

# MAINE STATE LEGISLATURE

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ATTORNEY GENERAL



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

September 20, 1985

Honorable Charles M. Webster  
111 Perham Street  
Farmington, Maine 04938

Dear Senator Webster:

This will respond to your letter of August 30, 1985 in which you seek this Department's Opinion as to whether 25 M.R.S.A. §§ 2805(1) and 2805-A(4) (1984-85 Supp.) are impermissibly discriminatory in view of the fact that the former section exempts certain full-time law enforcement officers from the mandatory training requirements of Maine law, while the latter section does not provide a similar exemption for reserve and part-time law enforcement officers. For the reasons discussed below it is the Opinion of this Office that the refusal of the Legislature to enact a "grandfather" provision under the mandatory training law for reserve and part-time law enforcement officers is rationally related to a legitimate governmental purpose and, therefore, does not offend the equal protection clauses of either the State or Federal Constitutions.

By virtue of Chapter 491 of the Public Laws of 1969, the Legislature created the "Maine Police Academy."<sup>1/</sup> As originally enacted, the legislation establishing the Academy did not impose any mandatory training requirements upon either municipal or county law enforcement officers. Two years later, however, 25 M.R.S.A. § 2805(1) was enacted requiring all

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<sup>1/</sup> In 1971 the name of this police training facility was changed to the "Law Enforcement and Criminal Justice Academy" (P.L. 1971, c. 241) and in 1973 its name was again changed to the "Maine Criminal Justice Academy" by which it is now known. (P.L. 1973, c. 136, § 1).

full-time municipal law enforcement officers to complete a basic training course within the first year of employment. P.L. 1971, c. 451. Shortly thereafter, the mandatory training requirement was extended to full-time county law enforcement officers. P.L. 1971, c. 592, § 13-A. In its present form, 25 M.R.S.A. § 2805(1) provides, in relevant part, as follows:

1. Basic training. 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. The board of trustees, under extenuating and emergency circumstances in individual cases, may extend such period for not more than 60 days. In addition, the board of trustees may waive in individual cases such basic training requirement when the facts indicate that an equivalent course has been successfully completed. This section shall not apply to any person employed as a full-time local law enforcement officer in a municipality on September 23, 1971, or in a county on July 1, 1972 (emphasis added).<sup>2/</sup>

Until 1983, reserve and part-time law enforcement officers, in both municipalities and counties, were not subject to any mandatory training requirements. In that year, however, the Legislature enacted Chapter 67, P.L. 1983, amending 25 M.R.S.A. § 2805-A(4) to read:

4. Certification required. As a condition to the continued employment of any person as a reserve or part-time law enforcement officer by a municipality or county, except a law enforcement officer without the power to arrest and without the authority to carry a weapon, the person must receive from the academy, within the first year of his employment, certification or a waiver of certification as a reserve or

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<sup>2/</sup> The dates of September 23, 1971 and July 1, 1972 are the effective dates of the legislation imposing mandatory training upon full-time municipal and county law enforcement officers, respectively. See P.L. 1971, c. 451; P.L. 1971, c. 592, Section 13-A.

part-time law enforcement officer. The board of trustees, under extenuating and emergency circumstances in individual cases, may extend this period for not more than 60 days.

The Legislature has not provided a "grandfather" clause exempting any reserve or part-time law enforcement officer from obtaining certification.<sup>3/</sup> You have asked whether this constitutes impermissible discrimination in view of the fact that certain full-time municipal and county law enforcement officers have been legislatively exempted from the requirement of obtaining basic training. It is the conclusion of this Department that it does not.

The Law Court has recently stated that before it "can find an equal protection violation, it must at least have some indication that there exist similarly situated persons who have not been treated equally." Brann v. State, 424 A.2d 699, 703 (Me. 1981). Here, it is far from clear that full-time and part-time law enforcement officers are similarly situated such that the latter may invoke an equal protection claim based upon the unavailability of an exemption from the mandatory training law. Nevertheless, even assuming part-time law enforcement officers satisfy this threshold equal protection requirement, it must further be shown that "the legislative action was not rationally related to a legitimate governmental purpose." Fitzpatrick v. Greater Portland Public Development Commission, 495 A.2d 791, 794 (Me. 1985). It is this Department's Opinion that the Legislature's refusal to exempt any reserve or part-time officers from the mandatory training requirements is rationally related to the legitimate and important governmental interest of improving the quality of Maine's law enforcement community.

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<sup>3/</sup> The Board of Trustees of the Maine Criminal Justice Academy is authorized to grant waivers of the basic training requirement to those reserve and part-time law enforcement officers who meet the criteria established by the Board's rules. See 25 M.R.S.A. § 2805-A(4). See also Chapter 9, § 4, Rules of the Maine Criminal Justice Academy.

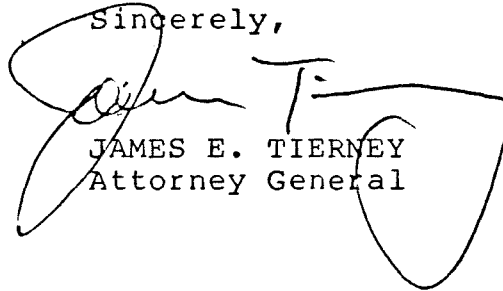
Moreover, the Legislature has delayed the effective date of the mandatory basic training law until January 1, 1986 for those reserve and part-time law enforcement officers who were employed prior to September 23, 1983, i.e., the effective date of P.L. 1983, c. 67. See 25 M.R.S.A. § 2805-A(6), added by P.L. 1983, c. 615, § 1.

For example, the Legislature in 1971 and 1972 may have legitimately concluded that the mandatory training law should not be applied to those officers already employed full-time by a municipality or county. In contrast, the Legislature in 1983 may have reasonably determined that no exemption should be granted to part-time officers, particularly in view of the fact that the mandatory training law did not apply to them for over a decade. Finally, the Legislature may have determined that it did not serve the State's substantial interest in police training to create a new class of officers exempted under the mandatory training law, since the number of active full-time officers who were "grandfathered" in 1971 and 1972 will continually decrease over time.

In short, it is the Opinion of this Department that the Legislature's refusal to grant certain part-time officers an exemption from the mandatory police training laws is neither irrational nor arbitrary and does not constitute invidious discrimination.

I hope this information is helpful to you, and please do not hesitate to contact this office if we can be of further assistance to you.

Sincerely,



JAMES E. TIERNEY  
Attorney General

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