
JAIL BULLETIN

NUMBER 38

FEBRUARY, 1988

This month's training bulletin is being devoted to the topic of Juvenile Jail Removal. Tim Austin, our Juvenile Jail Removal Coordinator, has prepared some background on the subject. He also provides information on what some of the federal regulations are and how they affect jail operations.

JUVENILE JAIL REMOVAL

Tim Austin was hired as a Juvenile Jail Removal Coordinator on December 1, 1987. He has been studying the Juvenile Justice and Delinquency Prevention (JJDP) Act and working with federal officials to find out exactly how it affects Nebraska.

He has also been attending meetings with advisory groups, intergovernmental planners, and local officials. He will be getting out to visit more jails in the immediate future to discuss local problems and help with alternatives. He will also be preparing information on programs being used as alternatives to juvenile jailing in other states. This information will then be made available across the state.

Juvenile Justice Act

In 1974, Congress passed the Juvenile Justice and Delinquency Prevention Act. This Act made available funds for use in implementing programs to eliminate the jailing of juveniles in adult jails. The State of Nebraska entered into this compact in 1980 and began receiving federal funds in 1981. In so doing, Nebraska agreed to the removal of all juveniles from adult jails (with some exceptions) by December 8, 1985. In 1985, the Office of Juvenile Justice and Delinquency Prevention extended the deadline for compliance to December 8, 1988. If Nebraska is not in compliance at that time, the state will no longer be able to receive these funds.

Court Cases

The loss of funds is only one repercussion of noncompliance with the federal regulations. The federal courts have time and again ruled against jails holding juveniles and will certainly continue. Beginning with Kent v. United States, the Supreme Court ruled that children should not be treated as adults. A U.S. District Court ruled in D.B. v. Tewksbury, that to "lodge a child in an adult jail pending adjudication of criminal charges against that child is a violation of that child's due process rights under the 14th amendment." In Cox v. Turley, a U. S. District Court said that preadjudication detention of juveniles is cruel and unusual punishment in violation of the 8th

amendment. In both Baker v. Hamilton and Swansey v. Elrod, federal courts ruled detention of juveniles in adult jails was cruel and unusual punishment. In Lollis v. New York State Department of Social Services a federal court ruled that putting juveniles in isolation to separate them from adults was cruel and inhumane and caused serious emotional distress. The federal court in Wyoming in Milovas v. Williams affirmed a permanent injunction enjoining the use of isolation for any reason other than to contain the physically violent.

Many federal court cases have ruled on medical procedures in juvenile institutions. They have ruled on the adequacy of medical screening at admission, the availability of medical services in general, and the availability of psychological services. They also have dealt with the handling of prescription medications and court ordered treatments as well as the right to refuse treatment. Suits for negligence or personal injury are also on the increase.

The Iowa Case

In April of 1987, the U.S. District Court for the Northern District of Iowa, ruled on Henderson v. Griggs, No. 2C84-3012. This case was a civil action filed on behalf of present and future juveniles who are or will be placed in the Webster County, Iowa Jail. Sheriff Griggs, County Board members, Director of the Crime Commission, and the Governor of Iowa were eventually included in the suit. The court ruled that the JJDP Act clearly conferred a special benefit upon a distinct class -- detained juveniles. The Act also conferred duties on the state. The Court refrained from ordering the state to return all the funds it had received from OJJDP, but ordered compliance by the end of 1987. The fact that the issue of returning large sums to the federal government was raised at all has caused some concern.

Juveniles in Jail

Besides many court rulings against holding juveniles with adults, there have been many studies of conditions of jails and the consequences of putting juveniles in them. The instances of physical and sexual assault on juveniles are well documented as are the high number of suicides. The suicide rate is eight times higher for juveniles held in adult jails as compared to juveniles held in juvenile detention centers.

Placing juveniles in jail can have a negative affect on their self-image at a time in their lives when they are struggling to establish a self-identity and to find their place in society. Jailing juveniles to teach them a lesson often backfires. Instead of serving to deter future misbehavior, it may reinforce a negative self-image that will push them into further trouble.

Sight and sound separation policies can also be detrimental to the juvenile. These policies protect the youth from physical or verbal abuse, but sometimes cause other problems. Because of limited staff or architectural limitations of the facility, juveniles are sometimes placed in solitary confinement cells that are normally used as punishment for problem adult prisoners. The juvenile is usually out of sight also of the staff and receives little supervision. This can cause a type of sensory deprivation that can be severely traumatic to a child or youth. This isolation and lack of supervision may help to explain the large number of suicides in adult jails. While in juvenile detention centers, there is constant supervision and a suicide rate lower than for the general population.

Federal Regulations

Federal regulations totally prohibit the placement of status offenders in adult jails. They do allow status offenders to be held for a maximum of 24 hours in a juvenile detention center. They define a status offender as someone whose actions would not be a violation of law if committed by an adult. This includes such things as runaways, truants, curfew violators, and minors in possession of alcohol. They are quite specific about the inclusion of juvenile M.I.P.'s regardless of what procedure may be followed with the adults 18 and over who are in violation.

Federal regulations do allow for holding of a juvenile for up to 6 hours for identification and processing. This is only if the juvenile is being charged with something other than a status offense and requires total separation from adults including sight and sound.

If charged with a felony, by federal standards the juvenile is considered an adult unless the case is transferred to juvenile court. When the juvenile is considered an adult, he/she loses the federal protection that a juvenile has. But state law still requires separation from adults for those under 16. Legislation to make Nebraska's law read juveniles under 18 is being considered.

Examples

A 13 year old runaway: cannot be held in jail at all. Deliver to a juvenile detention center or a juvenile holdover program for up to 24 hours or a foster home or group home.

A 17 year old runaway: same as for the 13 year old.

A 15 year old charged with a non-felony: can be held up to six hours for identification and processing with total separation from adult prisoners and if charge is not a status offense.

A 17 year old charged with a non-felony: same as for the 15 year old.

A 15 year old charged with a felony: If charged as a juvenile, they would be handled the same as a non-felony. If charged as an adult, then can be held in jail, but state law would still require sight and sound separation.

A 17 year old charged with a felony: If charged as a juvenile, they would be handled the same as a non-felony. If charged as an adult, they can be held in jail with no sight and sound requirements, unless state law is changed to include 16 and 17 year olds.

For more information on Nebraska's Jail Removal Initiative, contact:

Nebraska Juvenile Jail Removal Project
Nebraska Crime Commission
P. O. Box 94946
Lincoln, Nebraska 68509
(402) 471-2194

QUIZ

Nebraska Jail Standards require that jail staff receive eighteen (18) hours of in-service training each year. The Jail Bulletin may be used to supplement in-service training if an officer studies the Bulletin, completes the quiz, and this process is documented by the jail administrator for review during annual jail inspection.

SUBJECT: JUVENILE JAIL REMOVAL
NUMBER 38

NAME _____

DATE _____

1. Which of the following are reasons why Nebraska is working toward removing juveniles from adult local jails? (Circle correct answer(s))
 - a. Juveniles confined in adult jails risk physical and/or psychological harm.
 - b. Jails are increasingly being sued for holding juveniles.
 - c. Nebraska risks losing federal funds if it fails to comply with JJDP regulations.
 - d. All of the above.

2. Under the federal regulations, status offenders may be held in adult jails for up to 24 hours.
 TRUE FALSE

3. Name two kinds of offenses that would be considered status offenses under the federal regulations.

4. Under the federal regulations, how long can a juvenile charged as an adult for a non-felony offense (misdemeanor, traffic, etc.) be held in an adult jail?

CREDIT: 1/2 HOUR CREDIT FOR FAIL IN-SERVICE TRAINING REQUIREMENT.

ANSWER SHEET SHOULD BE RETAINED BY JAIL ADMINISTRATOR

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3. Name two kinds of offenses that would be considered status offenses under the federal regulations.
RUNAWAY, SAFEKEEPER, MINOR IN POSSESSION, TRUANT,
UNGOVERNABLE, ETC.

4. Under the federal regulations, how long can a juvenile charged as an adult for a non-felony offense (misdemeanor, traffic, etc.) be held in an adult jail?
UP TO 6 HOURS FOR PROCESSING AND ID

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