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Deputy Sheriffs' Compensation
County: Deputy Sheriff Compensation
30 M.R.S.A. § 2

Tom

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January 30, 1978

Honorable Stephen T. Hughes
House of Representatives
State House
Augusta, Maine 04333

Dear Representative Hughes:

I am responding to your request for an opinion of this office on the following question: "May the County Commissioners compensate deputy sheriffs under existing statutes for work performed outside of their normal working hours?" Our answer to this question must be qualified because of a lack of clear statutory guidance in this area.

I am enclosing with this letter a copy of correspondence dated January 25, 1978, in which we addressed a similar question. In that letter we noted that amendments to 30 M.R.S.A. § 2 by P.L. 1977, c. 67, § 3, at least imply a legislative intent that the salary established for full-time deputies would be the sole compensation for their services. Title 30 M.R.S.A. § 2, sub-§ 4, ¶ B, specifically states, in pertinent part:

"All fees and charges of whatever nature which may be payable to any deputy sheriff shall be payable by him to the county treasurer for the use and benefit of the county, except that deputies not on a salary or per diem basis may receive and retain fees for the service of criminal or civil process."

Although this section specifically details what action shall be taken with regard to fees and charges, it does not necessarily preclude "overtime" pay for deputies who have been assigned law enforcement duties by the sheriff beyond their normal working hours. However, there is no existing statute which expressly provides for such payment.

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It should be noted that our January 25 letter concerned work beyond a normal work week by full-time deputies who are transporting prisoners. The rationale expressed therein presumably could be extended to other county law enforcement functions as set forth in 30 M.R.S.A. §§ 1121 through 1129. However, this rationale becomes less clearly applicable when the fee work is outside of the statutory law enforcement duties of the sheriff's office and is of a more private nature, i.e. providing security services at privately sponsored gatherings. There is no statutory authority, either express or implied, to allow reimbursement of deputies for services of this type. It should be noted that there is presently before the Legislature a bill which would change the situation. L.D. 2075, § 2 would amend the language of 30 M.R.S.A. § 2, sub-§ 4, ¶ B, by adding as an exception the following:

"During off-duty hours and vacations, as designated by the sheriff, - [deputies] may receive and retain compensation for services that are not part of their regular duties, even though the services are performed in uniform."

Please continue to call on us whenever we may be of assistance.

Sincerely,



S. KIRK STUDSTRUP
Assistant Attorney General

SKS:mfe