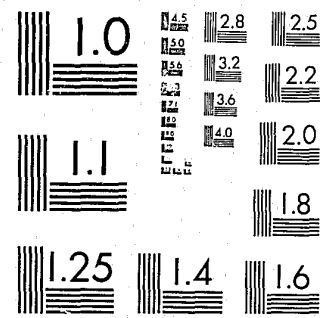


National Criminal Justice Reference Service



This microfiche was produced from documents received for inclusion in the NCJRS data base. Since NCJRS cannot exercise control over the physical condition of the documents submitted, the individual frame quality will vary. The resolution chart on this frame may be used to evaluate the document quality.



MICROCOPY RESOLUTION TEST CHART
NATIONAL BUREAU OF STANDARDS-1963-A

Microfilming procedures used to create this fiche comply with the standards set forth in 41CFR 101-11.504.

Points of view or opinions stated in this document are those of the author(s) and do not represent the official position or policies of the U. S. Department of Justice.

National Institute of Justice
United States Department of Justice
Washington, D. C. 20531

6-17-82

77259

U.S. Department of Justice
National Institute of Justice

77259

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material in microfiche only has been granted by
David J. Berkman/American
Justice Institute

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the copyright owner.

QUESTIONS AND ANSWERS CONCERNING PROPOSED AMENDMENT ON
REMOVAL OF JUVENILES FROM ADULT JAILS AND LOCKUPS

BY

CHARLES P. SMITH
MAY 20, 1980

INTRODUCTION

In March of 1980, the U.S. Department of Justice proposed that Congress amend the Juvenile Justice and Delinquency Prevention Act of 1974 (as amended) to require removal of juveniles from adult jails and lockups. This paper contains answers prepared by the National Juvenile Justice System Assessment Center (NJJSAC) of the American Justice Institute to a list of questions assembled by the U.S. National Institute for Juvenile Justice and Delinquency Prevention (NIJJDP). The answers were developed through a review of data and literature available to the NJJSAC and with assistance from the National Center for Juvenile Justice (NCJJ) on recent statutes or court decisions and the U.S. Bureau of the Census on jail populations.

QUESTIONS AND ANSWERS

1. What is an adult jail or lockup?

Definitions of adult jails or lockups contained in the U.S. Department of Justice 1978 National Jail Census were:

- adult jail: a confinement facility administered by a local law enforcement agency, intended for adults but sometimes containing juveniles, which holds persons detained pending adjudication (usually for periods of 48 hours or more), and/or persons committed after adjudication for sentences (usually of a year or less).
- adult lockup: a temporary facility that holds persons (usually no longer than 48 hours) prior to being formally charged in court (5, p. 2).

2. How many juveniles are held in adult jails or lockups each year?

Jails:

According to the 1978 National Jail Census, 1,611 persons having the legal status of a juvenile were held in a jail on the day in February 1978 when the jail census was taken (5, p. 2).

In addition, according to a survey of 16 States, the average length of stay for juveniles placed in jail in 1976 was 4.8 days (5, p. 2). Through a computation of the one-day count and the average length of stay, it is estimated that 122,503 juveniles were placed in an adult jail for periods of 48 hours or more during 1978.*

*Probably including some juveniles processed more than once through a jail during the year.

NCJRS

APR 17 1981

ACQUISITIONS

On the day of the 1978 jail census:

- no juveniles were being held in adult jails in four States (District of Columbia, Maryland, Massachusetts, and New Jersey).
- 88 percent (or 1,412) of the 1,611 juveniles being held in adult jails were in 27 States, all of whom had 20 or more juveniles in jail.
- 11 States (California, Indiana, Kansas, Kentucky, Mississippi, New York, Ohio, Tennessee, Texas, Virginia, and Wisconsin) held 60 or more juveniles in jail for 60 percent of the 1,611 total (5, p. 4).

Lockup:

Although accurate national data on the number of juveniles held in adult lockups is not currently available, some rough estimates can be made from data collected by the NJJSAC.

An estimate can be made that at least 1,611 juveniles were also held in an adult lockup during the one-day count taken in 1978 of juveniles held in adult jails. If it is also assumed that the average length of stay for juveniles in an adult lockup is one day, then it may be estimated that a total of 588,015 juveniles were placed in an adult lockup in 1978 in the 41 States who also placed juveniles in adult jails for periods exceeding 48 hours.

If the above estimates of juveniles processed through both adult jails (122,503) or lockups (588,015) were combined, a total of 710,518 juveniles may have been subjected to an adult jail or lockup experience in 1978. However, it could be roughly assumed that an estimated 75 percent (or 163,337) of those placed in an adult jail had also been initially placed in an adult lockup, then the total would be reduced for 1978 to 547,181. Further, if it is roughly assumed that 20 percent (or 109,436) of this reduced figure of 547,181 juveniles placed in either an adult jail or lockup had previously been placed in such a facility that year for a different offense, then an estimated 437,745 separate juveniles were placed in an adult jail or lockup in 1978 (5, p. 5).

3. Why are juveniles held in adult jails or lockups--and with what offenses are they charged?

Juveniles are apparently held in adult jails or lockups in order to:

- protect the community
- protect the juvenile from a dangerous home environment
- protect the juveniles from themselves
- teach them a "good lesson"
- avoid overcrowded or inappropriate juvenile detention facilities
- provide for secure custody when no secure juvenile detention facility is available
- provide for secure custody of mentally ill or retarded juveniles awaiting transfer to another institution
- protect other juveniles held in custody from tough juveniles
- assure that the juvenile will be available for court proceedings
- await transfer to adult court (10, pp. 7-11; 11, pp. 19-25).

With reference to the offenses with which juveniles placed in adult jails or lockups are charged:

- In a 1975 study of 449 jails in nine States, the Children's Defense Fund found that only 12 percent of the juveniles in adult jails were charged with serious offenses against persons, 50 percent were charged with property or minor offenses, 18 percent were charged with status offenses, 4 percent were held for protective custody, and 16 percent were awaiting transfer (11, pp. 3-4).
- Data from NCJJ for 1977 showed that only 8 percent of juveniles referred to juvenile court intake who had been in a police lockup or a jail overnight were held for an alleged violent offense (2).
- 35 percent (or 1,697) of the combined total of 4,920 unconvicted and convicted persons aged 14 through 17 classified either as a juvenile or adult in the 1978 National Jail Census were involved in a violent offense, as compared to 53 percent (or 2,543) in a property offense and 2 percent (or 117) held for a status offense (e.g., truancy, promiscuity, incorrigibility) (7).

With reference to the adjudication status:

58 percent (or 2,666) of the combined total of 4,920 persons aged 14 through 17 classified either as a juvenile or adult in the 1978 National Jail Census were awaiting conviction (including 905 who had not yet been arraigned). Of the 42 percent (or 2,254) held who had been convicted, 23 percent (or 511) were awaiting sentence (7).

4. What happens to juveniles held in adult jails or lockups?

According to recent studies, the following undesirable things happen to juveniles held in adult jails or lockups:

- They commit suicide at a rate more than twice as high as for the general population and for juveniles placed in secure detention facilities.
- They are frequently physically, mentally, or sexually assaulted by other inmates (adult or juvenile) and by staff.
- They are not generally provided adequate food, sanitation facilities, medical care, privacy, quiet, light, space, air, bedding, clothing, warmth, or fire protection.
- They are not generally given adequate counseling, visitation opportunities, education, recreation, vocational guidance, religious services, or companionship.
- They obtain a "label" and self image which impedes their growth and independence.
- They are often mingled with adults and juveniles who are serious offenders or mental patients.

- They learn techniques of crime and abuse (1, p. 10; 6, pp. 27-37; 10, pp. 2-17).

5. Does current State law contain restrictions regarding placement of juveniles in adult jails or lockups?

According to the National Center for Juvenile Justice, as of April 1980, the following restrictions are present among the States regarding placement of juveniles in adult jails or lockups:

- 2 States (Maryland and Pennsylvania) prohibit placement of juveniles in any type of facility that also houses adults.
- 31 States provide restrictions at pre-adjudication and post-adjudication stage.
- 6 States provide restrictions at pre-adjudication stage only.
- 3 States provide restrictions at post-adjudication stage only.
- 8 States (Delaware, Hawaii, Kentucky, Nebraska, Nevada, Oklahoma, South Dakota, and Utah) apparently provide no prohibition or restrictions at either the pre-adjudication or post-adjudication stage (5, p. 6).

Among the States, the restrictions vary depending on such factors as the age of the person, nature of the conduct, nature of the facility, nature of separation, and whether approved by a court or administrative agency (5, p. 6).

6. What is the court's view of the practice of placing juveniles in adult jails or lockups?

The National Council of Juvenile and Family Court Judges passed a resolution in July of 1979 stating that:

Whereas the goal of removing children from adult jails, lockups and prisons has not been adequately addressed and ought to be...now, therefore, be it resolved that the National Council...call upon the Congress... to reform the Juvenile Justice and Delinquency Prevention Act of 1974, as amended,...[so that] the separation of children from adults in jails and prisons should be the first priority of the Act.

Court decisions in this area have been limited. However, some decisions (e.g., State v. Kemper, App., 535SW, 2d 241) emphasizes that separation of juveniles from adults must be sufficient to protect the minor from adverse influence adult prisoners may have on them (10, p. 22).

7. Since current Federal law provides for no regular contact of juveniles with adults in any institution, what does this mean with regard to adult jails and lockups?

The Law Enforcement Assistance Administration (LEAA) State Agency Grants Guideline Manual provides that the provisions of Section 223(a)(13) concerning the separation of juveniles from adults be implemented in a way that "seems

as absolute a separation as possible and permits no more than haphazard or accidental contact between juveniles and incarcerated adults" (8, p. 36406).

It is the intent of this legislation and administrative provision to apply to all types of institutional settings, including adult jails and lockups. However, in the initial implementation of this provision, more attention was given to correctional institutions as it was felt that problems may be more severe there.

8. What is meant by "sight and sound" separation, how is it implemented, and why isn't it adequate?

In an effort to clarify the meaning of Section 223(a)(13) concerning separation of juveniles from adults in institutions, the U.S. Office of Juvenile Justice and Delinquency Prevention (OJJDP) prepared a position statement that described "sight and sound separation" as:

adult inmates and juveniles cannot see each other and no conversation is possible (10, p. 15).

Such a provision is implemented in various ways, such as:

- placing the adults and juveniles in separate buildings with separate service facilities.
- placing the adults and juveniles in the same building, with common service facilities used at different times or at the same time.
- placing the juvenile in isolation, often in an administrative room (e.g., conference room) without suitable facilities.

9. Do any States now require removal of juveniles presently in adult jails and lockups--and what has been their experience?

According to the National Center on Juvenile Justice, no State juvenile and family court statutes were in existence or enacted in 1979 that required the removal of juveniles presently in an adult jail or lockup. Although such a requirement might exist in other legislative sections or administrative provisions, such information is not currently available on a national level.

10. What specifically does the U.S. Justice Department amendment propose?

According to Congressional testimony of Deputy Attorney Renfrew, the amendment would:

- absolutely prohibit the future detention or confinement of juveniles in any jail or lockup in which adults, whether convicted or awaiting trial, are confined. In addition, all juveniles would be removed from such custody at present.
- permit the placement of juveniles who are alleged or adjudicated for the commission of serious crimes against persons, as well as severe chronic offenders in secure detention or correctional facilities other than adult jails or lockups.

- provide for time and incentives to enable local jurisdictions to implement these principles.

11. Is the Federal government directing State action by this amendment?

Yes, but it is giving the States the flexibility to implement the principle in an orderly manner as the local setting requires.

12. How much does it cost to hold juveniles in adult jails and lockups, how much would it cost to implement the amendment, and where would the money come from?

According to a report prepared by the National Juvenile Justice System Assessment Center, total costs (including recidivism potential) over a two-year period for five policy options concerning placement of juveniles throughout the country in appropriate custodial settings (not including lockups) would be:

- continue jailing as at present with "partial" separation \$24 million
- continue jailing as at present with "complete" separation \$36 million
- put all now jailed into secure detention \$150 million
- put all now jailed into small group homes \$14 million
- remove all now jailed and divide according to risk and need (90 percent into small group homes and 10 percent into secure detention) (5, pp. 8-11) \$29 million

The above analysis recommends the last option as best meeting the needs of society and the juvenile, including the fact that implementation of this option would cost less than seeking complete separation. A similar relative savings is likely for lockups.

Cost to implement the amendment would be approximately \$7 million less than the complete separation requirement, but \$5 million more than partial separation. It is expected that these cost savings or small increases could be handled by the local jurisdiction through cost-sharing or transfer with other jurisdictions or through a State subsidy.

13. What alternatives to adult jails and lockups are available for handling juveniles?

The report mentioned in the previous section identified several major alternatives. Of course, there may be others that a local jurisdiction may choose to use (e.g., attention homes, shelters, home placement, foster homes, large group homes).

14. Haven't most States made a big investment in "sight and sound" separation that would be wasted if the amendment is approved?

It is not believed that enough money has been invested in sight and sound separation to result in any significant waste. Such improvements already made also would be used to segregate adult offenders as needed.

15. Wouldn't there be a large capital outlay required by the amendment to build separate detention facilities for juveniles who could no longer be placed in adult jails or lockups?

In some cases, yes. However, such expenditures could be in lieu of "separation" expenditures. Further, many existing detention homes could be utilized and a few built in the suggested policy option at the local or regional level. Finally, use of small group homes does not usually require a capital outlay as they can typically be established in existing homes on a private contract or lease basis.

16. Won't this amendment lead to more incarceration of juveniles because of the existence of more juvenile detention facilities?

Probably not if the option recommended by NJJSAC is followed, since there would be less rather than more secure detention facilities available or required.

17. Isn't it true that the condition of jails deters the jailing of juveniles--and that, without this deterrent, more juveniles would be incarcerated?

Probably not, since most law enforcement and court intake agencies already likely believe that their logic for incarceration is correct regardless of the condition of jails. Such individuals, as well as complainants, families, the courts, and correctional agencies would have to be shown that research evidence would enable the proposed amendment and policy option to work with the correct implementation at the local level.

18. Since the amendment only applies to adult jails and lockups, will it lead to more juveniles being placed in other types of secure facilities, and will longer sentences be handed down to juveniles placed in secure facilities?

If correct criteria and procedures are established and followed, it should result in only those serious offenders being placed in secure facilities for whatever time is appropriate.

19. Won't the amendment impact the hardest on rural areas, and is consideration being given to meeting the special needs of rural areas with regards to this amendment?

The amendment will probably impact rural and urban areas equally, but in different ways (e.g., rural areas have lower violence, less-serious offenses, and fewer offenders than urban areas). Each type of area would have to evaluate its needs and alternatives and select that which is best for its special circumstances (e.g., regionalization of facilities for serious offenders).

20. What groups support this amendment?

In April 1979, the National Coalition for Jail Reform adopted, by consensus, the position that "no person under the age of 18 should be held in an adult jail" (10, p. 26). Among the 28 organizations represented on the Coalition are the:

- National Association of Counties
- National League of Cities

- American Correctional Association
- National Sheriffs Association
- National Legal Aid and Defender Association
- National Center for State Courts
- American Public Health Association
- National Council on Crime and Delinquency
- National Conference of State Criminal Justice Planning Administrators
- American Civil Liberties Union.

In March 1980, the Board of Directors of the National Youth Work Alliance (representing more than 1,100 locally controlled youth serving agencies) adopted a position backing "the removal of all juveniles from adult jails" (3, p. 11).

21. If this amendment were made, how would juveniles charged with serious crimes against persons and chronic offenders be handled?

Juveniles who are alleged or adjudicated for serious crimes against persons and chronic offenders would be placed in secure detention or correctional facilities on a local or regional basis as the needs of the community, economic requirements, and the needs of the juvenile dictate.

22. Why is the Justice Department proposing a new provision when only a few States are in compliance with Section 223(a)(13) of the present Act?

As of January 1980, only 15 of the 57 eligible jurisdictions reported "compliance" with the provisions of Section 223(a)(13), 21 additional jurisdictions reported "progress," seven reported "no progress," eight provided "inadequate information," and six are "not participating" (4, p. 41).

Review of data contained in an earlier part of this report indicates that only 27 States had 20 or more juveniles in an adult jail in the one-day census in February 1978, with 11 States holding 60 percent of the total. This would confirm the progress noted above in relation to compliance with the provisions of Section 223(a)(13) as far as adult jails are concerned.

However, the amendment is needed because:

- some States who report compliance may not in reality be complying (e.g., State legislation may be ignored by local jurisdictions).
- the separation provision may be causing as many problems as solutions (e.g., suicide, isolation, inadequate services) particularly in small adult jails or lockups.
- the separation provision has not been--nor is it likely to be--adequately applied to the adult lockups where many similar problems exist.
- the cost of separation may be as high as removal and the benefits less.

REFERENCES

1. Flaherty, Michael G. "An Assessment of the Incidence of Juvenile Suicide in Adult Jails, Lockups, and Juvenile Detention Centers: A Preliminary Report." Champaign, IL: University of Illinois, February 1980.
2. National Center for Juvenile Justice. "Working Papers for the 1977 Advance Estimates of National Juvenile Court Processing Statistics." Pittsburgh, PA: National Center for Juvenile Justice, 1979.
3. National Youth Work Alliance. Youth Alternatives, Vol. VII, Number 4. Washington, D.C.: National Youth Work Alliance, April 1980.
4. Smith, Charles P. "Juvenile Justice System Achievements, Problems, and Opportunities." Sacramento, CA: American Justice Institute, February 1980.
5. _____. "Relative Costs of Removal or Separation of Juveniles from Adult Jails or Lockups." Sacramento, CA: American Justice Institute, May 21, 1980.
6. _____. ; Berkman, David J.; Fraser, Warren M.; and Sutton, John. "A Preliminary National Assessment of the Status Offender and the Juvenile Justice System: Role Conflicts, Constraints, and Information Gaps." Sacramento, CA: American Justice Institute, January 1979.
7. U.S. Department of Commerce. Bureau of the Census. Crime Statistics Analysis Unit. "Working Papers on the 1978 Survey of Inmates of Local Jails." Washington, D.C., 1980.
8. U.S. Department of Justice. Law Enforcement Assistance Administration. "Formula Grant Provisions of the Juvenile Justice and Delinquency Prevention Act of 1974, As Amended--Final Guideline Revision for Implementation." Federal Register 43 (August 16, 1978):36406.
9. _____. Law Enforcement Assistance Administration. National Criminal Justice Information and Statistics Service. Census of Jails and Survey of Jail Inmates 1978. National Prisoner Statistics Bulletin No. SD-NPS-J-6P. Washington, D.C.: U.S. Department of Justice, February 1979.
10. _____. Law Enforcement Assistance Administration. Office of Juvenile Justice and Delinquency Prevention. Removing Children from Adult Jails: A Guide to Action. Champaign, IL: Community Research Forum, 1980.
11. Washington Research Project, Inc. Children's Defense Fund. Children in Adult Jails. Washington, D.C.: Washington Research Project, Inc., December 1976.

END