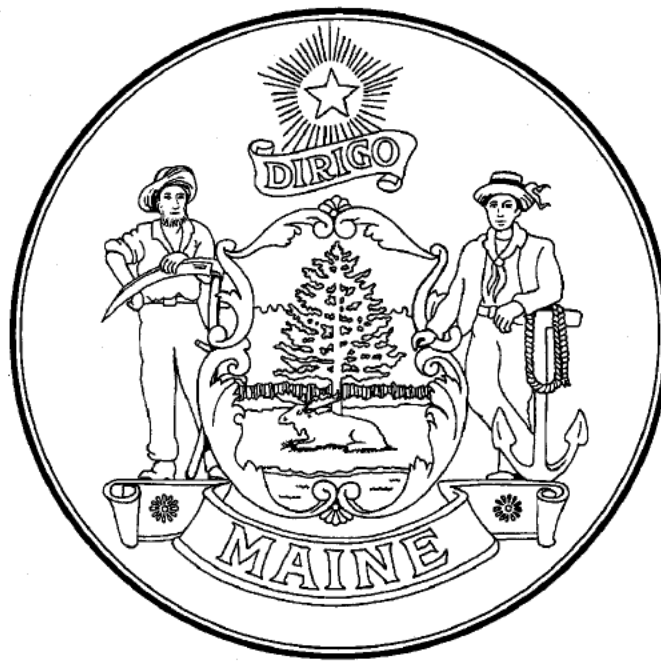


MAINE STATE LEGISLATURE

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Sheriff Mark N. Dion
Cumberland County Sheriff's Office
36 County Way
Portland, ME 04102-2755

RE: Community Corrections Program Account

Dear Sheriff Dion:

This letter addresses the question directed to our office by Genie Beaulieu on your behalf as to whether Community Corrections Program Account funds may be used to pay the local match of a federal grant to fund juvenile prosecutor positions. Attached to Ms. Beaulieu's letter is a copy of District Attorney Stephanie Anderson's request that you release a specific amount of funds for this purpose. District Attorney Anderson also included with her request a description of the services performed by the current juvenile prosecutors that she believes qualify for this funding.

The answer to your inquiry depends upon whether the funds will be used to deliver "community corrections" services as defined by 34-A M.R.S.A. § 1210-A(1)(A), a determination that is largely fact-based. Setting aside the policy and practical considerations involved, I offer the following guidance concerning the legal standards applicable to that issue.

Title 34-A M.R.S.A. § 1210-A establishes the County Jail Prison Support and Community Corrections Fund. Monies for this fund are distributed by the Maine Department of Corrections to the counties pursuant to a formula set forth by statute. See 34-A M.R.S.A. § 1210-A(3). The funds are made available to counties, in part, as reimbursement for their cost of supporting prisoners detained or sentenced to county jails. See 34-A M.R.S.A. § 1210-A(4). Each county treasurer, however, is directed by statute to place 20% of the funds into a separate Community Corrections Program Account that "may be used only for adult or juvenile community corrections" as that term is defined in 34-A M.R.S.A. § 1210-A(1).

"Community Corrections" as defined by § 1210-A(1) is "the delivery of *correctional services* for juveniles or adults ... by the county or for the county under contract with the public or private entity." (emphasis added) The statute further sets forth the types of correctional services that fall under the umbrella of "Community Corrections" as follows:

"Community Corrections" includes, but is not limited to, preventive or diversionary correctional programs, pre-trial release or conditional release programs, alternative sentencing or housing programs, electronic monitoring, residential treatment and halfway house programs, community correctional centers, and temporary release programs from a facility for the detention or confinement of persons convicted of crimes or adjudicated delinquents."

"Community corrections," as can be gleaned from the non-exclusive list of services expressly included within the definition under § 1210-A (1)(A), are services and programs for the prevention, treatment, and supervision of offenders. The unique role and function of the District Attorney's Office in the juvenile justice system is essentially prosecutorial in nature, and typically involves services that would not appear to meet the definition of "community corrections" services. However, in support of her request for funds, District Attorney Anderson points out that the juvenile prosecutors in her office have engaged in a number of community corrections initiatives and programs.

The community services funds distributed by the Department are entirely state funds, i.e., no federal funds are involved. The Department is directed to provide technical support to counties and county advisory groups to assist in the development of community corrections. §1210-A(7). It is my understanding that while the Department offers advice to the counties concerning the eligibility of specific programs for these funds, there is no audit function undertaken by the Department. Rather, each county reports on an annual basis directly to the Legislature concerning their use of these funds, and are required to provide a description of their programs as well as "an accounting of expenditures for its community corrections." §1210-A(6).

The key factual determinations that must be made are whether the position for which the funds are sought provides community corrections program services and, if so, whether the level of those services is commensurate with the level of funding sought. If a county decides to provide partial funding for a juvenile prosecutor position on this basis, I do not see a legal bar to its doing so. By the same token, a county may choose not to provide partial funding for such a position. Decisions about which eligible community corrections programs to fund are left to the county. In the event that a particular use of funds is viewed by the Legislature as outside the purpose for which the program funds were intended, the reporting mechanism provides an opportunity for the Legislature to further clarify eligible services under 34-A M.R.S.A. § 1210-A(1).

Please let me know if I can be of any further assistance.

Sincerely,



G. Steven Rowe
Attorney General

GSR/djp