

MEETING DATE: September 12, 2019 **AGENDA ITEM:** C

TO: BSCC Chair and Members

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SUBJECT: Process for Reviewing and Approving Collocation of Juvenile and Adult Detention Facilities: **Requesting Approval**

Summary

The Board of State and Community Corrections (BSCC) is the designated state agency that monitors juvenile detention facilities for compliance with the federal Juvenile Justice and Delinquency Prevention Act (JJJPA) [reauthorized as the Charles Grassley Juvenile Justice and Delinquency Prevention Program]. (34 U.S.C. §§ 11131-11133.) In addition, the BSCC is required to develop minimum standards for the operation and construction of local juvenile detention facilities pursuant to Welfare and Institutions Code sections 209, 210 and 885.

In the last decade following the passage of Senate Bill 81 (Chapter 175, Statutes of 2007), county juvenile detention facility populations have declined. As local juvenile detention facility populations have decreased, counties have been evaluating the use of secured detention facilities, considering how best to serve the youth under the jurisdiction of the juvenile court. Some counties have recently constructed or modernized juvenile facilities with an emphasis on programming while other counties have closed facilities altogether. In some cases, counties have repurposed juvenile halls from 24/7 locked facilities to special purpose juvenile halls that only house juveniles for short periods of time.

Yolo County recently contacted BSCC staff to explore the option of bifurcating its juvenile hall to allow adult intake and booking in one portion of the facility while maintaining a small juvenile population in the remaining portion of the facility (Attachment C-1). For purposes of the JJJPA, a juvenile facility that is located in the same building or on same grounds as an adult jail or lockup can be classified as a “collocated facility,” but must meet strict federal guidelines to ensure “sight and sound separation” between adults and juveniles.

Given the BSCC’s role in monitoring compliance with the JJJPA, BSCC staff recommends adopting a framework for evaluating requests from counties to establish collocated adult and juvenile facilities.

Background

The Juvenile Justice and Delinquency Prevention Act (JJJPA) establishes federal minimum standards for the protection and care of all youth who have contact with juvenile justice systems. The JJJPA requires sight and sound separation between detained adult inmates

and juveniles and removal of juveniles from adult jails or lockups. To ensure compliance with the JJDP, the Act requires states to have a designated state agency that is responsible for oversight. (34 U.S.C. § 11133(a).) The Board of State and Community Corrections is the designated state agency that monitors compliance with the JJDP, which includes grant administration, data collection and inspection. (Pen. Code, § 6024 subd. (f); Welf. & Inst. Code, § 209, subd. (f).)

The JJDP prohibits the detention of juveniles in adult jails and lockups unless the facility is specifically designated as a “collocated facility” that meet the following criteria:

1. The juvenile facility must maintain no sight or sound contact between juveniles and adults.
2. The juvenile facility must provide separate juvenile and adult programs.
3. The juvenile facility must have separate staff for juvenile and adult populations.
4. The juvenile facility must comply with state standards for juvenile detention facilities.

(28 C.F.R. § 31.303(e)(3)(i)(C)(1)-(4).¹)

¹ 28 C.F.R. § 31.303(e)(3)(i)(C)(1)-(4) provides:

- (1) Separation between juveniles and adults such that there could be no sustained sight or sound contact between juveniles and incarcerated adults in the facility. Separation can be achieved architecturally or through time-phasing of common use nonresidential areas; and
- (2) Separate juvenile and adult programs, including recreation, education, vocation, counseling, dining, sleeping, and general living activities. There must be an independent and comprehensive operational plan for the juvenile detention facility which provides for a full range of separate program services. No program activities may be shared by juveniles and incarcerated adults. Time-phasing of common use nonresidential areas is permissible to conduct program activities. Equipment and other resources may be used by both populations subject to security concerns; and
- (3) Separate staff for the juvenile and adult populations, including management, security, and direct care staff. Staff providing specialized services (medical care, food service, laundry, maintenance and engineering, etc.) who are not normally in contact with detainees, or whose infrequent contacts occur under conditions of separation of juveniles and adults, can serve both populations (subject to State standards or licensing requirements). The day to day management, security and direct care functions of the juvenile detention center must be vested in a totally separate staff, dedicated solely to the juvenile population within the collocated facilities; and
- (4) In States that have established standards or licensing requirements for juvenile detention facilities, the juvenile facility must meet the standards (on the same basis as a free-standing juvenile detention center) and be licensed as appropriate. If there are no State standards or licensing requirements, OJJDP encourages States to establish administrative requirements that authorize the State to review the facility's physical plant, staffing patterns, and programs in order to approve the collocated facility based on prevailing national juvenile detention standards.

In 2016, the Board established a process to approve transitional age youth pilot programs in county juvenile halls as allowed by Senate Bill 1004 (Chapter 865, Statutes of 2016). SB 1004 programs allow counties to provide access to juvenile facilities for age-appropriate rehabilitative services for over-18, transitional-age youth. At the November 2016 board meeting, the Board delegated to staff the authority to approve or deny the application of a county to establish an SB 1004 pilot program, which included ensuring counties complied with the JJDPA.

Recently the Yolo County Probation Department requested guidance on repurposing a portion of its juvenile facility to temporarily hold adult inmates as part of the county sheriff's arrest and booking process. Because adults and juveniles would be located in the same facility, the county must comply with sight and sound separation of the adult and juvenile populations. (28 C.F.R. § 31.303; see also Welf. & Inst. Code, § 207.1, subd. (h).)

Yolo County's request to collocate adults and juveniles is different from an SB 1004 pilot project because the adults that will be held at the facility are not just limited to transitional age youth. However, Yolo County's proposal would keep the adult intake functions and juvenile functions entirely separate rather than allowing some shared classroom or facility space. Regardless, all collocated facilities must meet the same strict and "sight and sound" separation requirements to be able hold both juveniles and adults.

Because of the significant population reductions in juvenile halls, BSCC staff anticipates that more counties may consider consolidating county functions and collocate juvenile detention and adult facilities. To address local requests in a consistent manner, BSCC recommends adopting a review process similar to the SB 1004 review process to ensure collocated facilities comply with the JJDPA.

Proposed JJDPA Review Process

1. The local agency or county would submit a proposal in writing, stating its intent to classify a new or existing juvenile detention facility as a collocated facility.
2. BSCC staff would do the following:
 - a. Review funding source (e.g., whether facility had been constructed using lease-revenue bonds) and potential implications for changing facility use;
 - b. Review operational program statement for compliance with Title 15;
 - c. Review design or architectural drawings (if applicable) for compliance with Title 24; and
 - d. Conduct site visit
3. Provide tentative determination that collocation will comply with JJDPA.
4. Following construction (if applicable) and implementation of operational plan, BSCC staff will conduct a final inspection and approve reclassification, provided that the facility complies with all requirements of Titles 15 and 24 and requirements of the JJDPA.

Throughout the process the BSCC staff would continue to provide technical assistance regarding requirements of the JJDP, as well as California minimum standards for local detention facilities.

Recommendation/Action Needed

Staff recommends the Board adopt the proposed framework as noted in the report to ensure compliance with JJDP as part of a county's request to repurpose juvenile facilities.

Attachments

C-1: Yolo County Letter of Intent

