

MAINE STATE LEGISLATURE

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September 26, 1961

Peter W. Bowman, M.D., Sup't.

Pineland Hospital & Training Center

Courtland D. Perry, II, Ass't. Atty. Gen'l.

Mental Health and Corrections

Rules and Regulations - Public Ways and Parking Areas

After considering the rules and regulations which you submitted, I have come to the following conclusions:

Section 8, except for part F should be deleted. Your rules relating to lost and mutilated Pineland plates are improperly included in the rules and regulations in question since they are merely advisory and none of the penalties under Section 7.E would apply thereto. The same is true with the speparation from employment provision and the provision regarding freedom from liability of the State and the Institution. Perhaps these rules could be better handles by posted notices.

As to your question regarding the search of vehicles for property stolen from the Institution, the rules and regulations were not intended to cover such offenses but should be limited to the parking and movement of vehicles. Employees serving in the capacity of special police officers, enforcing your rules and regulations may not search vehicles. It is my understanding that your officers also serve in the capacity of Deputy Sheriff's in which capacity they may search vehicles for probable cause. Probable cause includes more than good faith and mere suspicion. The case of *Stacey v. Emery*, 97 U.S., 642 at 645, sets forth the following definition: "Probable cause exists if the facts and circumstances known to the officer warrant a prudent man in believing that the offense has been committed." Due to the mobile nature of a motor vehicle, search upon probable cause as defined above may be made without a warrant.

The statement that entrance upon the property of Pineland Hospital and Training Center is a privelege and not a right appears several times in your rules and regulations as submitted. Since the Pineland grounds are State property this statement is in error except when Chapter 131, §37 of the Revised Statutes of Maine, 1954, comes into play, namely, where there is a wilfull trespass upon the property.