**Legal Analysis**

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**AUTHORITY TO LOCATE AND OPERATE JAIL FACILITIES**

**First question:   Whether Clark County can contract for jail services with a private entity.**

The answer appears to be no.  RCW 70.48.090 specifically provides that contracts for jail services may be made **within a county and a city, and among counties and cities** (RCW 70.48.180(1)) and a city or county may contract for jail services **with an adjacent county, or city in an adjacent county, in a neighboring state** (RCW 70.48.090(2)).

Here, the entity we would want to contract for the WAPATO jail is a private entity; not an adjacent city or county in a neighboring state.  It is my opinion, based on RCW 70.48.090, that Clark County cannot contract for jail services with the private entity who owns the Wapato jail.

**Second Question:  Whether a County jail can be located outside the County.**

The answer appears to be no.  RCW 70.48.180 specifically states:  “Counties may acquire, build, operate, and maintain holding, detention, special detention, and correctional facilities as defined in RCW 70.48.020 at any place designated by the county legislative authority **within the territorial limits of the county**.  The facilities shall comply with chapter 70.48 RCW and the rules adopted thereunder.”

The case of *Thurston County v. Board of County Commissioners*, 151 Wash.2d 171 (2004) is on point.  In that case, Thurston County filed a complaint against two cities for a declaratory judgment seeking a determination that a new justice center containing courts and other law and justice facilities, including a jail, be located outside the county seat.  Specifically, the new facilities would be located one-half mile outside the boundaries of Olympia in the city of Tumwater.  The parties filed cross-motions for summary judgment.  The Superior Court in Thurston County ruled in favor of the cities.  The County appealed.  The Supreme Court held the county was not authorized to relocate its courts and other law and justice facilities (including jail) outside the county seat.

In regards to the jail, the Court relied on RCW 70.48.180 “Counties may acquire, build, operate and maintain holding, detention, special detention, and correctional facilities . . . at any place designated by the county legislative authority **within the territorial limits of the county**.”

The Court also relied on an attorney general letter opinion:

“A 1974 attorney general letter opinion (AGLO) is particularly instructive here.  The AGLO reviewed the statutes involved in this case to determine whether county commissioners could locate a courthouse outside a county seat and concluded that it was not ‘legally permissible . . . in constructing and maintaining a courthouse . . . to locate that facility outside of the territorial limits of the city which has been designated as the county seat.’”  1974 Letter Op. Att’y Gen. No. 36, at 3; *Thurston County v. BOCC,* 151 Wash. 2d at 177.

“Here, the relevant statutory authority requiring certain offices and facilities of county government to be located ‘at the county seat,’ means ‘in’ or ‘within the county seat of Olympia.’”  *Id.* at 178.

Applying this rule here, the Clark County Jail must be located within the county seat of Clark County.

Finally, while not dispositive of the issue, the Supreme Court discussed the purpose of enacting the statutes to keep the jail and other government offices within the county seat:

“This conclusion is consistent with the purpose behind the enactment of the statutes requiring that certain offices and facilities of county government be located ‘at the county seat.’  These statutes exist because the legislature wanted to provide a central, convenient location for county business, which is readily known and available to all inhabitants of the county.”  *Id.* at 178-179.

Based on the foregoing, it is my opinion the Clark County Jail cannot be located outside of the county seat of Clark County.