

MAINE STATE LEGISLATURE

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County Jail Assistants
34 M.R.S.A. § 901

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JOSEPH E. BRENNAN
ATTORNEY GENERAL

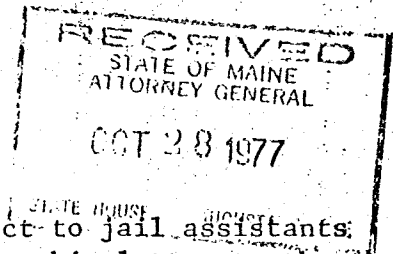


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October 27, 1977

Charles Sharpe, Sheriff
Sheriff's Department
122 Federal Street
Portland, ME 04111



Dear Sheriff Sharpe:

Given the urgency of your questions with respect to jail assistants and employees under P.L. 1977, c. 431, I am limiting this letter to those inquiries. Since time problems preclude me from following the customary procedure for opinions of the Attorney General, I would ask that you treat this letter simply as my interpretation of c. 431.

The status of jail assistants and employees is governed largely by the newly enacted version of the first paragraph of 34 M.R.S.A. §901.

The sheriff has the custody and charge of the jail in his county and of all prisoners therein and shall keep it himself, or by his deputy as jailer, master or keeper. The jailer, master or keeper shall appoint, with the approval of the county commissioners or the county personnel board, if one has been established under Title 30, chapter 1, subchapter VII, all subordinate assistants and employees. Subordinate assistants and employees shall be appointed in the same manner and for the same period and shall be dismissed, suspended or disciplined in the same manner that is provided for deputy sheriffs under Title 30, section 951. The professional qualifications required of them shall emphasize training or experience in or knowledge of corrections. The pay of the jailer, master or keeper and all subordinate assistants and employees shall be fixed by the county commissioners and paid by their several counties, except when otherwise provided by law.

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From my reading of that provision and the other relevant sections of chapter 431, I have reached the conclusions set out below.

1. Like deputy sheriffs, jail assistants and employees should be appointed as soon as possible in order to comply with the new law.
2. They are to be appointed by the jailer, master or keeper (unless the sheriff keeps the jail himself, then by the sheriff) with the approval of the county commissioners or county personnel board, if such a board has been established.
3. Apart from the professional qualifications required of them, jail assistants and employees are, in all other respects, to be appointed in the same manner as deputies.
4. Jail assistants and employees have the same terms of office as deputies. In addition, the same provisions regarding dismissal, suspension or discipline apply to them.
5. Although the law is somewhat ambiguous on this point, jail assistants and employees do not appear to be deputy sheriffs. For that reason, the limitations on part-time employment in 30 M.R.S.A. §853(3) presumably do not apply to them.

For the sake of convenience, I shall not set out the reasons which led me to the above conclusions. I should point out, however, that they are based almost entirely on the language of c. 431, in that there is no legislative history relevant to these matters.

Please let me know if you have any other questions on this particular subject.

Very truly yours,

STEPHEN L. DIAMOND
Assistant Attorney General

SD:ld

cc: Joseph E. Brennan
Attorney General