

MAINE STATE LEGISLATURE

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DEPARTMENT OF THE ATTORNEY GENERAL
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April 19, 1977

Honorable Peter W. Danton
Senate Chambers
State House
Augusta, Maine

Dear Senator Danton:

On April 1, 1977, we expressed our opinion to you that York County could build a new county jail on land purchased by the county within the Town of Alfred. It is our understanding that you have a further question in this regard, which is: "What is a 'county jail'?" It is our opinion that a "county jail" is a structure designated by the county commissioners to serve the several functions of a jail and which satisfies certain basic requirements to make it suitable for these functions.

While there are many references in the Revised Statutes to "county jails," there is no statutory definition of this term. References are found, for example, in 34 MRSA §§ 1047 and 1048, 30 MRSA § 301, and 15 MRSA § 1704. The latter statutory section provides, "Any person sentenced by the District Court to a term of imprisonment in a jail, not exceeding four months, shall be committed to the jail in the county in which such person is convicted, provided such county has a suitable jail, otherwise such commitment may be to any jail in the State." Incarceration of prisoners for at least limited periods, therefore, is one of the functions of a "county jail."

There is very little case law on the question of county jails, presumably because the meaning of this term is commonly accepted without becoming an issue in litigation.

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However, two cases should be noted. In Grab v. Lucas, 146, N.W. 504 (Wis., 1914), the Wisconsin Supreme Court stated:

"While the primary function of a jail is a place of detention for persons committed thereto, under sentence of a court, they are also the proper and usual places where persons under arrest or awaiting trial are kept till they appear in court and the charge against them is disposed of."

A case which is even more on point is McArthur v. Campbell, 280 S.W. 2d 219 (Ark., 1955). In that case a county citizen filed a complaint to block a local election which was to authorize county officials to build a new county jail. The election was necessary in order to finance the jail, which was designed to house delinquent juveniles. The issue presented in the case was whether a facility for delinquent juveniles is a "county jail" for purposes of a constitutional provision which would allow electors to authorize construction, reconstruction or extension of any county jail. The Court held that such facility did come within the definition of "county jail," and made the following statements:

"It is generally known that a county jail is a building where a person or persons may be legally detained for many different reasons, for investigation and observation to answer a charge of some offense, to serve out a fine, to await transfer to another state, or another prison and for many other reasons.


"A county jail, whether for adults or juveniles in the common acception of the term is a place for the legal detention of all persons, who come within the provisions of our laws which authorizes our law enforcement officers to detain them."

In light of the foregoing, it is our opinion that a "county jail" is any suitable structure or facility designated by or constructed by the county commissioners to fullfil those

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functions which are normally performed by such facility. It should be noted that the question of "suitability" would be governed in large part by extensive regulations promulgated by the Department of Mental Health & Corrections with regard to county jails.

Sincerely,


JOSEPH E. BRENNAN
Attorney General

JEB/sks:we