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**ATTORNEY GENERAL CLARIFIES THE SCOPE OF THE TERM
“CORRECTIONAL FACILITY” IN MARYLAND CONTRABAND LAW**

83 Opinions of the Attorney General ___ (1998)

1998 WL 253725 (Md. A.G.) (April 29, 1998)

By Steven E. Shane

This Opinion of the Attorney General of Maryland (“Office of the Attorney General”) focuses on the interpretation of Article 27, Section 122A of the Annotated Code of Maryland (“the statute”). This section addresses the handling of certain types of contraband within a state correctional facility. Whereas the term “correctional facility” is defined in Section 122A(a)(4) to include such places as prisons and jails, the statute also considers “[a]ny . . . other place of legal confinement,” to meet this definition. 1998 WL 253725, at *1. The Office of the Attorney General, in its analysis, sought to clarify the nature and scope of the definition and, specifically, to ascertain whether (1) state mental health facilities where individuals are committed after a finding that they are not criminally responsible, or (2) any other facility where juveniles are confined fit within the meaning of the statute.

As part of its statutory construction, the Attorney General’s opinion examined the statutory language in varying contexts. Such analysis included the historical context of the original bill’s title and function, the legislative history of the bill and the bill’s relationship to other similar legislation. *Id.* at *2. The Office of the Attorney General narrowly interpreted the statute, concluding that the definition of “other place of confinement” included those places that house prisoners charged or convicted of crimes, but chose not to expand the meaning of the phrase much beyond that interpretation. *Id.* at *4.

The Office of the Attorney General noted that in the legislature’s original enactment of the statute, all references to penal institutions included only those under the jurisdiction of the Department of Correction. *Id.* at *3. Historically, the Department of Correction was not responsible for juvenile facilities and state mental hospitals that were controlled by the State Department of Public Welfare. *Id.* Similarly, specific statutes distinguish between those detention centers classified as juvenile facilities and those characterized as penal institutions. *Id.* Furthermore, the Court of Appeals of Maryland characterized the terms “jails,” “detention centers,” and “correctional institutions” as housing adults charged or convicted of crimes as distinguished from juvenile facilities. *Id.* The Office of the Attorney General concluded that the legislature’s intention was to preserve the original meaning of Section 122A and not to broaden the scope of the statute’s interpretation by including hospitals or juvenile facilities within the definition of correctional facilities. *Id.* at *1.

The Office of the Attorney General opined that “any other place of legal confinement” under this construction applies only to those facilities where persons are lawfully detained because they have been charged or found guilty of a crime. *Id.* at *4. Facilities, including juvenile detention centers and hospitals, do not meet this definition. Historically, unless a statute expressly included such institutions, they were not categorized as penal facilities. *Id.*