

March 29, 2001
Opinion 01-53

Honorable Scott Lemoine
Chief of Police of Village of Moreauville
Post Office Box 57
Moreauville, La 71355

Dear Chief Lemoine:

This office is in receipt of your opinion request wherein you posed the following question, "If I work forty (40) hours a week and someone calls about a fight, accident, rape, or any other crime after hours will I be in violation of Malfeasance of Office if I do not respond to a call?"

The Village of Moreauville is a Lawrason Act municipality, governed by the provisions of LSA-R.S. 33:321, et seq. The chief of police has "general responsibility for law enforcement in the municipality, and shall be charged with the enforcement of all ordinances within the municipality and all applicable state laws ...". LSA-R.S. 33:423(A).

Louisiana revised statute 14:134 in pertinent part states:

Malfeasance in office is committed when any public officer or employee shall:

- (1) **Intentionally** refuse or **fail** to perform any duty lawfully required of him as such officer or employee

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Any duty lawfully required of a public officer or public employee when delegated by him to a public officer or public employee shall be deemed to be a lawful duty of such public officer or employee. The delegation of such duty shall not relieve the public officer or employee of his lawful duty.

Honorable Scott Lemoine
OPINION #01-53
Page 2

Louisiana State Constitution Article 10, § 24(A) provides:

"(A) Persons Liable. A state or district official, whether elected or appointed, shall be liable to impeachment for commission or conviction, during his term of office of a felony or for malfeasance or gross misconduct while in such office."

Furthermore, pursuant to the statute, as chief of police of Moreauville you are charged with the responsibility to enforce the ordinances, until such time as the board of aldermen sees fit to repeal them. Any intentional failure to enforce such ordinances would constitute a violation of the Malfeasance in Office statute.

Under the Malfeasance in Office statute the public officer or employee who does not perform any duty lawfully delegated to such person will be liable for such offense. As the chief law enforcement officer for the Village of Moreauville, even if you are able to delegate duties which have been assigned to the position you will remain liable for the performance of such duties, just as if the duties were non-delegable.

Any further assistance, please do not hesitate to call upon me at your convenience. Until then, I am

Sincerely yours,

RICHARD P. IEYOUB
ATTORNEY GENERAL

PEGGY T. GOODS
Assistant Attorney General

Opinion #01-53

Louisiana Revised Statute 14:134

Louisiana State Constitution art. 10 § 24(A)

60 Law Officers – Authority & Jurisdiction

Furthermore, pursuant to statute, as chief of police of Moreauville, you are charged with the responsibility to enforce the ordinances, until such time as the board of aldermen sees fit to repeal them. Any intentional or failure to enforce such ordinances would constitute a violation of Malfeasance in Office.

Honorable Scott Lemoine
Chief of Police Village of Moreauville
Post Office Box 57
Moreauville, Louisiana 71355

Date Received:

Date Released: March 29, 2001

PEGGY T. GOODS
ASSISTANT ATTORNEY GENERAL