

MAINE STATE LEGISLATURE

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JOSEPH E. BRENNAN
ATTORNEY GENERAL



RICHARD S. COHEN
JOHN M. R. PATERSON
DONALD G. ALEXANDER
DEPUTY ATTORNEYS GENERAL

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

April 28, 1976

Theresa O'Malley
Office of the District Attorney
Prosecutorial District Number Two
142 Federal Street
Portland, Maine 04111

Dear Theresa:

I am in receipt of your letter of March 23, 1976, wherein you asked whether a juvenile who has been bound over for action by the grand jury can be treated as an adult in the jail where he is being held rather than segregated from other criminal offenders.

There is no specific statute covering this precise issue, but it is my opinion that such a juvenile may be treated as an adult. Under 15 M.R.S.A. §2554, the Superior Court must treat a juvenile who has been bound over for action by the grand jury the same as any other criminal offender. The bind over decision removes the jurisdiction of the Juvenile Court. Under these circumstances, it seems the juvenile may be treated as an adult in jail.

I would like to point out that the result is not the same if a juvenile, who has been adjudicated to have committed a juvenile offense, appeals this decision to the Superior Court. Under 15 M.R.S.A. §2663, custody or detention would be determined consistent with 15 M.R.S.A. §2608, i.e. the juvenile would have to be segregated from criminal offenders.

Theresa O'Malley

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As a practical matter, you may want to discuss this issue with the presiding justice to assure that there is no misunderstanding and also to determine the exact time when such a juvenile could be placed in with other criminal offenders. For example, it would seem premature to place a juvenile with other criminal offenders if the period of time in which a Petition for Review of the bind over decision must be sought has not expired.

If I may be of any further assistance in this matter, please do not hesitate to call upon me.

Very truly yours,

JOSEPH E. BRENNAN
Attorney General

JEB/rh



STATE OF MAINE
DISTRICT ATTORNEY
PROSECUTORIAL DISTRICT
NUMBER TWO

HENRY N. BERRY III
DISTRICT ATTORNEY
PETER G. BALLOU
JAMES A. CONNELLAN
THEODORE K. HOCH
RICHARD J. KELLY
ERNEST L. MANDERSON
ASSISTANTS

142 FEDERAL STREET
PORTLAND, MAINE 04111
(207) 772-2838

March 23, 1976

Honorable Joseph E. Brennan
Attorney General
State House
Augusta, Maine 04330

Dear Joe:

I know you are extremely busy and your schedule must be a hectic one. I would like to ask you the following question and perhaps if you have a moment, you could advise me.

Steve Leeman, who is the assistant jail administrator at the Cumberland County Jail, would like to know if a juvenile is being tried in the court system as an adult, why can't the County Jail treat him as such. As it is now, any juvenile, regardless of the charge against him, has to be isolated and literally treated as a child. In other words, Joe, I guess they have to babysit for them. He has checked the Statutes for an answer and cannot find anything relating to this.

Can you shed any light on this so that I may relate this to Steve?

Best regards,


Theresa

TO/to'