



OFFICE OF THE WINONA COUNTY ATTORNEY

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A Response to Concerns Regarding Juvenile Detention in Winona County:

A Brief Explanation of Minnesota's Juvenile Delinquency Law, Process, Procedure, and the Policy of the Winona County Attorney's Office as to Juvenile Justice

Concerns have been raised among community members that Winona County is considering the possibility of building a juvenile detention facility. This memo is a response to those concerns:

There are currently no plans in place to use the old jail space as a juvenile detention facility or, for that matter, to build a juvenile detention facility in Winona County. Placement options for juveniles who have been charged with a juvenile delinquency crime and cannot be returned home in the short or long term, have always been a topic of discussion in Winona County among our juvenile justice system and other community partners particularly since local placement options, such as Main House, a shelter care facility located in Winona, closed, leaving only out-of-county placements as options for those juveniles that the Court determines out-of-home placement (secure or non-secure depending on the circumstances of the case) is the least restrictive option.

It is very important to note that there are very few crimes under Minnesota law for which juveniles can be placed in secure detention. Minnesota law requires the least restrictive alternative when the Court considers any placement options for a juvenile, and secure detention can only be used in those cases where a juvenile has been charged with very serious crimes such as murder, criminal sexual conduct, and assault, among others.

In Minnesota, juvenile delinquency law focuses more on rehabilitation than punishment. My office upholds the law, and we are committed to early intervention and prevention policies and programs to help keep juveniles from entering the juvenile justice system in the first place, and, if they do enter the system, that we help divert those who we can out of the system through my office's juvenile diversion program, and through our collaboration with our local Department of Correction's Restorative Justice program.

Juvenile Detention under Minnesota Law.

Under Minnesota law, juveniles are sent to a detention facility when it is determined by the Court to be the least restrictive alternative for placement under the specific circumstances of a respective juvenile's case. Minnesota law also does not allow juveniles to be placed in secure detention except for only certain crimes as mentioned above previously. An example of a case

where a juvenile is ordered by the court to be placed out of home is when a juvenile is arrested for domestic assault that occurs in the home and it is not safe for the juvenile to remain in the home or the juvenile's parent(s) does not want them to remain in the home. Even in those cases though, non-secure detention options, such as shelter care, are considered. Juveniles can also be detained in secure detention for juvenile probation violations, if they are a safety concern to themselves or others. Juveniles cannot be held in secure detention for juvenile petty offenses such as underage smoking, misdemeanor criminal damage, and disorderly conduct.

Juvenile Detention- Winona County.

Because there are no secure or non-secure (such as shelter care) out-of-home placement facilities located in Winona County, there are no juveniles who are charged with a criminal offense in Winona County actually detained in Winona County. Instead, those juveniles who are ordered by the Court to be held in secure or non-secure detention while their juvenile case is pending are transported to juvenile detention facilities located outside of Winona County. This has been the situation for many years and it is one of the reasons why there has been a discussion among the justice partners in the Winona County Criminal Justice Coordinating Council (CJCC) for those many years about establishing juvenile placement options within Winona County so that juveniles do not have to be transported literally all over Minnesota and sometime out of state to either a shelter or secure detention facility.

Juvenile facilities that are used for Winona County Juvenile Placements.

Von Wald Shelter Care in Olmsted County is a typical placement. Scott County Juvenile Alternative Facility is another placement that juveniles from Winona County are placed in by the Court. Scott County has residential and non-secure placements. Prairie Lakes Youth Programs in Wilmar, Kandiyohi County, is another facility which is an out-of-home placement option for the Court to consider for Winona County juveniles because of the programs offered there. Prairie Lakes has both secure and non-secure facilities. Anoka County East Central Regional JDC is another placement option used by the Court for juveniles determined to be the least restrictive placement alternative. Anoka has both secure and non-secure options and various program options. If the Court orders a juvenile into sex offender treatment, there are out-of-home placement programs for that treatment outside of Winona County within the State of Minnesota.

Benefits of having a facility locally.

As mentioned previously, there are currently no actual plans in the works to design and build a juvenile facility here in Winona County. Because we have lost local placement options, discussions have taken place throughout the years to address the issue. The immediate need is simply to have a local placement, within Winona County, where a juvenile who is facing a

juvenile delinquency or juvenile petty charge and who can't remain in their home, can be placed for a very short period of time until plans can be made for returning them home with a safety plan, or for them to enter an out-of-home treatment program to address any mental health and/or chemical dependency issues that have been identified in any evaluations so as to help the juvenile return safely to home.

An obvious benefit of a short-term placement option located in Winona County would be keeping the juvenile in the community so they can maintain regular connection to their family and that any services, including mental health care, medical care, and education they may have in the community, are not interrupted. We see a lot of families struggle to travel to see the juveniles when they are placed out of Winona County.

Under Minnesota law, juvenile justice is focused on rehabilitation, not punishment. Juveniles who are charged with crimes are first and foremost children. Children are not miniature adults and should not be treated like adults. Transporting children, who have been charged with crimes and who cannot return home immediately (because it is not safe for them or their families or the community, or their parents do not want them returned home) to out-of-county facilities is in itself incredibly disruptive to the child and their family bonding.

The moral implications of not having a local option is the real question here. Think back to when you were 12 years old. How would you have felt if you were taken out of your home, placed in a police squad car and driven for several hours if not more, and locked in non-descript cinderblock room, and then transported back the next morning not to your home, but to Court and have to appear before strangers?

During the past 30 years that I have been involved in the criminal justice system, both as a public defender for 20 of those years representing juveniles, and for the last 10 years as County Attorney supervising the prosecution of juvenile crimes as well as the child protection work of our office, I have been a part of the local justice reform efforts which have focused on reducing the use of detention and secure confinement. As Chair of the CJCC and as County Attorney, I have led our initiatives to strengthen our juvenile justice diversion programs and strengthen our partnership with DOC and the Restorative Justice program for juveniles, among others.

Minnesota law reflects that reform of juvenile justice in that it requires a Court to determine the least restrictive placement option for a juvenile. The preference is for a juvenile to remain in home, or to return the juvenile home as soon as in possible. Sometime parents do not want the child home, even though that would be the least restrictive option. Then the Court must turn to another option, which is the next most least restrictive. Having a local placement option in Winona County would be the next best option, and it would be in the best interests of the child and their family, but we currently don't have that option available.

Having some form of a juvenile placement option here in Winona County would not increase the numbers of juveniles who are arrested and detained by law enforcement. It is the Court, not law

enforcement, that makes the ultimate decision as to whether a juvenile remains in/or is placed in secure or non-secure detention. Under Minnesota law, juveniles must be brought before a judge within 36 hours of their arrest. Most of the time in Winona County, a juvenile will be brought before a judge within 24 hours or less of their arrest. Many times, if they are arrested in the morning, they are brought before a judge that same afternoon.

Unless a juvenile who is being arrested has a warrant or a probation hold order from another jurisdiction, it makes no difference what happens to a juvenile when they are arrested in Winona County regardless of whether they are a Winona county resident or not. All juveniles arrested in Minnesota are given due process under the law. If law enforcement arrests a juvenile on another Minnesota county's warrant or another state's warrant, then law enforcement will contact that other jurisdiction regarding the juvenile's initial placement.

As mentioned before, the law permits the detention of juveniles if it is the least restrictive alternative under the specific circumstances of the case, and if the crime they have alleged to have committed is one for which secure detention is permitted under the law. At every detention hearing before the Court, the Judge notes if the placement should be secure or non-secure. If Winona County had a secure and/or a non-secure facility, it would make sense to place a juvenile in our local facility versus transporting them somewhere else and then having to transport them back to Winona County.

Attached to this memo is a flowchart showing the Winona County Juvenile Court Procedure. Also attached is a chart showing the Winona County juvenile delinquency filings from 2012 to 2016. This chart includes truancy and runaway, which are not juvenile delinquency cases. Total (petty, misdemeanor, gross misdemeanor, felony) juvenile delinquency cases opened in the Winona County Attorney's Office in 2017 through 2020 were as follows:

2017 - 152 cases

2018 - 150 cases

2019 - 115 cases

2020 - 131 cases

Attachment

Juvenile Delinquencies (Crimes or Offenses, not Child Protection)



