

COURTS:
JUVENILES:

1. In counties of the second class in which there is no judge assigned exclusively to juvenile matters, the courtroom designated for juvenile cases may be used by the court for other matters when the juvenile court is not in session. 2. The county court of a second class county may construct a single building containing completely separate units for housing the juvenile detention center and the county jail if the building is constructed and arranged so that a child being detained does not come in contact at any time or in any manner with adults being held in the county jail.

OPINION NO. 118

April 26, 1971

Honorable A. J. Seier
Prosecuting Attorney
Cape Girardeau County
225 North Clark
Cape Girardeau, Missouri 63701



Dear Mr. Seier:

This is in response to your request for an opinion on questions relating to the construction of a juvenile detention home. Your first question is presented as follows:

"My specific question is whether or not, if a new juvenile detention facility is constructed, does the County Court have to construct a separate courtroom to be used exclusively for the hearing of juvenile cases under Chapter 211?"

As indicated in your opinion request, Cape Girardeau is a second class county. Juvenile courtrooms are referred to in Section 211.291(1), RSMo 1969, as follows:

"1. In counties of the first and second class and in the city of St. Louis a court room, to be designated the juvenile court room, shall be provided by the county or circuit court of the county or city, as the case may be, for the hearing of cases under this chapter."

The Cape Girardeau Court of Common Pleas has concurrent jurisdiction with the circuit court in the treatment, correction and confinement of delinquent minors. Section 480.020, RSMo 1969, provides in pertinent part as follows:

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"The said court of common pleas shall be held within the city of Cape Girardeau, and shall have power and jurisdiction within the city, township and county of Cape Girardeau, as follows:

"(1) Concurrent original jurisdiction in all civil actions at law or in equity with the circuit court of said county, and concurrent jurisdiction with the circuit court of said county in the treatment, correction and confinement of delinquent minors;"

Section 211.021(3), RSMo 1969, provides as follows:

"'Juvenile court' means the Cape Girardeau court of common pleas and the circuit court of each county, except that in the judicial circuits having more than one judge, the term means the juvenile division of the circuit court of the county;"

It appears, therefore, that in Cape Girardeau County the juvenile court is the court of common pleas and the circuit court. Under Section 480.110, RSMo 1969, the judge of Judicial Circuit No. 32 is the judge of the court of common pleas. Accordingly, when acting on matters pertaining to the treatment, correction and confinement of delinquent minors, the circuit court and the common pleas court constitute the juvenile courts, and the courtrooms used by such courts constitute the juvenile courtrooms.

It is our view that the legislative intent in enacting Section 211.291(1), was to make certain that a suitable room for hearing juvenile cases is provided in St. Louis City and in all first and second class counties.

In counties in which a circuit judge has been designated to devote his entire time to juvenile matters, a separate juvenile courtroom is provided; but in counties in which there is not a circuit judge assigned exclusively to juvenile matters, the furnishing of a room in which juvenile cases are heard, in addition to the other cases heard by the circuit court, is sufficient. The requirement of the statute is met when adequate facilities for juvenile hearings are provided and the statute does not prohibit the use of the juvenile courtroom by the circuit court or the court of common pleas for other matters when the juvenile court is not in session.

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It follows, therefore, that in answer to your first question the same courtroom may be used by the Cape Girardeau Court of Common Pleas and the circuit court when exercising their general jurisdiction and when acting as the juvenile courts.

Your next question is presented as follows:

"The Second section which we would appreciate an opinion on involved Section 211.331 (2) which indicates that the place of detention:

'Shall be so located and arranged that the child being detained does not come in contact, at any time or in any manner, with adults convicted or under arrest, and the care of children in detention shall be as closely as possible as the care of children in good homes.'

"The County Court is considering the construction of a building which would house both a county jail and a juvenile detention center. The juvenile detention center would be separate in that there would be no common entrance to the jail and juvenile detention center but that there may be a common kitchen for the use of both the jail and the detention center. The entrances, as I said, would be separate and there would be a partition in the building itself which would separate the two facilities. However, as indicated, they would be in the same building."

It is to be observed that the structural formula which the statute prescribes for the place of detention is that the place of detention shall be so located and arranged that the child being detained does not come in contact with adults who are charged with or convicted of crime. We understand that the structure described in your opinion request would be treated as a single building in respect to serving it with utilities such as heat, light and water, but as two separate units with respect to occupancy. That is to say, from the standpoint of occupancy, the building will comprise two separate units that are not interconnected by corridors or passageways but have separate entrances and are otherwise arranged and constructed in a manner to prevent access from one unit to another. In that respect, the building described in your opinion request is similar to the apartment houses that contain economical but separate dwelling units for many families in our large cities.

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It appears that the place of detention described in your opinion request would be constructed and arranged to prevent all physical contact, communication or action of any kind between juvenile and adult offenders. Accordingly, if there is no way in which the juveniles in the detention facilities could be influenced or affected by the conduct, conditions or language of any of the adults confined in the county jail such an arrangement would not violate the provisions of Section 211.331, RSMo 1969.

CONCLUSION

It is the opinion of this office that:

1. In counties of the second class in which there is no judge assigned exclusively to juvenile matters, the courtroom designated for juvenile cases may be used by the court for other matters when the juvenile court is not in session.

2. The county court of a second class county may construct a single building containing completely separate units for housing the juvenile detention center and the county jail if the building is constructed and arranged so that a child being detained does not come in contact at any time or in any manner with adults being held in the county jail.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, L. J. Gardner.

Yours very truly,



JOHN C. DANFORTH
Attorney General