



LAW ENFORCEMENT IN MAINE IN 2023

We will thoroughly review and update our policies and procedures and continue to attract, hire, and retain only the best police candidates to serve our communities. We commit to remaining transparent and eliminating police cultures that condone any social injustices. We will continue to enhance our training to include important topics, such as implicit bias, to ensure that we support a system that guarantees equal justice under the law to every Maine resident. We will continue to build trust and follow best practices. We recognize that change starts with us. We embrace and honor this responsibility.

More than two years ago, we published these words with commitment and sincerity. While we remain loyal to our commitment, we also believe it is essential to continuously inventory where we are in Maine with critical law enforcement practices so that we have the appropriate foundation upon which to build and improve. In that regard, we again address the current state of Maine law enforcement practices, particularly in relation to the several topical issues that surface during community conversations.

Maine Criminal Justice Academy Board of Trustees

The Board of Trustees is the governing body of the Maine Criminal Justice Academy. It was established by law over 50 years ago with the creation of a central training academy for law enforcement and corrections officers. The Board is diverse in its membership. It consists of 18 members, most of whom are appointed by the Governor, others of whom serve by virtue of their office or positions. The Board is empowered to set certification and training standards and promulgate standards for law enforcement policies in the more critical areas of policing. It is also authorized to discipline officers, up to and including revocation of an officer's certificate of eligibility to serve as a law enforcement or corrections officer, who fail to meet continuing education and training requirements or who engage in misconduct. Its work in this regard is facilitated by a five-member Complaint Review Committee of the Board that must include at least two citizen members of the Board. Today's membership of the Board consists of the Commissioner of Public Safety or designee, the Attorney General or designee, the Game Warden Colonel or designee, the Commissioner of Corrections or designee, the Chief of the State Police or designee, and the following persons appointed by the Governor: a county sheriff; a chief of a municipal police department; two officers of municipal police departments who are not police chiefs; an educator who is not and has never been a sworn member of a law enforcement agency; a criminal prosecutor from one of the offices of the District Attorney; a representative of a federal law enforcement agency; three citizens, each of whom is not and has never been a sworn member of a law enforcement agency; a municipal official who is not and has never been a sworn member of a law enforcement agency; a nonsupervisory corrections officer; and a person

knowledgeable about public safety recommended to the Governor by the Wabanaki tribal governments of the Aroostook Band of Micmacs, the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe at Motahkmikuk, the Passamaquoddy Tribe at Sipayik and the Penobscot Nation. The Board is required to report annually to the Joint Standing Committee on Criminal Justice and Public Safety and corrections as a means of providing the Legislature with updated information on the law governing law enforcement training to ensure that appropriate and timely training is accomplished.

Hiring

State laws mandate certain requirements for the hiring and certification of law enforcement officers in Maine. No person may work as a law enforcement officer until the successful completion of a pre-service training program consisting of 300 hours. Full-time officers must thereafter, within the first year of their employment, complete the 18-week Basic Law Enforcement Training Program at the Maine Criminal Justice Academy. Qualifications for admission to this training include a psychological examination to determine job suitability, a polygraph examination, physical fitness testing, and an intensive background investigation. Candidates who have engaged in certain disqualifying conduct in their past, which includes certain criminal convictions, are precluded from attending academy training and, thus, from becoming a practicing law enforcement officer. As described below, certified officers who later engage in disqualifying conduct are subject to revocation of their certificates.

Law Enforcement Policies & Procedures

Maine law governs many policies and procedures that guide law enforcement in Maine, especially those regarding critical areas of policing. These laws, initially enacted in 1994, require all Maine law enforcement agencies to have written policies and procedures that comply with standards promulgated by the Board of Trustees of the Maine Criminal Justice Academy. The standards provide uniformity statewide as to how police deal with a variety of situations. Presently, these mandated standards and policies govern law enforcement practices related to the use of force (including deadly force and non-deadly force and the use of electronic weapons and less-than-lethal munitions), barricaded persons and hostage situations, domestic violence, hate or bias crimes, pursuits, citizen complaints, criminal conduct by law enforcement officers, death investigations, public notification of sex offenders residing in a community, recording of interviews of suspects and witnesses, mental illness, public access to law enforcement records, and the unannounced execution of search warrants (so-called “no knock” warrants). Each agency in Maine must annually certify that the agency has adopted written policies consistent with the standards established by the Board of Trustees and that all officers have been trained concerning the policies and any subsequent policy changes. Moreover, the Board by law must annually review the standards for each policy to determine whether changes are necessary to incorporate improved procedures identified by critiquing known actual events or by reviewing new practices demonstrated to reduce crime or increase public or officer safety. In addition to the mandated policies, agencies maintain written policies in many other areas of policing, including active threats to public safety, law enforcement role and authority, required and prohibited conduct, firearms, and missing persons.

Training

In addition to the 720-hour Basic Law Enforcement Training Program, all law enforcement officers in Maine must complete 40 hours of continuing education or in-service training every two years. This training typically includes 8-10 hours per year in topics mandated by the Board of Trustees and elective topics at the discretion of an agency's chief law enforcement officer. In recent times, in addition to annual training in new statutory and case law and firearms requalification, mandated topics included implicit bias, civil rights, bias-based profiling, eyewitness identification, critical thinking in law enforcement, situational use of force, handling critical incidents, substance use disorders, policing the teen brain, responding to mental health crises, sexual assaults, human trafficking, de-escalation, electronic evidence, and wellness and resiliency for law enforcement. Many agencies offer much more continuing education than that mandated by the Board of Trustees. Officers who fail to complete mandated training are subject to decertification.

Certification of Law Enforcement Officers; Disciplinary Action

Maine law empowers the Board of Trustees of the Maine Criminal Justice Academy to establish training and certification standards for all state, county, and municipal law enforcement officers. No person may act as a law enforcement officer in Maine without a certificate of eligibility (or license) issued by the Board of Trustees. Current law also provides authority for the Board to sanction an officer found to have committed misconduct through a variety of measures ranging from a written warning to the revocation of the officer's certificate. Before 1992, a law enforcement officer only faced revocation for a felony conviction. However, for the past 30 years, the Board, with legislative support, has exercised broader powers against an officer's certificate for a range of misconduct, including the failure to complete required training, a conviction for a crime, engaging in criminal conduct (regardless of whether there is a conviction), or violating the standards established by the Board for the legislatively mandated policies. Agencies are statutorily required to report potentially disqualifying conduct to the Board of Trustees, which not only triggers disciplinary action but precludes the so-called "officer shuffle" seen in many other states when an officer who has engaged in misconduct leaves an agency only to promptly gain employment with another. More recently, the Legislature further expanded the disciplinary authority of the Board to adopt rules establishing standards of conduct for law enforcement officers, the violation of which subjects an applicant or officer to disciplinary action. Moreover, any disciplinary action taken by the Board must be supported by a statement of findings and must be issued as a written decision of the Board, which are public records under the Freedom of Access Act.

National Police Misconduct Registry

The Maine Criminal Justice Academy participates in the National Decertification Index (NDI) by providing the names of officers whose certificates of eligibility have been revoked for misconduct. The Academy also queries the system to check the status of individuals who apply to work in law enforcement in Maine. While not all states participate in this system, it does serve as a national registry of licensing actions against officers who engage in misconduct. The NDI system is

accessed through [the International Associations of Directors of Law Enforcement Standards and Training \(IADLEST\)](#).

Chokeholds, Strangleholds, Carotid Holds

Chokeholds, strangleholds, carotid holds, and other forms of neck restraint that create a substantial risk of causing death or serious bodily injury constitute deadly force. Accordingly, such methods are not an acceptable or approved means of arrest, restraint, or control unless circumstances justify the use of deadly force. There is no sanctioned training for officers in the use of neck restraints, and law enforcement policies prohibit the use of such methods unless legally justified under particular circumstances.

De-escalation

De-escalation is communicating verbally or non-verbally during a potential force encounter to stabilize the situation and reduce the immediacy of a threat so that more time, options, and resources may be called upon to resolve the situation without the use of force or with a diminution in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning. De-escalation training equips officers with tactics and strategies to effectively communicate with a person in crisis to minimize the likelihood of a physical confrontation and to resolve interactions peacefully. In addition to a variety of classes and scenario-based training, de-escalation is a key component in the Mental Health First Aid training (MHFA) that has been part of the basic training for cadets at the Maine Criminal Justice Academy since 2015. De-escalation is also the principal component of the more comprehensive Crisis Intervention Team (CIT) training, provided to officers by the Maine chapter of the National Alliance on Mental Illness (NAMI Maine). State law requires training for at least 20% of officers in each Maine law enforcement agency in MHFA or CIT. Most agencies far exceed this requirement. Within the standards promulgated by the Board of Trustees of the Maine Criminal Justice Academy for the Use of Force policy is a requirement for de-escalation when an officer can do so without exposing the officer or a third party to unnecessary risk. Maine's model of "situational use of force" includes de-escalation, and officers typically use all reasonable efforts to verbally de-escalate a situation before using physical force.

Use-of-force Continuum

About 17 years ago, the Board of Trustees of the Maine Criminal Justice Academy adopted a "situational use of force" model. Use-of-force continuums, "stair-stepping" methodologies, are outdated; they do not accurately reflect the dynamic nature of potentially violent situations in which there is a constant and continuing assessment of the entire range of officer, subject, and force options throughout the course of the interaction. As defined in Maine law enforcement policy, "situational use of force" is a dynamic process by which an officer assesses, plans, and responds to situations that threaten public and officer safety and requires the use of force and control. The process includes an assessment of the situation and circumstances immediately confronting the officer, including but not limited to the severity of the crime or suspected offense, the level and imminency of any threat to the officer(s) or public, the level of resistance, the risk or apparent attempt to flee or escape, the subject's assaultive, or life-threatening), and the officer's

perceptions and tactical considerations. Based on this assessment, the officer selects from the available officer response options while continuing to evaluate the evolving situation, adapting a plan and actions that are appropriate and effective in bringing the situation under control. This model, and others like them, are much more flexible than use-of-force continuums because they teach officers how to think in a structured, organized way about what they are facing and the best approach to handling a situation.

Warning Before Shooting

While only recently an issue of whether constitutional law requires a warning in situations of self-defense, current training and practice in Maine requires a warning, if feasible, before shooting at a suspect. The mandated standards of the Maine Criminal Justice Academy and the model use of force policy of the Maine Chiefs of Police Association reflect this requirement.

Duty to Intervene

While the “duty to intervene” in any situation of officers acting outside the law or policy has always been a staple of training at the Maine Criminal Justice Academy, the obligation to intervene is now one of the required provisions of any use-of-force policy for law enforcement agencies in Maine. Specifically, an officer who believes another officer is using excessive force has an affirmative duty to not only intervene to protect the safety and the rights of an individual, but an affirmative duty to report the behavior to superiors.

Shooting at Moving Vehicles

Present law in Maine reflects the belief that shooting in the direction of a person or shooting at a moving vehicle creates a substantial risk of causing death or serious bodily injury. Thus, doing so constitutes an unlawful application of deadly force, unless the circumstances justify deadly force.

Independent Investigations of Use-of-force

Before 1995, the Maine Office of the Attorney General conducted an independent investigation of any use of force by law enforcement that resulted in the death of an individual. This was in keeping with a 1967 legislative mandate that granted exclusive jurisdiction to the Attorney General for any investigation or prosecution of a homicide in Maine. Since 1995, because of an additional legislative mandate, the Office of the Attorney General has conducted independent criminal investigations of all uses of deadly force by law enforcement regardless of the outcome. The detectives who conduct these investigations are independent of any other law enforcement agency. The purpose of the criminal investigation is to determine legal justification under Maine law. Thus, the investigation does not include an analysis of whether any personnel action is warranted, whether the use of deadly force could have been averted, or whether there may be civil liability.

Deadly Force Review Panel

The Maine Legislature in late 2019 created [an independent Deadly Force Review Panel](#) whose charge is to examine deaths or serious injuries resulting from the use of deadly force by a law enforcement officer. These reviews occur after the Attorney General completes the criminal investigation. The purpose of the review by the Deadly Force Review Panel is to identify whether

there was compliance with accepted and best practices and whether the practices require adjustment or improvement. The panel is responsible for recommending methods of improving standards, including changes in statutes, rules, training, policies, and procedures that demonstrate increased public and officer safety. Since its inception, the Panel has reviewed and issued reports on 19 cases where law enforcement officers used deadly force. The Panel meets monthly and reports its observations and recommendations to the Joint Standing Committee on the Judiciary. The Panel has issued two annual reports for 2020 and 2021 and will soon issue its 2022 annual report.

Comprehensive Reporting of Use of Force

The FBI launched the National Use of Force Data Collection Program on January 1, 2019. By the second quarter of 2022, only 43 percent of all federal, state, county, local, and tribal law enforcement agencies in the nation were providing use-of-force data to the national collection. The officers employed by these reporting agencies represent 61 percent of all sworn officers in the nation. Significantly, in September 2022, Maine was recognized by the FBI for leading the nation in its 100 percent participation in the National Use-of-Force Data Collection. In addition to participating in the national data collection program, Maine requires an officer to submit a standardized use-of-force report to the officer's agency anytime the officer uses physical force. While there is no statewide central repository for individual agency use-of-force reports, every law enforcement agency in the state annually submits information to the Board of Trustees of the Maine Criminal Justice Academy reflecting the total number of complaints of excessive use of force, the disposition of the complaints, and a description of any corrective, remedial, disciplinary, or legal action.

Training on Bias-based Profiling

Bias-based profiling is targeting an individual based on a trait common to a group for enforcement action to include, but not limited to race, ethnicity, gender, sexual orientation, gender identity, religion, socioeconomic status, age, national origin, or ancestry. Basic training for law enforcement officers at the Maine Criminal Justice Academy includes a variety of topics related to bias-based profiling. These include sessions in civil rights, cultural diversity, and implicit human bias within the 18-week training curricula. In 2016 and again in 2021, the Academy's Board of Trustees required all law enforcement officers (about 2,900 full-time and 600 part-time) in Maine to receive in-service training on implicit bias. Implicit bias training reflects that Maine law enforcement officers live and work in multicultural communities and must be able to effectively interact with a variety of people. Officers are taught to become aware of cultural differences in their communities to support positive communication and effective policing and to examine their own biases and prejudices to avoid discriminatory behaviors. Law enforcement ethics, professionalism, and the laws that the Legislature, the elected representatives of the Maine people, have given to us bind officers to carry out their duties fairly and impartially. The Attorney General, recognizing that the lack of data on such a critical issue is unacceptable, adopted a procedure for addressing bias-based complaints that formalizes an informal protocol that has been in place since 1993. Specifically, the protocol provides that members of the public may file complaints of bias-based profiling with the Office of the Attorney General. In addition, consistent with a recent

amendment to the policy standards of the Academy's Board of Trustees, law enforcement agencies must report any complaint of bias-based profiling to the Office of the Attorney General. The ability to maintain a central statewide repository of bias-based profiling complaints is an important first step in understanding the scope of the issue in Maine.

Civil Rights Officers

By law, every law enforcement agency in Maine is required to have a written policy on investigating hate or bias crimes that, at a minimum, incorporate standards promulgated by the Board of Trustees of the Maine Criminal Justice Academy. Among other standards, the policy must include a provision that prohibits stops, detentions, and searches based on race, ethnicity, gender, sexual orientation, gender identity, religion, socioeconomic status, age, national origin, or ancestry by law enforcement officers. Individuals may be stopped or detained only when legal authority exists to do so and officers must base their enforcement actions solely on an individual's conduct and behavior or specific suspect information. In addition, agencies must adopt a policy regarding enforcement of the Maine Civil Rights Act, which includes a requirement that every law enforcement agency designate a trained Civil Rights Officer, whose function includes assuring that evidence of violations is properly documented and preserved, all victims and witnesses are thoroughly interviewed, and working collaboratively with the Office of the Attorney General in the enforcement of the Act. In collaboration with the Maine Criminal Justice Academy, the Office of the Attorney General provides continuous training for new and existing civil rights officers and has conducted four full-day training sessions in the past two-and-a-half years with a new session scheduled for February 2023.

Data Collection to Eliminate Profiling in Maine

Beginning on July 1, 2023, law enforcement agencies in Maine are required to collect information about each person stopped for a traffic violation. The information must include the characteristics of race, color, ethnicity, gender, and age of those persons. The identification of such characteristics must be based on the observation and perception of the law enforcement officer responsible for reporting the stop. The person stopped may not be required to provide the information. The information must also include whether a warning or citation was issued, an arrest was made, or a search was conducted as a result of the stop. Each law enforcement agency must report the information to the Attorney General, who is required to report the information, along with analysis and any recommendations, to the Joint Standing Committee on the Judiciary and the Joint Standing Committee on Criminal Justice and Public Safety beginning January 15, 2024, and annually thereafter. The report must be made available to the public. The Attorney General is directed to adopt rules governing the recording, retention, and reporting of the information. In adopting the rules, the Attorney General must consult with the Commissioner of Public Safety and other interested parties, including law enforcement agencies and community professionals, research, civil liberties, and civil rights organizations, and persons with lived experience of being profiled. The Attorney General must ensure that the parties consulted represent the racial and ethnic diversity of the State.

Unannounced Execution of Warrants ("No-knock" Warrants)

"No Knock" warrants are court orders directing law enforcement to search a specific location for specific evidence of a crime without first announcing the authority and purpose before making entry into premises. These court orders are issued only upon an affidavit that is previously

reviewed by a prosecutor and a precise description of the special circumstances that justify an unannounced entry by law enforcement. Such circumstances are primarily limited to facts supporting the likelihood of evidence destruction, imminent escape, or, most importantly, the potential of suspects using force to repel entry by law enforcement. While “no knock” warrants were commonly issued in drug investigations in the 1980s and 1990s, Maine law enforcement has steadily moved away from seeking such warrants. For example, specially trained warrant service teams in Maine rarely undertake the service of “no knock” warrants for drug or other crimes, absent a substantiated threat to the safety of third parties, such as hostage situations, active shooters, or armed suspects. With the support of law enforcement, the Legislature recently enacted statutory provisions concerning “no-knock” search warrants that include a requirement that agencies adopt a written policy that incorporates at a minimum the standards promulgated by the Board of Trustees of the Maine Criminal Justice Academy. By law, any warrant is a no-knock warrant if it is executed without waiting at least 20 seconds after the announcement of authority and purpose before making entry. No-knock warrants are prohibited except when the warrant clearly states that providing notice before execution of the warrant would create an imminent risk of death or bodily harm to a law enforcement officer, an individual in the location named in the warrant, or an individual in the surrounding areas outside of the location named in the warrant, or when there is a recognized exception to the warrant requirement, such as exigent circumstances.

Body Worn Cameras

There are currently no legislative or other mandates in Maine that require law enforcement agencies to equip their officers with body-worn cameras. Nevertheless, many agencies use body-worn cameras either instead of or in addition to cruiser-mounted cameras. A recent legislative proposal to mandate the use of body-worn cameras was tabled in the wake of many unanswered questions in favor of a task force to study the many issues associated with the use of body-worn cameras, not the least of which involve significant privacy issues of persons who interact with law enforcement, including victims of crimes. More work is needed to assess these and other issues appropriately, including retention of and public access to video footage. Cost is also a significant factor, especially for the many communities in Maine that maintain small law enforcement agencies. The task force continues its deliberations, including the impact of a recent study commissioned by the Attorney General and undertaken by the Muskie Institute at the University of Southern Maine.

Maine Law Enforcement Accreditation Program (MLEAP)

The Maine Law Enforcement Accreditation Program (MLEAP) is an accreditation program for Maine law enforcement agencies developed in 2020 by the Maine Chiefs of Police Association. It features 158 standards to ensure that an agency has addressed the most critical of law enforcement issues in both policy and operations. To achieve accreditation status, an agency must undergo self-assessment, as well as evaluation by trained assessors, and must show compliance with best business practices for professional law enforcement. This status demonstrates the agency’s commitment to accountability, consistency, and transparency. MLEAP standards cover all critical aspects of law enforcement operations, such as the use of force, protection of citizen rights, pursuits, property and evidence management, and patrol and investigative operations. Accredited

agencies meet or exceed these standards, which reduces risk, enhances the agency's credibility, and demonstrates that Maine law enforcement agencies are deeply committed to professional excellence. Some Maine agencies have also worked to achieve national accreditation through the Commission on Accreditation for Law Enforcement Agencies (CALEA), a proven management system of written directives, sound training, clearly defined lines of authority, and routine reports and analysis that support decision-making and resource allocation. There are currently 15 Maine law enforcement agencies fully accredited under MLEAP, and an additional 22 agencies working toward full accreditation.

In Summation

Maine law enforcement stands as a national model for professional and progressive policing in many areas. The law enforcement community is engaged in a continuous cycle of analysis and change to always seek to improve its delivery of services. This commitment to growth and progress requires a self-critical eye and an open mind. We look forward to continued engagement with our communities and citizens.

January 1, 2023



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