

# MAINE STATE LEGISLATURE

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JAMES E. TIERNEY  
ATTORNEY GENERAL



SD  
81-70-

STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA, MAINE 04333

July 31, 1981

Michael A. Welch  
Town Manager  
41 Main Street  
Bradley, Maine 04411

Dear Mr. Welch:

This will respond to your letters of July 22, 1981 and July 29, 1981, regarding the use of blue lights by town constables. Although there has been confusion on this issue in the past within this Office and apparently within Maine Municipal Association as well, it is our position that a constable may not use a blue light on his vehicle. I am enclosing a copy of our most recent correspondence on this subject.

To respond more directly to the points raised in your letters, you advance the argument that since constables are intended to have the powers of police officers, including the power "to serve criminal and traffic infraction processes and to arrest and prosecute offenders of the law," 30 M.R.S.A. § 2361(2), they should be deemed to have authority to use blue lights. If it could be said that the law regarding blue lights was ambiguous, I think your argument would be persuasive. However, that is not the case. In 29 M.R.S.A. § 1368, the Legislature has enumerated with considerable specificity the officials who may use blue lights. Given that specificity, I do not believe it would be justifiable to infer a legislative intent that blue lights may be used on vehicles or by officials not expressly included in § 1368.

I recognize that the memorandum of June 6, 1966, from Assistant Attorney General Matus to Commissioner Hinckley might be read to reach the contrary conclusion. Since I have no knowledge of how constables were organized on Indian Reservations in 1966 and who owned the vehicles they operated, I cannot assess the correctness of Mr. Matus' conclusion. However, if his memorandum is construed to mean that a vehicle owned by a constable and used by him in carrying out his official duties automatically becomes a "police department vehicle" under § 1368, this Office no longer adheres to that position. Given the ordinary meaning of the terms, we see no reason for concluding that the Legislature intended an individual "constable" to be a "police department." Furthermore, to argue that § 1368(2) means that a vehicle operated by any person with full law enforcement powers becomes a police department vehicle is to render the second clause of subsection 2 superfluous; under that rationale, there would have been no need for the Legislature to specifically mention officials such as chiefs of police and deputy sheriffs since their vehicles would automatically become police department vehicles.

To summarize, it is the view of this Office that 29 M.R.S.A. § 1368 does not authorize the use of a blue light on a vehicle owned by a town constable and used by him in performing his official duties.

Having stated our legal conclusion on this question, I should add that you may wish to take steps to have this matter addressed by the Legislature. Apart from the confusion which has existed on the subject, there are obviously important questions of public policy which can only be resolved through legislation.

Sincerely,

*Stephen L. Diamond*

STEPHEN L. DIAMOND  
Deputy Attorney General

SLD/ec

Enc.

cc: Hon. Eugene Paradis  
Hon. Dana Devoe  
David Cox, District Attorney  
Maine Municipal Association