

N.D.A.G. Letter to Enget (March 24, 1988)

March 24, 1988

Mr. Wade G. Enget
Mountrail County State's Attorney
P.O. Box 369
Stanley, ND 58784

Dear Mr. Enget:

Thank you for your letter dated March 15, 1988, concerning the detention of the juvenile charged with the crimes of murder and attempted murder. You have advised me that the juvenile matter has been transferred to adult court from juvenile court. You have inquired as to the ability to detain that juvenile in the Mountrail County Jail pending trial and the existence of any restrictions on such detention.

I see no prohibition to the detention of the juvenile in the Mountrail County Jail pending his trial. N.D.C.C. § 27-20-16(3) provides:

27-20-16. Place of detention.

.....

3. If a case is transferred to another court for criminal prosecution the child may be transferred to the appropriate officer or detention facility in accordance with the law governing the detention of persons charged with crime.

It is not necessary to obtain a waiver from this office to hold the juvenile in the Mountrail County Jail. However, the detention will be subject to certain restrictions imposed by law.

The first of these restrictions is outlined in N.D.C.C. § 12-44.1-09 which requires that juveniles be housed separately from adults in the facility. Secondly, N.D. Admin. Code § 10-05-02-05 requires that a juvenile detained for more than 96 hours must be given reasonable school study assistance. That rule provides:

10-05-02-05. School study assistance. A juvenile detained for more than ninety-six hours must be given reasonable assistance in obtaining educational materials and assignments necessary to keep the juvenile current in regular school studies.

Finally, since the Mountrail County Jail is a Grade two facility, the juvenile may not be detained in that facility for more than 90 days, the same period of time for adult inmates.

I hope that this information will be of help to you. Should you desire further assistance, please do not hesitate to contact me at your convenience.

Sincerely,

Nicholas J. Spaeth

ja