

### **Current Importance of the Issue**

All indications point to a strong movement in the direction of smoke-free jails. Among these indications are the following:

- ***The number of jails instituting no-smoking policies.***

In 1988, when administrators in Kern County (California) were developing a policy prohibiting smoking, there were few models to turn to. Only King County (Washington) which had instituted a policy in April 1988, was identified as comparable. Since then, however, the number of jails with no-smoking policies has grown rapidly.

A January 1991 survey conducted by the Maricopa County (Arizona) Sheriff's Department of forty-three of the nation's largest jails determined that sixteen had policies prohibiting smoking and another three were working on policies. All but three of the jurisdictions surveyed indicated that their jails had significant restrictions on smoking.

Since the January 1991 survey, jails in (at least) the following jurisdictions have also become no-smoking facilities: Los Angeles County, California; Montgomery and Prince George's Counties, Maryland; and Duval and Grange Counties, Florida. All facilities in Dade County (Florida) will prohibit smoking as of December 1, 1991. Several small county jails in Utah and the Weld County (Colorado) jail also have policies prohibiting smoking.

- ***Formal positions adopted by professional corrections associations.***

The **American Jail Association (AJA)** adopted a resolution on May 20, 1990, in support of the implementation of non-smoking policies in jails. Ken Kerle, editor of AJA's publication, ***American Jails***, stated in an interview with NIC Information Center staff that there is definitely a movement, and that even smaller agencies are going in the direction of smoke-free jails.



The **American Correctional Association (ACA)** has adopted the following resolution:

***The American Correctional Association supports those jurisdictions which establish no-smoking policies in their correctional facilities and work environments. (January 17, 1990)***

ACA director Tony Trivisono, in an interview with Information Center staff, suggested that as early as 1995, at least 50 percent of jails nationwide may be smoke-free.

Although the **National Commission on Correctional Health Care** has not developed a formal statement, the spokesperson interviewed (Helen Danta, Professional Services Programs Assistant) indicated that commission standards emphasize the need for a smoke-free environment for inmates with health problems. She also said that agencies entering the accreditation process are choosing to treat the smoke-free environment as an important issue.

**Only the National Sheriffs' Association (NSA)** spokesperson, Dean Moser, disagreed. In an interview, he indicated that a resolution was introduced for a vote but did not pass. "Corrections is dealing with more serious problems, such as overcrowding and budget reductions. The smoke-free issue creates classification problems in an already overcrowded environment."

■ ***Recent legal decisions.***

***Clemmons v. Bohannon***, 918 F.2d **858** (10th Cir. 1990) and ***McKinney v. Anderson***, No. 89-1789, 91 Daily Journal D.A.R. 1476 (9th Cir., February 5, 1991). In these cases, two federal appeals courts ruled that inmates' involuntary exposure to secondary tobacco smoke may be cruel and unusual punishment. (***Jail & Prisoner Law Bulletin*** No. 171, Volume 1991.)

Note: These are the most recent cases found; they essentially reverse decisions in the past two years that found that inmates do not have a right to be free from "environmental tobacco smoke." As ***an*** article ***in*** a recent issue of ***Detention Reporter*** noted, however, the courts also commented in those earlier decisions that their conclusion might change as research evolved. (***See Detention Reporter No. 89***, March 1991.)

***Doughty v. Board of County Commissioners for County of Weld***, 73 1 F.Supp. 432 (D. Colo. 1989). The court held there was no constitutional right to smoke in a jail or prison. "The restriction protects the rights and health of non-smoking guards and inmates, eliminates potential fire hazards, provides for a clean living environment, and is therefore reasonably related to the county's goals." (Cited in ***Jail & Prisoner Law Bulletin*** No. 164, Volume 1990.)

## Reasons for the Non-Smoking Jail Movement

- **Health.** The most important reason. Studies by the U.S. Surgeon General and the National Academy of Sciences concluded that involuntary exposure to tobacco smoke is a cause of disease, including lung cancer, in healthy non-smokers.
- **Safety and security.** Widespread use of matches increases the risk of fire caused either accidentally or intentionally.
- **Maintenance.** Smoking causes wear and tear on air conditioning and creates residue on walls, ceilings, floors, furniture, and mechanical &vices, leading to more frequent maintenance.
- **Insurance rates.** Lower insurance rates prevail for non-smoking jails.
- **Liability.** (See recent court decisions, cited above.)

## Experiences of Jails Implementing No-Smoking Policies

Published case studies, informal interviews of jail administrators by Information Center staff, letters from administrators, and newspaper accounts all indicate that facilities have encountered few problems as a result of implementing no-smoking policies. Following are some notes on their experiences:

### Strategies for successful Implementation

- Phase-in the policy, establishing milestones and notifying staff and inmates of the policy shift in advance.
- Gradually reduce the amount of tobacco that inmates can purchase from the canteen.
- Publicize the health advantages of the no-smoking environment.
- Provide helpful tips for dealing with the smoking prohibition.
- Establish a smoking clinic and/or support group.
- Increase available liquids, including ice.
- Provide relish trays, apples, and crackers for about six weeks.
- Provide increased access to recreation and counseling for the transition period.

## **Advantages noted (In addition to more healthful environment)**

- Reduced building maintenance.
- Less damage to uniforms.
- Fewer false smoke alarms.
- Cleaner living units, without cigarette butts or ashes.
- Less gambling with cigarettes as tender.
- Fewer illegal drugs as contraband. (But see below re: more cigarette contraband.)

## **Problems experienced**

- Few. Rebellion on the part of staff and inmates was less than that expected in Kern County (California), Davis County (Utah), and Ring County (Washington). Weld County, Colorado, also noted few infractions. During the twelve-month period following implementation of the policy, only 15 percent of infractions were related to use of possession of tobacco.
- Cigarettes are no longer available as incentives for behavior modification (Weld County).
- Weld and Ring Counties have observed some destruction of electrical outlets and light fixtures by inmates creating carbon arc torches (“stingers”) made from paper clips and pencil lead to light cigarettes.
- Tobacco products have become a major form of contraband. (But see above; this is taking the place of drugs.)

## **Penalties for Infractions**

### **Inmates**

- If inmates possession of tobacco is detected, it is usually treated as a contraband offense and the inmate is disciplined accordingly.

### **Staff**

- Staff violation of no-smoking policies is addressed through employee disciplinary policy. In Ring County, an employee with a first offense is counselled by his/her supervisor. A second offense merits a letter of corrective counseling, and a third offense results in a letter of reprimand.

## **Information Center Activity Related to Non-Smoking Policies In Jails**

Forty-six requests for information on the topic of no-smoking facilities were received between February 1 and September 13, 1991. Of these, twenty-four contacts were specifically focused on jails.

A standard information packet is sent to persons requesting information on this topic. The packet includes specific policies and procedures, recent court decisions, recommendations for successful implementation, and case studies.