

July 13, 1971

OPINION LETTER NO. 353
Answered by Klaffenbach

Honorable Ronald R. McKenzie
Prosecuting Attorney
Marion County
Tower Plaza Office Building
Hannibal, Missouri 63401



Dear Mr. McKenzie:

This letter is in response to your opinion request in which you ask the following two questions:

"1. If an additional County Jail may be built in Hannibal, Missouri, or another place in said County, must said County maintain a County Jail at the County Seat of Marion County, at Palmyra, Mo.

"2. May the County Court build and maintain an additional County Jail at Hannibal, Missouri, or any-other place in the County it chooses -- that is, if the County Court decided to build an additional County Jail, other than or in addition to the County Jail at Palmyra, Missouri, must it be built in Hannibal, Missouri, or could it be built - say - midway between Palmyra and Hannibal, Missouri, but in Marion County."

You have indicated and are correct of course that the county seat of Marion County is Palmyra and the Hannibal Court of Common Pleas is held at Hannibal, Missouri.

In answer to your second question first, you have also indicated that you have a copy of Opinion No. 88, dated April 1, 1971, to the Honorable A. J. Seier in which we held that unless the exceptions to Section 49.310, RSMo 1969, apply the jail must be erected at the county seat. We believe that this opinion answers your second question. That is, the Hannibal Court of Common Pleas

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is established under Section 480.190, RSMo 1969, and under Section 480.200, RSMo 1969, within the limits of Mason and Miller townships in the County of Marion exercises exclusive original jurisdiction in all civil actions and also in all criminal actions as are had and exercised by the circuit courts of this state.

Section 49.310 authorizes the county court to construct a jail at more than one place when more than one place is provided by law for holding of court. Therefore, in the premises the county court has authority to build a jail at both Palmyra in Marion County and at Hannibal. It does not have authority to build a jail anyplace else in Marion County and therefore, does not have authority to build a jail at a location between Palmyra and Hannibal.

In answer to your first question while we might reach a different result if the legislature authorized the holding of such court at two places not including the county seat, it is our view that this section does not authorize the building of a jail at only Hannibal and not at the county seat at Palmyra. In the premises Section 49.310 requires that the jail be at the county seat but authorizes the building of an additional jail at Hannibal where the Court of Common Pleas is located.

Very truly yours,

JOHN C. DANFORTH
Attorney General