

MAINE STATE LEGISLATURE

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Sheriff's Mandatory Training Requirements

25 M.R.S.A. § 2805
" " " § 2806

STATE OF MAINE

Me. Const. Art 9 § 10
MAJAP 901

Inter-Departmental Memorandum Date February 18, 1977

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Dept. Criminal Justice Academy

From Attorney General Joseph Brennan

Dept. Attorney General

Subject Mandatory Training of Sheriffs

FACTS:

Pursuant to 25 M.R.S.A. §2805, all full-time law enforcement officers must successfully complete a basic training course at the Maine Criminal Justice Academy. Two questions have arisen with respect to this requirement and they are as follows:

QUESTIONS:

1. Does the above provision apply to sheriffs.
2. If so, may the Academy's Board of Trustees suspend a sheriff's right to enforce the criminal laws of this State (25 M.R.S.A. §2806) in the event of his noncompliance with the statutory mandate.

ANSWERS:

1. Popularly known as the Mandatory Training Act, 25 M.R.S.A. §2805 is ostensibly applicable to sheriffs.
2. The Academy's Board of Trustees may not, however, suspend the law enforcement powers of any sheriff who may be found by such Board to be in violation of 25 M.R.S.A. §2805.

REASONS:

1. In part, 25 M.R.S.A. §2805 states that:

 "(a) as a condition to the continued employment of any person as a full-time law enforcement officer by a municipality or county, said person shall successfully complete, within the first year of his employment, a basic training course at the Maine Criminal Justice Academy."

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A law enforcement officer, as that term is used in the above provision, is defined as one who is "empowered by a municipality or county to serve criminal processes and to arrest and prosecute offenders of the law." 25 M.R.S.A. §2805 2-B. Because a sheriff is authorized to exercise these enumerated powers, he is a law enforcement officer for purposes of 25 M.R.S.A. §2805. (See 30 M.R.S.A. §1001 et seq.)

Consequently, the Mandatory Training Act is applicable to sheriffs. The statutory language notwithstanding, it would appear that the legislature intended this result since sheriffs, as a group, are included within the central framework of Chapter 341. Specifically, section 2802 provides that the board of trustees must include one county sheriff. Moreover, section 2803 (2) gives the trustees the power and duty

"[T]o establish suitable training programs for sheriffs within the curriculum, set requirements for graduation of sheriff's from the academy and certify sheriffs who graduate from the academy."

In sum, both the language of the relevant statute as well as the legislative intent indicate that sheriffs are subject to the provisions of 25 M.R.S.A. §2805.

II. In the event that a sheriff fails to comply with the Mandatory Training Act, the Academy's Board of Trustees is authorized to:

"...suspend (his) right to enforce the criminal laws of the State of Maine . . ." 25 M.R.S.A. §2806.

Because the power to suspend the law enforcement duties of a sheriff is tantamount to the termination of his employment, such power is in direct conflict with Article IX, §10 of the State Constitution. Consequently, its exercise must yield to the relevant constitutional provision.

Article IX, §10 provides that sheriffs shall hold their office for two years unless removed sooner as provided by this section. Specifically, such section states that:

"(w)henever the Governor upon complaint, due notice and hearing shall find that a sheriff is not faithfully or efficiently performing any duty imposed upon him by law, the Governor may remove such sheriff from office and appoint another sheriff in his place for the remainder of the term for which such removed sheriff was elected."

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The above provision appears to be the exclusive method of removing a sheriff from office. Moreover, 30 M.R.S.A. §901 provides that sheriffs "shall hold their offices according to the Constitution." Consequently, neither the Academy's Board of Trustees nor the legislature may attempt to set aside indirectly that which the Constitution directly prescribes. Since any conflict between the provisions of our State statutes and those of the Maine Constitution must be resolved in favor of the latter (Article X §6), the Board of Trustees may not suspend the law enforcement powers of any sheriff who may be found by such Board to be in violation of 25 M.R.S.A. §2805.