of time, they must be read together to mean that sheriffs are entitled to the compensation provided in § 2 and, in addition, the availability of the jail apartment. However, § 908 appears to assume that a jail apartment exists and will be used. Where no such apartment exists, or where the available apartment is not used, the law does not impose an obligation to provide one, particularly in light of the "full compensation" language of § 2.

Thus, the law should be construed to allow sheriffs to use jail apartments where they are available but not to impose upon counties an obligation to provide sheriffs alternate housing where no jail apartment is available or where it is not used.

Very truly yours,


DONALD G. ALEXANDER
Deputy Attorney General

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