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State of California

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| OPINION                    | : | No. 80-221             |
|                            | : |                        |
| of                         | : | <u>October 2, 1980</u> |
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SUBJECT: "PLACE OF DETENTION"—The term "place of detention," as used in section 13146.1 of the Health and Safety Code, includes local facilities for the detention of juveniles established under the Juvenile Court Law or Youth Authority Act.

The Honorable Philip C. Favro, State Fire Marshal, has requested an opinion on the following question:

Does the term "place of detention," as used in section 13146.1 of the Health and Safety Code, which requires the State Fire Marshal to inspect "every jail or place of detention for persons charged with or convicted of a crime," include local facilities for the detention of juveniles established under the Juvenile Court Law or Youth Authority Act?

CONCLUSION

The term "place of detention," as used in section 13146.1 of the Health and Safety Code, includes local facilities for the detention of juveniles established under the Juvenile Court Law or Youth Authority Act.

## ANALYSIS

The State Fire Marshal has general responsibility for developing protections against fire dangers and for aiding in the enforcement of laws relating to fire prevention and protection. (Health & Saf. Code §§ 13100.1, 13104.)

The Legislature has allocated between the State Fire Marshal and local fire chiefs the responsibility for enforcing the various fire safety standards and regulations adopted by the Fire Marshal. (Health & Saf. Code 13145, 13146; see 61 Ops. Cal. Atty. Gen. 256, 264 (1978).) With respect to such allocation, Health and Safety Code section 13146 provides that such standards and regulations shall be enforced by city, county, and fire district chiefs in their respective jurisdictions and that the State Fire Marshal shall have authority to enforce such standards and regulations outside of cities and fire protection districts or within such areas upon request of the local authorities. The Fire Marshal also has such authority over all state-owned or occupied buildings and institutions throughout the State. (Health & Saf. Code § 13108(c).)

In 1978 this allocation of enforcement responsibility was modified by the enactment of Health and Safety Code section 13146.1 to the extent that that section placed upon the Fire Marshal, or his authorized representative, the specific duty to “inspect every jail or place of detention for persons charged with or convicted of a crime” unless the chief of the local fire department or his representative provides to the Fire Marshal an annual written indication that he will conduct such inspections.<sup>1</sup> The question presented is whether the Fire Marshal’s duty under that section to inspect “every jail or place of detention for persons charged with or convicted of a crime” includes the inspection of local juvenile

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<sup>1</sup> As set forth in full. Health and Safety Code section 13146.1 provides:

“(a) Notwithstanding the provisions (If Section 13146, the state Fire Marshal, or the State Fire Marshal’s authorized representative, shall inspect every jail or place of detention for persons charged with or convicted of a crime, unless the chief of any city or county fire department or fire protection district, or such chief’s authorized representative, annually indicates in writing to the State Fire Marshal that inspections of such jails or places of detention, therein, shall be conducted by the chief, or such person authorized representative.

“(b) Such inspections shall be made at least annually for the purpose (If enforcing the regulations adopted by the State Fire Marshal, pursuant to Section 13143, and the minimum standards pertaining to fire and life safety adopted by the Board of Corrections, pursuant to Section 6030 of the Penal Code.

“(c) Reports of such inspections shall be submitted to the official in charge of the facility, the local governing body, the State Fire Marshal, and the Board of Corrections.”

detention facilities established under the Juvenile Court Law and Youth Authority Act. At this point it would appear appropriate to examine the statutes establishing the various types of such local<sup>2</sup> juvenile facilities.

The several types of local facilities for the detention of juveniles are provided for in articles 23 (commencing with Welf. & Inst. Code § 850) and 24 (commencing with Welf. & Inst. Code § 880) of the Juvenile Court Law (Welf. & Inst. Code §§ 200–945), and in article 9 (commencing with Welf. & Inst. Code § 1850) of the Youth Authority Act. (Welf. & Inst. Code §§ 1700–1906.)

The primary facility of this type is the juvenile hall provided for under the Juvenile Court Law. With respect to juvenile halls Welfare and Institutions Code section 850 provides:

“The board of supervisors in every county shall provide and maintain, at the expense of the county, in a location approved by the judge of the juvenile court or in counties having more than one judge of the juvenile court, by the presiding judge of the juvenile court, a suitable house or place for the detention of wards and dependent children of the juvenile court and of persons alleged to come within the jurisdiction of the juvenile court. Such house or place shall be known as the ‘juvenile bail’ of the county. Wherever, in any provision of law, reference is made to detention homes for juveniles, such reference shall be deemed and construed to refer to the juvenile halls provided for in this article.”

Other types of local detention facilities for juveniles authorized under the Juvenile Court Law are specified in section 881 of the Welfare and Institutions Code which provides:

“The board of supervisors of any county may, by ordinance, establish juvenile homes, ranches, camps, or forestry camps, within or without the county, to which persons made wards of the court on the ground of fitting the description in Section 602 may be committed. As far as possible, the

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<sup>2</sup> The word “local” is used herein to designate those juvenile detention facilities operated by counties as distinguished from such juvenile facilities operated by the California Youth Authority. (See Welf. & Inst. Code §§ 1000–1258.) Such state-operated institutions would be subject to the State Fire Marshals enforcement responsibilities pursuant to Health and Safety Code section 13108(c) which as noted above, requires the Fire Marshal to enforce his fire safety regulations and standards “in all state-owned buildings, state-occupied buildings, and state institutions throughout the state.”

provisions of this chapter relating to commitments to the probation officer shall apply to commitments to such juvenile homes, except that where any ward proves to be unfit to remain in any such home, in the opinion of the superintendent or director thereof, said superintendent or director shall make recommendation to the probation department for consideration for other commitment. Complete operation and authority for the administration shall be vested in the county.”

Thus in requiring or authorizing juvenile detention facilities the Juvenile Court Law refers to the persons to be detained in those facilities as wards of the juvenile court or dependent children of such court.

Wards of the juvenile court are those persons who are placed under the jurisdiction of the court because of their specified acts of misconduct occurring when they were under 18 years old. (Welf. & Inst. Code §§ 601, 602.) Dependent children of the juvenile court are those persons under 18 years old who are placed under the jurisdiction of the juvenile court (which may be continued until the) reach the age of 21; Welf. & Inst. Code § 301), not because of their misconduct but because they are not properly supervised or cared for, or because their condition presents a physical danger to the public, or because of the dangerous or unhealthy conditions in which they live. (Welf. & Inst. Code § 300; see *In re La Shonda B.* (1979) 95 Cal. App. 3d 593, 599; *In re Harm* (1979) 88 Cal. App. 3d 438, 446.)

While one is adjudicated to be a ward of the juvenile court because of one’s misconduct, the proceedings leading to such adjudication are not based on criminal charges, nor in such adjudication a criminal conviction. As Welfare and Institutions Code section 203 expressly declares:

“An order adjudging a minor to be a ward of the juvenile court shall not be deemed a conviction of a crime for any purpose, nor shall a proceeding in the juvenile court be deemed a criminal proceeding.” (See also Welf. & Inst. Code § 1731.)

This provision was considered by the Supreme Court in *Leroy T. v. Workmen’s Comp. Appeals Bd.* (1974) 12 Cal. 3d 434 where the court noted:

“California decisions reflect the view that juvenile court proceedings are in the nature of guardianship proceedings [citations omitted] and are concerned primarily with the welfare of the juvenile. [Citations omitted.] They also instruct that adjudications of juvenile wrongdoing are not ‘criminal convictions’ . . . .” (*Id.* at p. 439.)

Thus wards and dependent children of the juvenile court are not persons charged with or convicted of a crime.” However, what is of particular significance to our present inquiry is the fact that juveniles under the age of 18 who have been charged with or convicted of a felony may also be detained in a “juvenile hall.” (Welf. & Inst. Code §§ 207(a), 707.1.) Therefore in addition to juvenile court wards such facilities may also detain persons charged with or convicted of a crime.

In addition to the juvenile facilities established under the Juvenile Court Law, the Youth Authority Act authorizes counties to provide for and administer “youth correctional centers.” (Welf. & Inst. Code §§ 1851, 1852.) Such youth correctional centers are established for the detention of those under 25 years of age who are either declared to be Juvenile court wards under Welfare and Institutions Code section 602 or are criminal offenders eligible for probation who have been found guilty of non-capital public offenses carrying a maximum penalty of more than six months’ confinement.

Thus local detention facilities may house both juveniles who are wards or dependent children of the juvenile court and those who have been convicted of crimes. Since a facility which houses juveniles in the latter category is a “place of detention for persons charged with or convicted of a crime,” we conclude that the State Fire Marshal has a duty to inspect such facilities under Health and Safety Code section 13146.1. However, he has no duty to inspect those local juvenile detention facilities in which only wards or dependent children of the juvenile court are housed.

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