

Probation Commission through §948.02, F. S., clearly contemplate that the commission, in supervising the probationer, assist the court in the collection of any moneys imposed by the order of probation. However, the statutes delineating the duties of the Parole and Probation Commission are silent as to the authority to disburse such funds, including maintaining bank accounts for such purposes.

Inasmuch as an order of probation is a judicial order, amendable by the court (§948.03(2), F. S.), proper disbursement of funds should be handled through the clerk of said court. Indeed, a clerk of the circuit court is specifically required to be bonded to faithfully discharge his duties, including the handling of funds (§28.01, F. S.). Further, the legislature has specifically established certain funds, including the fine and forfeiture fund, requiring the clerks of the courts to report such funds to the county (§142.03, F. S.).

Therefore, all funds collected pursuant to an order of probation should be deposited with the office of the clerk of the court entering the order of probation, and disbursed through said clerk's office.

073-284—August 14, 1973

PUBLIC FUNDS

LAW ENFORCEMENT EDUCATION EXPENDITURES

To: Robert L. Brown, Monroe County Sheriff, Key West

Prepared by: A. S. Johnston, Assistant Attorney General

QUESTIONS:

1. May the salaries of personnel of a sheriff's department attending training classes during other than normal duty hours be paid from the fund consisting of assessments collected under §23.105, F. S.?
2. May a sheriff's department purchase riot equipment for training which will also be used for normal work?

SUMMARY

Section 23.105, F. S., does not permit the payment of salaries to law enforcement officers attending training courses during other than normal day hours to be paid from the fund derived by the assessment permitted by the statute. It will allow the purchase of riot equipment for training of personnel provided there is an organized training program to utilize such riot equipment.

I respond in the negative. There is no judicial interpretation in regard to the meaning of §23.105, F. S., and, in the absence of such a determination, the language of the statute itself must be turned to and an attempt made to arrive at the legislative intent under which the statute became law. The pertinent language of the statute relating to the purpose of the one dollar levy is that the assessment be used for "law enforcement education expenditures for their respective law enforcement officers." When this language is read *in pari materia* with the other sections of the Florida Police Academy Act or Part VI of Ch. 23, F. S., it is clear that it was the legislative intent to provide funds for law enforcement educational expenditures and not to provide additional funds to local governmental agencies for salaries. The language of §23.105 is most clear that the funds derived from the one dollar assessment permitted by said section are to be used by the local governmental agencies for the *education* of their law enforcement officers. "Education" has been defined as the "[a]cquisition of all knowledge tending to develop and train the individual." *Mitchell v. Reeves*, 196 A. 785 (Conn. 1938). It has further been held that "education" is not confined to the improvement and cultivation of the mind

but may consist of the cultivation of one's physical faculties: *Commissioners of District of Columbia v. Shannon*, 17 F.2d 219 (D.C. Cir. 1927). With this examination of the exact language of the statute, I must advise you that salaries of law enforcement officers attending training classes during other than normal duty hours cannot be paid to law enforcement personnel attending training classes from funds derived from the assessment permitted by §23.105.

Your second question is answered in the affirmative provided, however, that there is an existing training program that will utilize the riot equipment for the training and development of the department personnel as a part of the department's overall educational training program. This response does not approve the purchase of riot equipment for use by the department if the same is not a part of an organized training program.

073-285—August 15, 1973

REPLEVIN

REPOSSESSION OF PERSONAL PROPERTY

To: E. A. Doug Hendry, Collier County Sheriff, Naples

Prepared by: Enoch J. Whitney, Assistant Attorney General

QUESTION:

Does a reposessor, licensed pursuant to §§493.01-493.27, F. S., have the authority under §493.25(1) to repossess personal property (motor vehicles, goods, and chattels) without seeking a writ of replevin pursuant to Ch. 78, F. S.?

SUMMARY:

An individual or agency licensed to repossess personal property is required by §493.25(1), F. S., to receive authorization to act as reposessor from the legal owner or mortgagee of the property. The repossession is to be accomplished under the replevin law, Ch. 78, F. S., as created by Ch. 73-20, Laws of Florida, and the possessor of the property is ordinarily entitled to a court hearing before the property is repossessed.

Section 493.25(1), F. S., provides:

Licensees and employees acting as repossessors shall be prohibited from: . . . [r]ecovering personal property including personal property registered under the motor vehicle code, which has been sold under a conditional sales agreement or under the terms of a chattel mortgage *before authorization has been received from the legal owner of such property or from the mortgagee* when such personal property is subject to the terms of a chattel mortgage. (Emphasis supplied.)

The above-quoted statutory provisions must be construed *in pari materia* with all other laws on the same or similar subjects, *State v. Hayles*, 240 So.2d 1 (Fla. 1970); and *State ex rel. McClure v. Sullivan*, 43 So.2d 438 (Fla. 1950). In this respect, Ch. 73-20, Laws of Florida, pertains to §§78.01-78.21, F. S., providing procedures for the recovery of personal property wrongfully detained, and authorizing the issuance of a writ of replevin to accomplish such purpose. It is important to note that the possessor of personal property is entitled to a court hearing before a writ of replevin may issue, unless an emergency exists which might endanger the property. See §§78.065, 78.067, and 78.073, *supra*.

When the foregoing statutes are construed *in pari materia*, as discussed above,