

November 2017

Law and Justice Interim Committee (LJIC)
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SJ 25: MONTANA DETENTION STANDARDS AND SEGREGATED HOUSING

BACKGROUND

As part of the SJ 25 study of solitary confinement in Montana, the Law and Justice Interim Committee (LJIC) is reviewing various standards related to if, when, and how an inmate in a local jail or in a prison may be housed separately from other individuals in the general population. This paper provides a brief overview of Montana detention standards that relate to segregating inmates. A panel discussion on this topic during the November LJIC meeting will provide additional information.

Although “jail” is the term often used to refer to a county facility that holds adult individuals who have been arrested and are waiting for the resolution of a criminal charge, Montana statutes use the term “detention center” instead. “Detention center” is defined in Title 7, chapter 32, part 21 (the local government law enforcement statutes), as “a facility established and maintained by an appropriate entity for the purpose of confining arrested persons or persons sentenced to the detention center.” Detention centers also hold individuals who have been sentenced by a court and are to be transferred to a state or other facility to serve their sentences. An appropriate entity is typically a county governing body or group of governing bodies that either establish and operate or contract for the operation of a detention center, though a municipal authority may also establish a detention center.

MONTANA DETENTION STANDARDS

The Montana Association of Counties and the Montana Sheriffs and Peace Officers Association have developed and maintain a set of detention standards for Montana detention centers. These standards are included in the meeting packet for the November 2017 meeting. Although the standards cover a wide range of administrative and operational practices, chapter 8 of the standards relates specifically to special management inmates. Special management inmates are “persons whose behavior presents a serious threat to the safety or security of the facility, the inmate, the staff, or the general inmate population” and for whom “special handling and/or housing is required to regulate their behavior.”

The chapter sets out parameters for treatment of inmates placed in segregation, which is “the confinement of an inmate to an individual cell that is separated from the general population.” The term includes administrative segregation, protective custody, and disciplinary detention, all of which are defined terms.

The standards include that a detention center must have written policy and procedures to govern inmates in segregation, and they describe when and how an inmate may be placed into a type of segregation. The facility administrator can order an inmate into segregation immediately “when it is necessary to protect the inmate or others,” and that order must be reviewed within 72 hours “by the appropriate authority.”

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If an inmate is placed in disciplinary detention, the standards include parameters for that placement. It should be made only for a violation of the rules “after a hearing” and if there is not an “adequate alternative disposition” to address the behavior. The maximum placement for all violations related to a single incident is 60 days. A facility administrator must review and approve any placement that lasts longer than 30 continuous days.

For inmates in administrative segregation or protective custody, a status review should be held every 7 days for the first 2 months and every 30 days after that time. A review process should also be used to release the inmate from those types of segregation.

The standards provide that an inmate in special management is personally observed by an officer at least every 30 minutes, with more frequent observation needed for those who are “violent or mentally disordered or who demonstrate unusual or bizarre behavior.”

Additional standards relate to the living conditions in segregated housing, including that access to mail and reading materials, laundry, showers, and other personal hygiene conditions should be the same as for the general population unless a documented reason for an exception exists. Access to legal counsel may not be restricted. Exercise opportunities outside the cell should be offered for at least 1 hour each day for 5 days a week unless there is a safety or security concern that requires that time to be restricted.

Inmates in segregated units or cells should have “similar access” to health care services, and health care personnel should be informed immediately when an inmate is placed in segregation. The standards provide that the health care personnel will provide an assessment and review “as indicated by the protocols established by the health authority.” A separate chapter of the detention standards provides standards specific to provision of health-care services in the detention center.

The standards also include that a log should be kept of information related to the inmate and the time in segregation, including but not limited to information about when the inmate was admitted, for what reasons, a tentative release date, and medication or other special problems or needs.

RESOURCES

- Montana Detention Standards, 2016 Update, Montana Association of Counties and the Montana Sheriffs and Peace Officers Association, document available at www.leg.mt.gov/css/Committees/Interim/2017-2018/Law-and-Justice/Meetings/Nov-2017/nov-2017.asp
- Section 7-32-2120, MCA: www.leg.mt.gov/bills/mca/title_0070/chapter_0320/part_0210/section_0200/0070-0320-0210-0200.html
- Section 7-32-4201, MCA: www.leg.mt.gov/bills/mca/title_0070/chapter_0320/part_0420/section_0010/0070-0320-0420-0010.html

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