

# PROPOSED RULEMAKING

## DEPARTMENT OF CORRECTIONS

[37 PA. CODE CH. 95]

### County Correctional Institutions

The Department of Corrections (Department) proposes to amend Chapter 95 (relating to county correctional institutions) to read as set forth in Annex A.

*Statutory Authority*

The Department is acting under the authority of section 506 of The Administrative Code of 1929 (71 P. S. § 186). Under section 506 of the Administrative Code of 1929, the Department is empowered to prescribe rules and regulations for the performance of the Department's business. A portion of the Department's business includes establishing standards for county jails and prisons, including physical facilities and standards for correctional programs of treatment, education and rehabilitation of inmates. See section 3(3) of the act of December 27, 1965 (P. L. 1237, No. 502) (Act 502) (61 P. S. § 460.3(3)). The Department is also empowered by section 3(4) of Act 502 to inspect county jails and to classify them, in accordance with the standards for county jails and prisons the Department adopted, as eligible to receive prisoners sentenced to maximum terms of 6 months or more but less than 5 years.

*Purpose and Background*

The Department undertook a review of its regulations regarding county correctional institutions. Based on this review, the Department found that many of the regulations are outdated, too technical and do not afford county prison administrators sufficient flexibility to address prison management problems that are strictly local in nature.

During the first phase of this process, the Department amended 12 sections of Chapter 95. This final-form rulemaking was published at 30 Pa.B. 866 (February 19, 2000). This proposed rulemaking amends a total of 22 sections of Chapter 95 and creates 1 new section. This proposed rulemaking completes the revision of outdated regulations and makes the minimum standards consistent with recognized professional standards for adult local detention facilities.

In addition to updating the outdated provisions, this proposed rulemaking enhances the inspection process by rewarding facilities reaching full compliance with the minimum standards and focuses greater attention on facilities with compliance problems. The proposed rulemaking proceduralizes the declassification of county prisons with serious issues of noncompliance with security-related minimum standards. The proposed rulemaking also expands the inspection process by the offering or ordering of a vulnerability assessment of a county prison. The enhancements to the inspection process are designed to assist county prisons in identifying and correcting deficiencies particularly those serious deficiencies that may threaten the security and safety of a county prison and by extension the public safety. Therefore, the Department proposes amendments to Chapter 95 to read as set forth in Annex A.

In September of 2000, the Department initiated a Review Planning Committee to allow for input from

county prison wardens and county commissioners when drafting amendments to the sections of Chapter 95 that were not updated and amended at 30 Pa.B. 866. Following an initial meeting of the Review Planning Committee, regional workshops were held during October 2000 in the Northwest, Northeast, Southwest and Southeast regions of this Commonwealth, as well as in Philadelphia County. The regional workshops were held to solicit input from county prison officials from all areas of this Commonwealth. The Review Planning Committee and regional workshops also involved Department personnel from the Office of Chief Counsel, Bureau of Operations, Bureau of Health Care Services, Office of Grants and Special Projects and the Deputy Secretary for Intergovernmental Relations. The Review Planning Committee periodically met and corresponded about revisions to Chapter 95 through December 2002.

Periodic meetings and ongoing correspondence regarding the draft amendments to Chapter 95 marked the Review Planning Committee activity. Additional regional workshops were conducted in 2003 and 2004 to expand the review and discussion of the proposed amendments to Chapter 95. The Department has also provided presentations on the proposed amendments to the County Commissioners Association of Pennsylvania (CCAP), as well as the Pennsylvania Prison Wardens Association membership.

The following meetings and presentations took place with the intent of involving the regulated parties in the revision process:

- September 26, 2000      Review Planning Committee Meeting
- October 3, 10, 17, 24 and 31, 2000      Five Regional Workshops—Southwest, Northwest, Northeast, Southeast and Philadelphia
- November 14, 2000      Review Planning Committee Meeting
- July 25, 2001      Review Planning Committee Meeting
- October 30 and 31, 2001      Department Fall Forum for County Wardens and County Commissioners
- December 11, 2002      Review Planning Committee Meeting
- April 11, 2003      Pennsylvania Prison Wardens Association Spring Conference
- December 14—17, 2003      Four Regional Workshops—Southeast, Northeast, Northwest and Southwest
- March 22, 2004      CCAP Roundtable
- March 29—31 and April 1, 2004      Four Regional Workshops—Southwest, Northwest, Northeast and Southeast
- May 27, 2004      County/State Liaison Committee

*Summary of Proposed Amendments*

*§ 95.220a. Definitions.*

A number of definitions have been added to clarify new terms used in the proposed rulemaking.

*§ 95.220b. Scope.*

The proposed rulemaking removes the ability for county prisons to receive a waiver of compliance with the requirements of this chapter for facilities achieving American Correctional Association accreditation and accreditation from the National Commission on Correctional Health Care. This will ensure onsite audits or inspections, or both, of a county correctional facility on a periodic basis.

The proposed rulemaking enhances the inspection process by allowing county prisons achieving full compliance with the minimum requirements of this chapter to be on a 24-month inspection cycle rather than being subject to an annual inspection. Preinspection audits have been added to assist county prisons by identifying deficiencies and allowing time for correcting deficiencies prior to inspection.

The proposed amendments to the inspection process allow the Department to focus resources towards county prisons with compliance problems while relieving facilities in full compliance from the burden of additional visits.

The proposed rulemaking establishes the availability of a vulnerability assessment of a county prison either when requested by the county or when a preinspection audit or inspection finds certain violations of the minimum requirements that may seriously impact the safety and security of the county prison, prison staff, inmates or the public.

The proposed rulemaking defines the circumstances in which a hearing may be ordered to determine if a county prison should be declassified from receiving prisoners sentenced with a maximum term of 6 months or more but less than 5 years.

*§§ 95.223, 95.224, 95.229, 95.230, 95.233, 95.235, 95.237 and 95.241—95.248*

These sections have been completely replaced as part of the final phase of the Department's efforts to replace outdated standards. Each section requires that the county jail establish a written policy on the subject matter and that the policy contain or address the minimum requirements described in the regulation. In each instance, the requirements are consistent with recognized professional standards for adult local detention facilities. Whenever possible, the Department eliminates requirements that are too technical and devises the minimum requirements so that county prison administrators are afforded flexibility in addressing prison management issues.

*§ 95.233a. Telephone communication.*

This new section establishes the minimum requirements for telephone communication if a county prison makes that available to the inmate population. This section expands on what is currently only briefly mentioned in § 95.233 (relating to visiting).

*§§ 95.221, 95.222, 95.232, 95.239 and 95.240*

These sections, which were updated and revised in February 2000, are amended to address new issues of importance, issues previously not addressed or to simply update the minimum standards.

*Fiscal Impact*

The proposed rulemaking is not expected to have significant negative fiscal impact upon the Commonwealth, its political subdivisions or the general public.

*Paperwork Requirements*

The Department does not expect the new requirements to have significant effect on the paperwork requirements of the Commonwealth, its political subdivisions or the public.

*Contact Person*

Interested persons are invited to submit in writing comments, suggestions or objections regarding the proposed rulemaking to David B. Farney, Assistant Counsel, Department of Corrections, Office of Chief Counsel, 55 Utley Drive, Camp Hill, PA 17011, (717) 731-0444 within 30 days following publication of this proposed rulemaking.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 9, 2006, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Judiciary Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

*Effective Date*

The proposed rulemaking will take effect upon completion of the regulatory review process and final-form publication in the *Pennsylvania Bulletin*.

JEFFREY A. BEARD, Ph.D.  
*Secretary*

**Fiscal Note:** 19-7. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 37. LAW**

**PART III. AGENCIES AND OFFICES**

**Subpart B. DEPARTMENT OF CORRECTIONS**

**CHAPTER 95. COUNTY CORRECTIONAL INSTITUTIONS**

**Subchapter B. ADMINISTRATIVE STANDARDS, REGULATIONS AND FACILITIES**

**COUNTY JAILS**

**§ 95.220a. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings unless the context clearly indicates otherwise:

**Alcohol and other drugs treatment**—A treatment service designed to address the impact and ramifications of use or abuse of alcohol and other drugs, or both, to prevent illegal or destructive, or both, conduct and avoid addiction.

**Alternative menu**—Meal plans that are prepared and served as an alternative to the regular meal plan.

**Bed capacity**—The number of beds that a prison may utilize consistent with recognized professional standards on unencumbered space and that are only utilized in areas approved for residential occupancy by the Department of Labor and Industry or local code authority.

**Building code**—Federal, State or local regulations that dictate the construction of a prison.

**Classification**—A process for determining an inmate's needs and requirements and for assigning the inmate to appropriate housing units and programs according to the inmate's needs and existing resources.

**Code of conduct and ethics**—A set of rules describing acceptable standards of conduct for all prison staff.

**Community resources**—Human service agencies, service clubs, citizen interest groups, self-help groups and individual citizen volunteers that offer services, facilities or other functions that assist inmates. These various resources, which may be public or private, National or local, may assist with material and financial support, guidance, counseling and supportive services.

**Compensation**—Incentives such as monetary compensation, extra privileges, good time credits, credit toward applicable fines and costs or other items of value that are given for inmate participation in a work program.

**Contact visitation**—A program inside or outside the prison that permits inmates to visit with designated persons without obstacles or barriers to physical contact.

**Contraband**—An item possessed by an individual or found within the prison or on prison grounds that is prohibited by law or expressly prohibited by those legally charged with the administration and operation of the prison.

**Counseling**—A treatment service using planned interpersonal relationships to promote social adjustment. Counseling programs provide opportunities to express feelings verbally with the goal of resolving the individual's problems. At least three types of counseling may be provided:

- (i) Individual (a one-to-one relationship).
- (ii) Small-group counseling.
- (iii) Large-group counseling.

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**Education**—A treatment service using formal academic education or a vocational training activity designed to improve knowledge or employment capability, or both.

**Financial audit**—An examination of prison records or accounts to check their accuracy, which is conducted by persons not directly involved in the creation and maintenance of these records or accounts. An independent audit results in an opinion that either affirms or disaffirms the accuracy of records or accounts.

**First aid**—Care for a condition that requires immediate assistance from an individual trained in first aid care and the use of the prison's first aid kits.

**Force, use of**—Physical force used in instances of justifiable self-defense, protection of others, protection of property or prevention of escape.

**Force option**—Actions beginning with the least amount of force and progressing through the degrees of nondeadly and deadly force, as necessary.

**Governing county prison authority**—The individual or board, established by law, having administrative oversight and policy-setting responsibility for the county prison.

**Grievance**—A formal written complaint by an inmate related to a problem encountered during the course of his confinement.

**Grievance process**—The procedure established to review and respond to inmate grievances.

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**Health care provider**—An [employee] employee or contractor of the prison who is responsible for ensuring that adequate health care is provided to inmates.

**Health care screening**—A process developed by the prison's health care provider to assess inmates upon admission as set forth in written local policy. The process must include a structured inquiry and observation designed to identify newly-committed inmates who pose a health or safety threat to themselves or others. Screening can be performed by health care professionals or by health-trained correctional staff at the time of admission.

**Health care training**—Training required by the county prison's health care provider as part of the prison's health care delivery system as set forth in written local policy. Correctional staff may be trained and appropriately supervised to carry out specific duties with regard to the administration of health care screening upon admission.

**Inmate**—An individual who is legally confined in a county prison.

**Intake interview**—A process developed by the prison's treatment services provider to assess inmates upon admission as set forth in written local policy.

**Life safety code**—A manual published and updated by the National Fire Protection Association specifying minimum standards for fire safety necessary in the public interest. Two chapters are devoted to correctional facilities.

**Major infraction**—

(i) A rule infraction involving a grievous loss and requiring use of a hearing procedure for resolution.

(ii) The term includes violations:

(A) That may result in disciplinary detention or administrative segregation.

(B) For which punishment may tend to increase an inmate's sentence, such as extending parole eligibility.

(C) That may result in forfeiture, such as loss of earned time.

(D) That may be referred for criminal prosecution.

**Minor infraction**—A violation of a prison's rules of conduct that does not require a hearing procedure and can be resolved without the imposition of

serious penalties. Minor infractions do not violate any State or Federal statutes and may be resolved informally by reporting staff.

**Noncontact visitation**—A program that restricts inmates from having physical contact with visitors by the use of physical barriers such as screens or glass, or both. Voice communications between parties are normally accomplished with phones or speakers.

**Preinspection audit**—An onsite operational audit of a county prison by one or more Department inspectors consisting of staff and inmate interviews, policy and policy compliance reviews and a physical examination of the prison. The audit is intended to assist the county prison by identifying areas where the prison is not in compliance with the minimum standards and offering other observations prior to the prison inspection approximately 6 months thereafter.

**Preventive maintenance**—A system designed to enhance the longevity and usefulness of buildings and equipment in accordance with a planned schedule.

**Prison**—A place, institution, building (or part thereof), set of buildings or area (whether or not enclosing a building or set of buildings) that is used for the lawful custody of individuals.

**Prison administrator**—The official, regardless of local title, who has the day-to-day responsibility for managing and operating the county prison.

**Prison inspection**—An onsite visit of a county prison by one or more Department inspectors as the formal follow-up to the preinspection audit. The inspection specifically reviews those areas and practices identified by the preinspection audit report to determine whether the county prison is in compliance with the minimum requirements of this chapter.

**Procedures**—The detailed and sequential actions that must be executed to ensure that a policy is implemented. It is the method of performing an operation or a manner of proceeding on a course of action. It differs from a policy in that it directs action required to perform a specific task within the guidelines of the policy.

**Restraint**—An authorized device used to prevent escapes, prevent an inmate from injuring himself or other persons or prevent property damage.

**Security devices**—

(i) Locks, gates, doors, bars, fences, screens, ceilings, floors, walls and barriers used to confine and control inmates.

(ii) The term also includes electronic monitoring equipment, security alarm systems, security light units, auxiliary power supplies and other equipment used to maintain prison security.

**Security perimeter**—The outer portions of a prison that provide for secure confinement of prison inmates. The design of the perimeter may vary depending upon the security classification of the prison.

**Segregation**—The separation of an inmate from the general population. Segregation provides for separate and distinct conditions of confinement

that ensures that medical/mental health and gender requirements of inmates are being met.

**Social services**—A treatment service designed to promote the welfare of the community and the inmate, as through aid for physically and mentally handicapped, health maintenance, family development and employment opportunities.

**Training**—

(i) An organized, planned and evaluated activity designed to achieve specific learning objectives and enhance the job performance of personnel. Training may occur onsite, at an academy or training center, during professional meetings or through supervised on-the-job training.

(ii) Training includes an agenda and is conducted by an instructor, manager or official. The activity must be part of an overall training program.

**Training plan**—A set of long-range or short-range training activities that equip staff with the knowledge, skills and attitudes they need to accomplish the goals of the organization.

**Treatment professional**—An individual who is assigned to or is a supervisor of inmate casework, counseling and treatment services. This individual possesses a bachelor's degree and advanced training in the social or behavioral sciences.

**Treatment services provider**—An employee or contractor of the county prison who is responsible for providing treatment services to inmates.

**Treatment training**—Training required by the county prison's treatment services provider as part of the prison's treatment delivery system as set forth in local written policy. Correctional staff may be trained and appropriately supervised to carry out specific duties with regard to the administration of treatment intake screening upon admission.

**Unclothed search**—An examination of an inmate's unclothed body for weapons, contraband and physical abnormalities.

**Vulnerability analysis**—

(i) A systematic and measurable performance-based evaluation of a prison. This approach integrates people, policies, procedures, equipment and detection systems within the overall assessment of a prison in an effort to ascertain potential avenues of escape, inmate violence or contraband vulnerabilities. This evaluation also attempts to identify and test the physical protection systems in place in an effort to prevent or limit opportunity for the threat to occur.

(ii) The term includes a prison analysis, planning, prison characterization, threat definition, identification of undesirable events, performance-testing physical protection systems, generation of adversary sequence diagrams, scenario development, timeline development and determination of risk for worst-case scenarios.

**Work release**—An arrangement sanctioned by law that enables an inmate to be released into the community to maintain approved employment or other approved activity, or both.

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**§ 95.220b. Scope.**

Each section sets forth minimum requirements, which are mandatory. [ For those counties achieving American Correctional Association accreditation using Adult Local Detention Facilities standards, this subchapter will be waived in its entirety. Section 95.232 (relating to medical and health services) will be waived for those counties which achieve National Commission on Correctional Health Care accreditation. ]

(1) Every county prison shall be subject to a prison inspection cycle. An inspection cycle will consist of a preinspection audit and, if necessary, a prison inspection. A preinspection audit will be scheduled at least every 24 months. The prison inspection, if necessary, will be conducted approximately 6 months after the preinspection audit. This inspection cycle will determine if the county prison is in compliance with the minimum requirements. An immediate prison inspection may be ordered by the Secretary following an emergency situation at a county prison, including, but not limited to, a riot or disturbance, a fatality following a serious assault or an assault by an inmate using a deadly weapon resulting in serious injury. The inspection will be conducted to determine possible violations of the minimum requirements.

(2) The Department will issue a Preinspection Audit Report following the preinspection audit of the county prison. The report will be issued to the county prison administrator and the governing county prison authority. The report will, at a minimum, identify any instances of the county prison failing to comply with the minimum requirements.

(3) If the preinspection audit finds that the county prison is in full compliance with the minimum requirements, the subsequent prison inspection will be waived and the county prison will be on a 24-month prison inspection cycle. The next preinspection audit will be scheduled approximately 24 months after the preinspection audit.

(4) A prison inspection will be conducted any time the preinspection audit finds the county prison is not in compliance with the minimum requirements. The Department will issue a Compliance Report following the prison inspection. The report will be issued to the county prison administrator and the governing county prison authority. The report will identify whether the county prison has corrected the instances of noncompliance set forth in the Preinspection Audit Report.

(i) If the Compliance Report finds that the county prison is in full compliance with the minimum requirements, the county prison will continue on a 24-month inspection cycle. The next preinspection audit will be scheduled approximately 18 months after the prison inspection.

(ii) If the Compliance Report finds that the county prison remains in violation of the minimum requirements previously identified in the Preinspection Audit Report, the county prison administrator and the governing county prison authority will be issued a Notice of Deficiency as part of the report and subject to a 12-month inspection cycle. The next preinspection audit will be scheduled approximately 6 months after the prison inspection.

(iii) If the Compliance Report finds that the county prison remains in violation of the same minimum requirements for the second consecutive prison inspection, the county prison administrator and the governing county prison authority will be issued a warning that if the instances of noncompliance are not corrected by the time of the next 12-month prison inspection, a Citation of Noncompliance will be issued.

(iv) If the Compliance Report finds that the county prison remains in violation of the same minimum requirements for the third consecutive prison inspection, the county prison administrator and the governing county prison authority will be issued a Citation of Noncompliance.

(5) Within 60 days of receipt of any Compliance Report citing instances of noncompliance with the minimum requirements, the governing county prison authority shall file a written reply that includes a written plan that describes the actions that will be taken and the time frame for bringing the county prison into compliance with the minimum requirements.

(6) The Secretary may authorize the conducting of a vulnerability analysis of a county prison when a preinspection audit or prison inspection finds one or more violations of the minimum requirements of the following sections and it is determined those violations may significantly impact the safety and security of the county prison, prison staff, inmates or the public:

- (i) Section 221—Personnel.
- (ii) Section 223—Orientation.
- (iii) Section 224—Rules and Regulations.
- (iv) Section 230—Food Service.
- (v) Section 232—Medical and Health Care Services.
- (vi) Section 240—Inmate Discipline Procedures.
- (vii) Section 241—Security.
- (viii) Section 243—Treatment Services.
- (ix) Section 248—Sanitation and Safety.

(7) A vulnerability analysis report will be issued to the governing county prison authority and the county prison administrator following the vulnerability analysis. The report will present an analysis of the overall operations of the prison and an analysis of potential threats to the safety and security of the county prison, prison staff, inmates and the public.

(8) A governing county prison authority may at any time request the Department to conduct a vulnerability analysis to assist in evaluating the operations of the county prison.

(9) The Secretary may order a hearing on why the county prison should not be declassified and declared ineligible to receive prisoners sentenced to a maximum term of 6 months or more but less than 5 years under the following conditions:

(i) If a vulnerability analysis report finds one or more violations of the standards identified in paragraph (6) and concludes that those violations present a significant threat to the safety and security of the county prison, prison staff, inmates or public safety.

(ii) If the county prison continues in subsequent prison inspections to violate the minimum standards for which it has been issued, a Citation of Noncompliance in accordance with paragraph (4)(iv) and the governing county prison authority's written response to the Compliance Reports fails to show a good faith effort to correct those violations.

(10) The hearing will be scheduled promptly, but no sooner than 20 days after receipt of the hearing notice. The proceedings will be conducted in accordance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure).

(11) Following the hearing, a final order will be issued resulting in one of the following:

(i) Declassification of the county prison resulting in the prison being ineligible to receive prisoners sentenced to a maximum term of 6 months or more but less than 5 years.

(ii) The Citation of Noncompliance remains in effect, but the county prison is subject to a 12-month prison inspection cycle as of the issuance of the hearing report. If following the inspection the Compliance Report finds the county prison to be in violation of some or all of the minimum requirements for which the hearing was conducted, the Secretary may order another hearing in accordance with paragraph (9)(ii).

(iii) The Citation of Noncompliance may be rescinded based on findings that the county prison is now in compliance with the minimum requirements. The county prison will be returned to a prison inspection cycle consistent with paragraphs (3) and (4).

§ 95.221. Personnel.

The following are the minimum requirements [ applicable ] apply to personnel at county prisons:

(1) Before being assigned duties, all corrections personnel shall be given training as to the contents/application of this chapter and in their general and specific responsibilities, including the use of force, prohibition on the seeking and dispensing of favors to and from the inmate population and instruction in the [ facility's ] prison's code of conduct and ethics. A record of this training shall be documented in each employee's personnel file.

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(5) An annual training plan shall be prepared that identifies the subjects and number of hours required for preassignment, basic and staff development training. The training plan shall be reviewed annually by prison administrator or designee.

(6) Written local policy must provide for a prison personnel policy manual that is available for employee reference. This manual must include, but not be limited to the following:

- (i) Organization chart.
- (ii) Recruitment and promotion.
- (iii) Job specifications and qualifications.
- (iv) Code of conduct and ethics.
- (v) Sexual harassment/sexual misconduct.
- (vi) Employee evaluation.

(vii) Staff disciplinary process.

(viii) Grievance and appeals process.

(7) The prison administrator or designee shall conduct a documented review of the prison personnel policy manual annually and revise as needed.

(8) Written local policy must mandate a drug-free workplace for all prison staff including, but not being limited to the following:

- (i) Prohibition on the use of illegal drugs.
- (ii) Prohibition of possession of any illegal drug except in the performance of job duties.
- (iii) Procedures to ensure compliance.
- (iv) Availability of treatment or counseling, or both for drug abuse.
- (v) Penalties for violation of the policy.

(9) Written local policy must specifically and strictly prohibit sexual misconduct and sexual harassment by prison staff. Written local policy must inform prison staff that they may be subject to disciplinary action or criminal charges, or both, if found to have engaged in that conduct.

§ 95.222. Admission and release.

The following are the minimum requirements applicable to admissions and releases:

(1) Admission.

[ (1) ] (i) With all admissions to the prison, commitment under proper legal authority and completeness of paperwork shall be verified.

[ (2) ] (ii) \* \* \*

[ (3) ] (iii) Admission procedures relating to [ contraband searches, ] property disposition, notification and medical assessments and personal hygiene [ shall ] must be specified in written local policy.

(iv) Written local policy must specify the type of contraband search to be performed, including a restriction as to the use of an unclothed search on an arrestee. An unclothed search of an arrestee at intake shall only be conducted when there is reasonable belief or suspicion that the arrestee may be in the possession of an item of contraband. Reasonable belief may be based upon the following:

- (A) Current charges or prior conviction for escape, drugs/weapons or any crimes of violence.
- (B) Current or historical institutional behaviors of contraband possession or refusals to be searched.
- (C) Other factors recognized by courts of competent jurisdiction.

[ (4) ] (v) As part of the admission process, basic personal information shall be obtained for identification and classification purposes. This basic information [ shall ] must include:

- [ (i) ] (A) \* \* \*
- [ (ii) ] (B) \* \* \*
- [ (iii) ] (C) \* \* \*
- [ (iv) ] (D) \* \* \*
- [ (v) ] (E) \* \* \*
- [ (vi) ] (F) \* \* \*

- [ (vii) ] (G) \* \* \*
- [ (viii) ] (H) \* \* \*
- [ (ix) ] (I) \* \* \*
- [ (x) ] (J) \* \* \*
- [ (xi) ] (K) \* \* \*
- [ (xii) ] (L) \* \* \*
- [ (xiii) ] (M) \* \* \*
- [ (xiv) ] (N) \* \* \*
- [ (xv) ] (O) \* \* \*
- [ (xvi) ] (P) \* \* \*
- [ (xvii) ] (Q) \* \* \*
- [ (xviii) ] (R) \* \* \*
- [ (ixx) ] (S) \* \* \*
- [ (xx) ] (T) \* \* \*
- [ (xxi) ] (U) \* \* \*
- [ (xxii) ] (V) \* \* \*
- [ (xxiii) ] (W) \* \* \*

[ (5) ] (vi) Upon admission, a copy of the rules of the prison shall be provided to each inmate.

[ (6) ] (vii) Written local policy shall specify how an inmate can notify a relative of the inmate's location.

(viii) When non-United States citizens are detained, the detainee shall be advised of the right to have his consular officials notified or the nearest consular officials shall be notified of the detention, if required by the Vienna Convention. Consular officials shall be given access to non-United States citizen detainees and shall be allowed to provide consular assistance. Consular officials shall also be notified in the event of the death of a non-United States citizen detainee.

(2) *Release.*

(i) With all releases from the prison, release under proper legal authority and completeness of paperwork shall be verified.

(ii) Written local policy must specify release procedures to include the following:

- (A) Proper identification of inmate.
- (B) Review of inmate file for detainers.
- (C) Disposition of prison and personal property.
- (D) Information exchange.
- (E) Medication supply and medication instructions, as required.
- (F) Victim notification.

§ 95.223. Orientation.

[ *Minimum requirements.* The minimum requirements for the orientation of prisoners shall be as follows:

(1) Every prisoner upon admission shall be provided with written information about the regulations of the institution.

(2) If the prisoner is illiterate, the information shall be conveyed to him orally.

(3) The orientation should include, but not necessarily be limited to, the following:

(i) Regulations covering the treatment of prisoners.

(ii) Rules of conduct for the institution.

(iii) Information regarding work programs, education and vocational training, counseling programs, and other institutional programs offered in the jail.

(iv) The following provisions apply to communications with the staff:

(A) The prisoner should know that he is allowed to make requests or enter complaints to the administrator of the jail or to a jail officer.

(B) The prisoner should know that he may make requests or enter complaints to the jail inspector during his inspection. He should be permitted to talk to the inspector without the administrator or other members of the jail staff being present.

(C) The prisoner should know that he is allowed to make a request or enter a complaint without censorship as to substance to the administrator, the judiciary or other proper authorities.

(D) Unless requests or complaints arising from such communication are obviously frivolous or groundless, the jail staff shall promptly deal with them.

(v) Information necessary to enable the prisoner to understand both his rights and his obligations.

(vi) Additional information necessary for the prisoner to adapt himself to the life of the institution. ]

The following are the minimum requirements applicable to the orientation of inmates:

(1) Written local policy must require orientation for every inmate within 14 days of admission of the following:

- (i) Prison rules of conduct.
- (ii) Consequences for violation of the rules of conduct.
- (iii) Mail, visiting and telephone procedures.
- (iv) Access to medical care.
- (v) Fees, charges or co-payments that may apply.
- (vi) Prison grievance process.
- (vii) Available treatment programs.
- (viii) Available work programs.

(2) Orientation must be in written, oral, audio or video format. Written local policy must provide for the orientation of illiterate and non-English speaking inmates. Orientation of each inmate shall be documented in the inmate file.

(3) Written local policy must describe an inmate grievance process. The policy must include:

(i) The methods available for submitting a grievance.

(ii) The staff persons responsible for responding to a grievance. Grievances must have a written response for record.

(iii) An appeal process of at least one level.

(iv) Time frames for responses and appeals.

(4) Written local policy must permit every inmate to make a request or submit a grievance to the prison administration, the judiciary or other proper authorities without censorship as to substance.

§ 95.224. [ Rules and regulations ] Inmate rules and staff procedures.

[ The minimum requirements applicable for institutional rules and regulations are as follows:

(1) Each jail shall have well phrased and reasonable rules and regulations. The rules shall be constructed so that they eliminate confusion in both the staff and the prisoner's mind as to what behavior is correct. The regulations shall be constructed so that they inform the prisoners and staff how things are done in the jail and when and where activities take place.

(2) New prisoners shall be given information about the rules and regulations. Each new prisoner shall be told during orientation the standard of conduct which is expected.

(3) Jail rules and regulations shall be provided to inmates in the form of a printed manual.

(4) Each institution shall insure that its rules and regulations are constructed so that prisoners are assisted in following a course of conduct which is most likely to achieve the individual inmate's correction and insure the security, control and orderly administration of the jail.

(5) An act viewed by jail personnel as inconsistent with the provisions set forth in paragraph

(4) is a breach of discipline. The act shall subject the person committing it to some form of corrective measure, not necessarily punitive.

(6) Serious types of misconduct include: escape; introduction of hazardous contraband into the institution; assault with a weapon; agitation of group disturbance; and deliberate disobedience with marked disrespect.

(7) Other offenses may be accidental. They may occur through carelessness, a lack of a sense of values or poor judgment. Even so, the infraction may jeopardize the population, others nearby or be a threat to orderly administration. On the other hand, such an offense may only affect the individual offender, and, therefore, simply reflect a deficiency on his part.

(8) Jail rules and regulations shall be subject to change when necessary.

(9) The jail administrator should provide written rules for the guidance of all staff members. The information should include copies of all legislative acts pertinent to custody, control and treatment; plans and procedures for emergencies such as fire, escape and riot. A copy of the organizational chart for the institution approved by the jail administrator should also be provided.

(10) Each jail should establish particular assignments for jail officers while on duty.

(11) Specific post orders and duties for each assignment should include at least the following:

(i) Hours of duty.

(ii) Specific duties to be performed at particular times.

(iii) Time, methods and techniques to be followed in making security checks.

(iv) Time, methods and techniques to be followed in making counts.

(v) Specific responsibilities in case of fire, disturbances, attempted escapes or other emergencies. ]

The following are the minimum requirements applicable to inmate rules and staff procedures:

(1) Written local policy must specify inmate rules that insure the security, control, safety and orderly administration of the county prison. These rules must indicate to both inmates and staff what inmate behavior is unacceptable and the consequences of unacceptable behavior.

(2) Inmates and staff shall have access to inmate rules. New or revised inmate rules shall be disseminated to staff and, when appropriate, inmates prior to implementation.

(3) Written local policy must specify procedures that direct staff in the operation and maintenance of the county prison. The procedures must contain general and specific instructions for each duty post for the prison. The instructions must include the methods, techniques and time frames necessary to perform the duties of a particular duty post.

(4) Written local policy must specify procedures that direct staff in the event of fire emergencies, escapes and riots. These procedures must direct staff as to what actions are to be performed in a given duty assignment or duty post in these situations. These procedures must instruct staff as to the methods, techniques and time frames necessary to carry out the assigned duties.

(5) Operation and maintenance procedures and emergency procedures shall be disseminated to staff prior to implementation. Staff shall have ongoing access to these procedures.

(6) Inmate rules and staff procedures shall be reviewed by the prison administration on an annual basis. This review shall determine if updates are necessary due to operational changes, changes in the law, constitutional standards or recognized professional standards. The annual review and updates shall be documented.

§ 95.229. Bedding.

[ (a) *Minimum requirements.* The minimum requirements regarding bedding for prisoners are as follows:

(1) Each prisoner shall be provided with a bed, mattress, sheets and blankets appropriate for the temperature.

(2) Each prisoner shall be provided a pillow and pillowcase.

(3) Sheets and pillowcases shall be cleaned on a weekly basis and before reissue.



(4) Blankets shall be laundered or sterilized on a regular basis.

(5) Mattresses shall have a waterproof and fire resistant cover and shall be sterilized on a regular basis for the maintenance of good hygiene.

(6) Pillows shall have a waterproof and fire resistant cover and be sterilized on a regular basis for the maintenance of good hygiene.

(b) *Recommended guidelines.* Some jails have canvas bunks. Each jurisdiction having such accommodations for prisoners should immediately take steps to provide the conventional jail bed and mattress. This shall be made a minimum requirement following a reasonable time to allow county authorities, in counties still having canvas bunks, to purchase and install the conventional bedding. ]

The following are the minimum requirements applicable to bedding:

(1) Written local policy must specify that inmates be provided a bed, mattress (not to exclude a mattress with integrated pillow), bed sheet, pillow, pillowcase, towel and blanket. The bed must be a sleeping surface and mattress that allows the inmate to be at least 12 inches off the floor. The mattress and pillow must have a waterproof and fire retardant cover. The bed must be located in an area preapproved for residential occupancy by the Department of Labor and Industry or local code authority.

(2) The prison administrator shall have discretion to issue bedding items to or removing bedding items from an inmate when possession of those items by the inmate could compromise the order, security or safety of the prison.

(3) Written local policy must provide that each mattress and pillow is sanitized chemically or by another acceptable method and is in usable condition before reissue to another inmate. Each in-use mattress and pillow shall be sanitized at least annually.

(4) Written local policy shall provide for the laundering of bed sheets, pillowcases, towels and blankets before reissue to another inmate. In-use bed sheets, pillowcases and towels shall be laundered on a weekly basis. In-use blankets shall be laundered at least quarterly.

#### § 95.230. Food services.

[ (a) *Minimum requirements.* The following minimum requirements are applicable for food services:

(1) Prisoners shall be provided three meals per day at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.

(2) Jails which hold prisoners in excess of 48 hours shall have an onsite kitchen facility whose supervisor and cook shall be an employee of the facility and is competent to plan, purchase and prepare a nutritionally adequate diet. It is acceptable, however, for adequate food services to be provided by other approved sources, as for example, the county home or an outside caterer.

(3) Jails may contract with an outside firm to provide prepackaged meals on a full-time basis

after a complete inspection and written approval from the Bureau of Correction, Division of County Correctional Services.

(4) The jail kitchen shall always reflect the highest standards of cleanliness, safety and sanitation.

(5) Jail staff and inmates shall be given a physical examination and certified to be free of communicable diseases before starting to work in the Food Service Department.

(6) The menus shall be designed to provide a daily diet, well balanced and nutritious. Menus shall be approved by a medical doctor. The services of a local dietician should be consulted, as for example the county home, county hospital or other acceptable facility having a qualified dietician.

(7) Eating utensils should be sterilized at a temperature of 180° F. Preferably a dishwasher should be used where the final rinse sterilizes. In the absence of a dishwasher, a three-compartmented stainless steel sink with a drainboard, one sink for washing, one for rinsing and the third for sterilization, may be substituted.

(8) Menus shall be developed several weeks or a month in advance and arranged in a nonmonotonous manner.

(9) Food shall be served as promptly as possible after it is prepared with hot foods served hot and cold foods cold.

(10) If the serving area is some distance from the kitchen, a heated or insulated food cart shall be used.

(11) If physical facilities permit, all prisoners shall be fed in a dining room or day room to assure good jail sanitation.

(12) Compartmented trays or paper plates and individual cups shall be utilized. More than one type of food should not be served in a noncompartmented tin bowl, or other type of individual container.

(13) If prisoners are fed in their cells, food trays and other eating utensils shall be removed from the cell as soon as the meal is finished.

(14) Food shall be stored in a proper manner to assure its freshness and to prevent spoilage and damage from insects and rodents.

(b) *Recommended guidelines.* Clean white hats, cloth or disposable paper throwaways, and clean white clothing should be worn by all food service workers. ]

The following are the minimum requirements applicable to food services:

(1) Written local policy must specify that each inmate be provided a daily diet that is nutritionally adequate for the maintenance of good health. Written local policy must recognize dietary requirements for those inmates whose medical condition requires prescribed therapeutic attention, for those inmates whose religious beliefs require adherence to specified and approved religious dietary law and for those inmates under segregation or disciplinary status, or both, whose behavior requires a different meal consistency. Regular and alternative menus shall be approved and signed by a registered dieti-

cian or licensed physician, or both, and the prison administrator on an as needed basis, but at least on an annual basis.

(2) Written local policy must provide that food is prepared and served in a sanitary manner. The prison food preparation areas and food distribution areas shall be maintained in a safe and clean condition at all times. Food shall be stored and prepared in a proper manner to assure freshness and to prevent spoilage and damage from insects and rodents. Appropriate food service head cover, beard/facial hair cover and gloves shall be worn by staff, food service contractor and inmates engaged in food preparation or distribution or both. Written local policy must require that one supervisory food service employee become certified in food safety and sanitation. There shall always be a "person in charge" present during all hours of operations. If the "person in charge" is not certified, that person shall receive documented training as to the food safety and sanitation procedures as established by written local policy.

(3) Written local policy must provide for the control and use of culinary equipment. Culinary equipment shall be identified and accounted for on an inventory list. In addition, cutlery items shall be documented as to being checked in and out, to control use at all times. When not in use, cutlery shall be stored in a secure manner.

(4) Written local policy must establish preassignment and periodic medical clearance for staff, food service contractor and inmate food service workers. Food handlers shall wash their hands upon reporting to duty and after using toilet facilities.

(5) Written local policy shall identify the methods available to clean, rinse and sanitize prison-issued eating and drinking utensils at least weekly. These eating and drinking utensils shall be cleaned, rinsed and sanitized before being reissued to another inmate.

(6) Compartmented trays, plastic ware and paper products shall be utilized to serve the food. More than one type of food may not be served in a noncompartmented container during normal feeding operations. Food shall be served as promptly as possible, at the proper temperature.

§ 95.232. Medical and health services.

The following are the minimum requirements applicable to medical and health services:

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(3) Following review of the initial commitment screening by a health care professional, a medical history and physical examination shall be performed by the prison health care provider within 14 days following admission.

\* \* \* \* \*

(8) Written policy [ shall ] must provide for access to emergency care 24 hours a day for all inmates. A written plan [ shall ] must outline onsite treatment, evacuation, transportation and security procedures and designate emergency facilities to be utilized. Corrections personnel shall be certified in basic first aid and cardiopulmonary resuscitation in accordance with the time frames established by the certifying health organization.

(9) Written local policy [ shall ] must provide for the management of pharmaceuticals. The policy must include:

(i) Formulary and prescription practices.

(ii) Medication procurement, receipt, dispensing, distribution, storage and disposal, as supervised by properly licensed personnel in accordance with State and Federal law.

(iii) Secure storage and inventory of all controlled substances, syringes and needles.

(10) Written local policy [ shall ] must provide for a suicide prevention and intervention program and [ shall ] outline the program review mechanisms utilized and staff training procedures for program implementation. Staff training shall occur on an annual basis.

(11) Medical and dental instruments, equipment and supplies shall be controlled and inventoried.

(12) Written local policy must specify the scope of dental treatment to be provided to an inmate. This treatment must include, but not necessarily be limited to, extraction and other work of an emergency nature as needed. Written local policy must specify how an inmate is to obtain the available dental treatment.

§ 95.233. Visiting.

[ (a) Minimum requirements. The following are the minimum requirements relating to visiting prisoners:

(1) The jail shall publish rules and regulations concerning visits, letters and packages. The rules and regulations shall be provided for prisoners for sending to all persons on their approved list.

(2) Prisoners may not be denied visits or mail to family members or approved friends as punishment, unless the reason for the denial is due to serious violation of the visiting or mail rules and regulations or there is an obvious security threat.

(3) The length of a visit shall be no less than 1/2 hour every week and should be longer and more frequent if conditions permit.

(4) The children of a prisoner shall be able to visit him provided that the accompanying adult supervises them and keeps them under control.

(5) Periodic family visits in an open area shall be arranged if possible, as a privilege for selected prisoners. The selected prisoners shall meet conditions which all jail prisoners have an opportunity to attain.

(6) The jail administrator shall grant special visiting privileges to visitors who have traveled long distances, to those persons visiting seriously ill or injured prisoners and for other unusual circumstances.

(7) Visitors shall sign a register and show identification before being permitted to visit.

(8) The attorney and the minister of a prisoner shall be provided such surroundings during a visit that shall insure the privacy of their conversation.

(b) Recommended guidelines. The recommended guidelines governing visiting are as follows:

(1) Physical facilities, prisoner population, staff size and other factors place restrictions on visiting.

Nevertheless, every effort should be made to schedule visiting periods 7 days a week and during some evening hours to make maximum use of the visiting room facilities and to enlarge the opportunity of the prisoner to maintain his contacts with the free community.

(2) Security shall be enforced during visits but the maintenance of security should be done in as professional a manner as possible so as not to discourage visiting.

(3) Prisoners should be able to make an occasional phone call, within staff and physical limitations of the jail, to his family, friends and attorney. ]

The following are the minimum requirements applicable to inmate visiting:

(1) Written local policy must explain inmate visiting procedures, including:

(i) Availability of contact or noncontact visitation, or both.

(ii) Visitor approval procedure.

(iii) Frequency and duration of visits.

(2) Written local policy must require that visitors register upon admission to the prison. Written local policy must describe the circumstances and the types of searches under which visitors are subjected.

(3) Each inmate shall be permitted at least 30 minutes of visitation time weekly. Restrictions may be placed on visiting, including denial of a visit, when, in the discretion of the prison administrator, the restrictions are necessary to maintain the safety or security of the prison.

(4) Written local policy must, in accordance with the Official Visitation of Prisons Act (61 P. S. §§ 1091—1095), provide for visits by official visitors. Written local policy must require that accommodations be made to provide for the privacy of conversation during these official visits.

(5) Written local policy must allow for visits by an inmate's attorney or clergy. Written local policy must require that accommodations be made to provide for the privacy of conversation during these visits.

(6) Inmate visiting information shall be provided to each inmate upon admission. This information shall also be made available to the public.

#### § 95.233a. Telephone communication.

The following are the minimum requirements applicable to telephone communication:

(1) Written local policy must specify whether inmates are permitted telephone communication. If so, the policy must explain telephone procedures, including:

(i) The hours during which telephone communication is available.

(ii) Any limitations on calls.

(iii) The cost/method of payment.

(2) Written local policy must, in accordance with 18 Pa.C.S. § 5704 (relating to exceptions to prohibition of interception and disclosure of communications), specify whether inmate telephone conversations are subject to intercepting, recording,

monitoring or divulging. If so, the policy must establish the guidelines which permit those activities.

(3) Restrictions may be placed on telephone communication, including denial of telephone usage, when, in the discretion of the prison administrator, the restrictions are necessary to maintain the safety or security of the prison.

(4) Information about telephone communication shall be provided to each inmate upon admission. This information shall also be made available to the public.

#### § 95.235. Work programs.

[ (a) *Minimum requirements.* The following minimum requirements shall apply to work programs:

(1) Prisoners waiting trial and not sentenced in the jail shall not be required to work, except to keep their immediate area in the living quarters clean. However, a volunteer work program for unsentenced inmates should be developed.

(2) Prisoners sentenced to the jail shall be assigned work when it is available.

(3) All prisoners who work shall be paid. That pay may take the form of cash or credit toward pending court costs.

(4) The precautions laid down to protect the safety and health of workmen in the free society shall be equally observed in institutions. Proper clothing and tools shall be provided.

(b) *Recommended guidelines.* A good jail administrator shall utilize the furlough concept to enable selected prisoners to seek employment in the community. ]

The following are the minimum requirements applicable to inmate work programs:

(1) Written local policy must identify any authorized inmate work programs to include, but not be limited to, work assignment program, industries program, public works/community service program or work release program. Written local policy must specifically prohibit prison staff from using their official position to secure privileges for themselves or others in association with an inmate work program.

(2) Sentenced inmates may be required to participate in a work program based upon availability. Unsented inmates may not be required to participate in a work program, but may request involvement in a work program.

(3) Inmates who participate in a work program (other than personal housekeeping and housing area cleaning) shall receive some form of compensation. Written local policy must specify the type and amount of compensation.

(4) Inmate working conditions must comply with all applicable Federal, State or local work safety laws and regulations. Appropriate clothing, supplies and tools shall be provided to the inmate for any work assignment program, industries program or public works/community service program. The inmate shall receive direction on the proper use of any equipment or tools to be used by the inmate

during any work assignment program, industries program or public works/community service program.

(5) Written local policy must specify that there is no discrimination regarding access to a work program based on an inmate's race, religion, national origin, gender or disability. If both genders are housed in the prison, all available work programs shall be comparable in accordance with applicable law.

§ 95.237. Religion.

[ (a) *Minimum requirements.* Religion shall be governed by the following minimum requirements:

(1) Each prisoner shall be allowed to satisfy the needs of his religious life consistent with orderly administration of the jail.

(2) Religious services and counseling shall be on a voluntary basis.

(3) Scheduled religious services shall be held at regular intervals, in such a location and in such a manner that the prisoners who do not wish to participate are not exposed to the service.

(4) Prisoners requesting interviews and counseling regarding religious, personal or family problems with accredited clergy, nuns, seminarians and lay persons active in community church affairs shall be afforded this opportunity.

(5) Religious ornaments or medals pertinent to the beliefs of the prisoner shall be permitted in the jail and worn upon the person provided such ornaments or medals do not constitute contraband under the usual rules of the institution. Other religious paraphernalia should be permitted, provided it is kept and utilized in the living quarters of the prisoner and does not interfere with proper house-keeping and further provided that such paraphernalia does not constitute contraband under the usual institutional rules.

(6) Limited use of pork and pork products objectionable to certain religions shall be made in jail menus and menus will clearly indicate which foods contain any pork or pork products or were prepared with pork products.

(7) Insofar as it is possible, the religious activities of all groups shall be scheduled at times consistent with the religious beliefs of the group.

(8) Access to a person who has received ecclesiastical endorsement from his religious authority shall not be refused to any prisoner. If, however, any prisoner should object to a visit of any religious representative, his attitude shall be fully respected.

(b) *Recommended guidelines.* The recommended guidelines applicable for religion are as follows:

(1) Family and community participation in special religious activities should be permitted, subject to the requirements of security.

(2) Special food prepared and furnished from outside the jail may be allowed, provided it is required in the celebration of a major religious holiday. ]

The following are the minimum requirements applicable to religion:

(1) Written local policy must provide that inmates have access to religious activities. Participation in religious activities shall be a matter of choice on the part of each inmate. Religious activities shall be conducted in a location and manner that does not impinge upon the choice of an inmate not to participate.

(2) Individuals seeking to provide religious guidance to inmates shall be screened and selected by the prison administrator or designee. Screening and selection must include qualifications associated with clinical pastoral education or equivalent specialized training and endorsement by the appropriate religious certifying body.

(3) Written local policy must provide for the accommodation of religious practices consistent with the security needs and orderly administration of the prison. The policy must describe the procedure for reviewing an inmate request for accommodation of a religious practice or activity.

(4) Written local policy must provide that inmates are permitted to possess religious objects consistent with the security needs and orderly administration of the prison. The policy must describe the procedure for reviewing an inmate request to possess religious objects that would otherwise be considered contraband.

(5) Written local policy must provide for the accommodation of special foods, diets and fasts as part of an inmate's religious practices consistent with the security needs and orderly administration of the prison. The policy must describe the procedure for reviewing an inmate request for accommodation of these practices.

§ 95.239. Commissary and other funds.

The following are the minimum requirements that apply to commissaries:

\* \* \* \* \*

(3) Written local policy must describe a fiscal system that accounts for all income and expenditures on an ongoing basis. Methods for collecting, safeguarding and disbursing moneys must comply with generally accepted accounting procedures. A financial audit of the prison shall be conducted annually by a certified, independent party using generally accepted accounting principles.

(4) Funds associated with inmate telephone services shall be audited and reported to the governing county prison authority on an annual basis by an independent party using generally accepted accounting principles.

(5) Funds associated with an industries program and a work release program shall be audited and reported to the governing county prison authority on an annual basis by an independent party using generally accepted accounting principles.

§ 95.240. Inmate disciplinary procedures.

The following are the minimum requirements applicable to inmate disciplinary procedures:

(1) County prisons shall operate a disciplinary process that provides clear notice of prohibited behavior and consistently applied sanctions for violations of prison rules. Disciplinary procedures governing inmate rule violations must address the following:

- (i) Rules.
- (ii) Minor and major infractions.
- (iii) Criminal offenses.
- (iv) Disciplinary reports.
- (v) Prehearing actions.
- (vi) Prehearing detention.
- (vii) Appeal of disciplinary decisions.

(2) Violation of prison rules may result in the imposition of discipline. **Violations shall be designated as being either a major infraction or a minor infraction. A major infraction charge requires use of a hearing procedure for resolution. A minor infraction charge may be resolved without a hearing procedure.**

(3) **Discipline for a minor infraction may not be imposed unless a written statement as to the rule violated is prepared and a person not involved in the rule violation reviews the statement and makes a decision as to guilt.**

(4) **Discipline for a major infraction may not be imposed unless the [prisoner] inmate has been informed of the offense charged in writing, has had an opportunity to present a defense and has been found guilty of the charge by an impartial party or board designated by the prison administrator. [ (3) ] Findings of guilt or innocence [shall be made by an impartial party to be designated by the prison administrator. Findings] shall be expressed in writing and based on information presented. Written findings of guilt [shall] must state the reasons for the finding.**

[ (4) ] (5) **Disciplinary charges and written findings relative to a major infraction shall be recorded and made a permanent part of an inmate's prison file.**

[ (5) ] (6) **Disciplinary sanctions imposed after a finding of guilt for a major infraction may include loss of privileges, segregation or other sanctions as set forth in written local policy.**

(7) **When an inmate in disciplinary status is deprived of any usual authorized items or activity, a report of the action is to be made to the prison administrator. If an inmate in disciplinary status uses food or food service equipment in a manner that is hazardous to self, staff or other inmates, an alternative meal may be provided, upon the approval of the prison administrator or designee and responsible health care provider.**

[ (6) ] (8) \* \* \*

#### § 95.241. Security.

[ (a) ] **Minimum requirements.** The minimum requirements applicable for security are as follows:

(1) **Generally.** The following general provisions shall be in effect:

(i) **Supervision on a 24-hour basis by trained personnel is required in jails housing any number of inmates. One jail officer with one additional officer on call for assistance shall be the minimum in all jails housing any number of prisoners up to ten. A jail having over ten inmates shall have at least two jail officers present for duty on the premises. In general, the minimum required custody ratio is one officer per shift for 15 inmates.**

For example, with a population 45, a jail shall have nine officers. An administrator may schedule those nine officers as he sees fit, as for example: four on the first shift; three on the second shift; and two on the third shift, or some other arrangement which would be appropriate to that particular jail. A good administrator, however, shall have a greater ratio than the minimum.

(ii) **A matron or other qualified female employe shall be present in the jail, awake and alert at all times, while a female prisoner is in custody. The same minimum ratio for female prisoners as for male prisoners is required.**

(iii) **Sufficient jail officers shall be present in the jail, awake and alert at all times, to provide adequate supervision while prisoners are in custody.**

(iv) **A male jail officer shall enter the female area only in the presence of a matron.**

(v) **In an institution holding both men and women, the part used for women shall be under the authority of a responsible woman officer who shall have the custody of the keys to all that part of the institution.**

(vi) **Prisoners shall never be permitted to assume any authority whatsoever over other prisoners.**

(vii) **Prisoners assigned as trustees should be supervised.**

(viii) **If trustees leave the jail premises for any reason they shall be thoroughly searched upon their return.**

(ix) **Inmates with detainees should be assigned to trusty status only if jail staff is aware of the circumstances.**

(2) **Weapons.** The following provision regarding weapons shall be in effect:

(i) **In the event of a general emergency, appropriate emergency plans shall be followed in accordance with previously established procedures.**

(ii) **The following guidelines shall govern the use of weapons:**

(A) **Weapons shall not be carried in normal prison operation. Tower or outside security assignments are exceptions.**

(B) **Adequate weapons, to include batons and chemical mace, shall be available in a locked security area accessible to prison administrator or his designated representative.**

(C) **The jail administrator or an officer designated by the jail administrator shall determine the need for carrying concealed mace or exposed batons or the use thereof during any movement of prisoners. He shall base his determination upon the physical facilities, type and attitude of the offender, and the personal safety of self and fellow officers.**

(D) **Any use of the baton or chemical mace upon any prisoner shall be recorded in writing and be reported to the Department of Corrections, Division of County Correctional Services, in accordance with established procedures for extraordinary occurrences reports.**

(iii) **Personnel shall be trained in security measures and in the handling of special incidents such as assaults, generalized disturbances, fires, escapes, and the like.**

(iv) Law enforcement personnel shall be provided with a locked security area for their weapons when visiting the jail. Personnel who normally carry weapons in their usual duties, including law enforcement officers, should be cautioned about leaving weapons inside cars in the prison parking area.

(v) Tear gas shall be used only as last resort to bring one or more prisoners under control. It shall be used only after thoroughly considering the hazards involved, including consideration for the area where it is to be used.

(vi) Permission to use tear gas shall be obtained from the jail administrator or an officer designated by him to supervise the use of tear gas.

(vii) Prisoners affected by tear gas shall be given a medical checkup as soon as possible after the incident is under control.

(viii) The key to the armory shall not be kept on the key board.

(ix) If the jail has a safe, the key to the armory shall be kept in it.

(3) *Key control.* The following provisions shall apply to the control of keys:

(i) Jail keys shall be stored in a secure locker when not in use, and a record of all keys shall be kept.

(ii) In addition to one set of keys in use, one or more sets shall be stored in a safe place.

(iii) Jail officers shall exercise every precaution while carrying keys or potentially dangerous articles in the presence of prisoners.

(iv) Under no circumstances will prisoners be permitted access to jail keys or personnel records or records of other inmates. This should not prevent inmates from having keys to personal lockers and honor cells if provided.

(v) Jail personnel shall be familiar with the locking system of the jail and shall be able to release prisoners in the event of a fire or other emergency.

(vi) If opening and closing cell block doors, all employees shall be alert to possible escape attempts.

(vii) Damaged or malfunctioning keys or locks shall be promptly repaired.

(viii) Ignition keys shall be removed from all motor vehicles in the jail parking area. Doors of motor vehicles shall be securely locked.

(ix) Cell block doors and doors opening into a corridor shall be kept locked, except when necessary to permit admission or exit of prisoners, visitors or employees.

(x) The key control center shall be the only place where keys may be checked in and out. It shall be secure from entry by prisoners.

(xi) The control center shall have a key book containing the following:

(A) The number of each key.

(B) The trade name of each lock and its location.

(C) The number of keys available for each lock.

(xii) Key rings shall contain either inside or outside keys, but not both.

(xiii) Lock malfunctions shall be reported immediately.

(xiv) Lock changes shall be reported immediately.

(xv) Prisoners shall never be permitted to handle keys.

(4) *Control of contraband.* The following shall apply to the control of contraband:

(i) Jail personnel shall understand what articles are considered to be contraband.

(ii) Prisoners shall be searched when they are admitted to the jail and periodically while confined.

(iii) Cells shall also be searched for contraband that has been missed or that somehow has found its way into the cell.

(iv) Prisoners permitted to leave the jail under a work program, to appear in court or for any other reason shall be searched before re-entering the jail.

(v) Both unoccupied and occupied cells shall be searched for contraband frequently but not according to a set and regular routine.

(vi) Unoccupied cells shall be kept locked at all times.

(vii) Eating utensils shall be accounted for and returned to the kitchen after each meal.

(viii) An officer shall be subject to search upon entering or leaving the jail.

(ix) Prisoners may not assist in searching of cells or in other security inspections.

(5) *Use of physical force.* The following shall govern the use of physical force:

(i) Physical force may not be used on prisoners unless necessary, and then only that amount of physical force which is required to achieve the purpose is justified.

(ii) The use of necessary physical force shall be restricted to the following situations:

(A) If absolutely necessary in self-defense or to prevent an assault on staff or other prisoners.

(B) To prevent escapes.

(C) To prevent serious destruction of property.

(iii) When physical force is used, an extraordinary occurrence report shall be written and filed with the Department of Corrections, Division of County Correctional Services.

(6) *Emergency plans.* The following shall govern emergency plans:

(i) Every jail shall have a written emergency plan. It is impossible to develop a single emergency plan that is useful for every jail.

(ii) Each plan shall contain basic information and instructions for all jail officers, to include at least the following:

(A) To whom shall the emergency be reported.

(B) Who is in charge.

(C) A description of duties for each kind of emergency.

(D) How these duties in an emergency are coordinated with the duties of other jail personnel.

(E) How to use emergency equipment.

(F) Outside police or other agencies to be contacted.

(7) *Instruments of restraint.* The following shall govern the use of instruments of restraints:

(i) Instruments of restraint, such as handcuffs, chains, irons, come-a-longs and straitjackets, may not be used as a punishment.

(ii) Instruments of restraint may be used in the following circumstances:

(A) As a precaution against escape during a transfer.

(B) On medical grounds by direction of a medical doctor.

(C) By order of the jail administrator or his appointed representative, if other methods of control fail, in order to prevent a prisoner from injuring himself or others or from damaging property; in such instances the jail administrator or his representative shall at once consult a medical doctor.

(iii) Instruments of restraint may not be applied for a longer length of time than is absolutely necessary. Use of restraints shall be recorded on inmate's file.

(iv) Whenever instruments of restraint are used outside of the process of prisoner transportation or for medical reasons within a hospital setting, a written extraordinary occurrence report shall be prepared and submitted to the Department of Corrections, Division of County Correctional Services.

(8) *Tools.* The following shall govern the use of tools:

(i) The work supervisor shall determine that the prisoner knows how to use the tools that are issued to him.

(ii) The work supervisor is responsible for insuring that the prisoners have been instructed in safety procedures.

(9) *Prison provided transportation.* The following shall govern transportation that is provided by prison officials:

(i) Vehicles used to move prisoners shall have adequate ventilation, lighting and shall be safe.

(ii) The prisoner may not be subjected to unnecessary physical hardships during the period of transportation.

(iii) The escort officer shall treat the prisoner firmly, but humanely and with consideration for his dignity and status as a human being.

(iv) The escort officer shall search the prisoner before any restraints are placed upon him.

(v) Restraints used shall be checked at intervals for security.

(vi) Firearms carried by the escorting officer shall be concealed and continuously protected so that they may not be taken by the prisoner.

(vii) Should a prisoner escape, the nearest law enforcement agency shall be notified.

(b) *Recommended guidelines.* The recommended guidelines for security are as follows:

(1) *Generally.* The following general provisions are recommended guidelines:

(i) Trustees should leave the jail proper only when accompanied by an officer.

(ii) Articles which may be converted into weapons should be removed from within reach of prisoners unless the article is being used by an inmate for an authorized purpose. Security type safety razors or battery type razors shall be used and removed from cell areas when not in use.

(iii) Keys should always be kept covered.

(2) *Tools.* The following are the recommended guidelines for tools:

(i) A receipting system for issuance of tools to employes should be maintained.

(ii) Tools of outside maintenance men should be carefully checked upon admittance to the jail and when they depart.

(iii) Prisoners should be allowed to use tools only under supervision.

(iv) Tools used within the jail or belonging to the jail should be numbered and recorded. They should be kept in a locked tool-storage area which is secure and is located outside the security perimeter of the jail.

(v) Tools should be checked out by the work supervisor.

(vi) Tools are returned at the end of the working day.

(vii) Tools should be inspected when returned.

(3) *Counting procedures.* The following are the recommended guidelines regarding counting procedures:

(i) A recorded inmate headcount should be made at least four times daily.

(ii) At least one official count should be made on each shift. In addition, any time there is mass movement of prisoners from one area to another, an official count should be made.

(iii) During the count the recommended guidelines are as follows:

(A) Prisoners should not move about.

(B) The officer making the count should be able to see the prisoner he is counting.

(C) Only a jail officer should conduct a count.

(D) Interruptions should not be permitted during the count.

(iv) Spot checks should be made at irregular intervals, both day and night. ]

The following are the minimum requirements applicable to security:

(1) *Supervision of inmates.*

(i) Written local policy must specify the number of staff required to maintain care, custody and control of the inmate population on a 24-hour basis. Staff used to maintain the care, custody and control of the inmate population shall meet the minimum training requirements of § 95.221 (relating to personnel).

(ii) An initial staffing analysis shall be conducted to determine the staffing allotment and post assignments necessary to safely operate the prison. In determining the number of staff needed, relief factors are to be calculated for each classification of staff that is assigned to relieve posts or positions. Consideration must include, but not be limited to, annual leave, average sick leave usage, holidays, military leave, regular days off and training. The staffing analysis shall be reviewed and documented on an annual basis by the prison administrator. The results of this annual staffing analysis must serve as the required staffing allotment designated for the prison. Information on the number and type of positions filled and vacant shall be available at all times.

(iii) Written local policy must provide that assignments/posts shall be staffed without regard to gender except when reasonable accommodation to inmate privacy cannot be maintained. Prison staff of the opposite gender to that of the inmate population may not be given assignments/posts that require continuous and open viewing of unclothed inmates. When both male and female inmates are housed in the prison, at least one male corrections staff member and one female corrections staff member shall be on duty at all times.

(iv) Written local policy must require that inmates never be permitted to assume any authority over other inmates. Inmates may not be permitted access to prison employee records, the records of other inmates or other prison records.

(v) The prison shall maintain a 24-hour secure control center for monitoring and coordinating the prison's security, life safety and communications systems. Correctional staff assigned to the control center shall maintain a permanent log and shift reports that record routine information, emergency situations and unusual incidents.

(vi) Written local policy must provide that the prison administrator or assistant prison administrator and management staff designated by the prison administrator visit the prison's living and activity areas at least monthly to encourage contact with staff and inmates and observe living and working conditions. The visit shall be documented.

**(2) Use of force.**

(i) Force shall be restricted to instances of justifiable self-defense, protection of others, protection of property and prevention of escapes, and only the least amount of force necessary to achieve that purpose is authorized. Force may not be used as a means of punishment or revenge.

(ii) Written local policy must specify:

(A) Authorized purposes allowing for the use of force.

(B) Physical restraints, chemical agents, stun devices, batons or firearms permitted for use by prison staff.

(C) Appropriate limitations for the authorized use of force.

(D) Force options, beginning with the least amount of force and progressing through the degrees of nondeadly and deadly force.

(E) Secure storage arrangements for restraints, chemical agents, stun devices, batons and firearms. A written record shall be maintained as to the distribution of these items. A documented inventory of these items shall be conducted on a monthly basis to determine accountability and condition.

(F) Circumstances and types of force requiring specific authorization for use of force and who shall authorize.

(G) Medical consultation, review and treatment required when use of force occurs.

(H) Training for staff in the use of force. The training shall occur before staff is assigned to a post involving the possible use of authorized equipment. This training must cover the use, safety and care of the equipment and the limitations on its use. The prison staff authorized to use the equipment shall demonstrate competency in its use during the recognized certification period. Competency must be documented.

(iii) Law enforcement personnel conducting official business on prison premises who have in their possession equipment or weapons not permitted into the prison shall be provided a locked security area to properly secure the equipment or weapons.

(iv) Written local policy must require that each prison staff member involved in any use of force for other than routine inmate movement/escort/transportation shall submit a written report to the prison administrator or designee. In addition, this information shall be documented and reported to the Department, as required under § 95.242 (relating to statistical/informational reporting requirements).

**(3) Emergency plans.**

(i) Every prison shall have emergency plans for responding to emergency incidents, including escape, fire, disturbances, hostage taking, bomb threat, terrorism, biological/chemical incidents, utility outages, natural disasters and evacuation/relocation. The emergency plans must contain basic information and instructions for the prison staff including:

(A) To whom the emergency shall be reported.

(B) The chain of command during an emergency.

(C) The outside agencies to be contacted for response to an emergency.

(D) A description of duties of staff for each type of emergency.

(E) An identification of emergency keys/security devices and access location. There shall be a means for the immediate release of inmates from locked areas and provisions for a back-up system.

(F) An evacuation plan.

(G) How to use emergency equipment.

(H) Training for staff to handle emergencies. Prison personnel shall be trained annually in the implementation of the emergency plans. The training shall be documented.

(I) The written agreements with other jurisdictions for handling emergency incidents and the possible evacuation of inmates.



(ii) Emergency plans shall be reviewed by the prison administration on an annual basis. This review shall determine if updates are necessary due to operational changes, changes in the law, changes in constitutional standards or in recognized professional standards. The annual review and updates shall be documented.

(iii) Any emergency shall be documented and reported to the Department, as required by § 95.242.

(4) *Access control.* Written local policy must identify:

(i) Current listing of all keys/access cards.

(ii) Storage/back-up/protection arrangements for keys/access cards and accessible security devices. Keys/access cards shall be stored in a secure location when not in use. A set of emergency prison keys/access cards shall be stored in a controlled location outside the secure perimeter.

(iii) Criteria for use of keys/access cards and security devices.

(iv) Security measures required for the installation/maintenance/repair/replacement of keys/access cards and security devices. An inspection of all keys/access cards and security devices shall be conducted quarterly to determine status, condition and need for action. The results of this inspection shall be documented and submitted to the prison administrator or designee.

(v) Staff responsible for authorizing use of applicable keys/access cards and security devices. Inmates may not be permitted access to keys/access cards and security devices.

(vi) Inventory and receipt system to account for keys. Keys/access cards shall be checked out and checked in. A record shall be maintained to identify keys/access cards issued, identifying the person possessing and returning said key/access card. The record must allow a current accounting as to the location and possessor of keys/access cards.

(vii) Staff training required to use keys/security devices, particularly the ability to release inmates in the event of a fire or other emergency.

(5) *Contraband control.* Written local policy must describe time, methods and techniques and identify:

(i) What is considered contraband.

(ii) Procedures for conducting personal searches of inmates, vendors, volunteers, visitors and staff. All individuals shall be subject to search upon entering or leaving the prison. Inmates permitted to leave the prison for any reason shall be searched prior to reentering the prison.

(iii) Procedures for conducting cell/dormitory/area searches. Searches of all cell/dormitory/area locations are to be conducted at least twice annually to determine the presence of contraband and the security status of bars, doors and windows. The results shall be documented and submitted to the prison administrator or designee.

(iv) Procedures for conducting security checks of the interior and the security perimeter of the prison. At least one daily security check shall be conducted of all interior areas and the security

perimeter to determine matters such as staff and inmate concerns and faulty or unsafe conditions. The results of this security check shall be documented and submitted to the prison administrator or designee.

(v) Staff training required to conduct searches/security checks.

(f) *Tool/equipment control.*

(1) Written local policy must identify:

(i) The current listing of authorized tools/equipment.

(ii) The security measures required for the maintenance/repair/replacement of tools/equipment. An inspection of all tools/equipment shall be conducted semiannually to determine status, condition and need for action. The results of this inspection shall be documented and submitted to the prison administrator or designee.

(iii) The staff responsible for authorizing use of tools/equipment. Inmates may not be permitted access to these items, except as issued by authorized prison staff.

(iv) The storage arrangements for tools/equipment. Tools/equipment shall be stored in a secure locker or area when not in use. These items shall be stored so that their presence or absence can be immediately determined.

(v) An inventory and receipt system to account for all tools/equipment. These items shall be checked out and checked in by means of the designated maintenance area. This maintenance area shall be secure from entry by inmates. A record shall be maintained to document any tools/equipment issued, identifying the person possessing and returning said item. Tools/equipment shall be returned to the designated maintenance area daily, with a documented inventory done as to accountability and condition. There shall be a current accounting as to the location and possessor of these items.

(vi) The directions given to staff and inmates in the use of tools/equipment.

(vii) The safety procedures to protect persons who use tools/equipment.

(2) Inmates given assignments in the work assignment program, industrial program or the public works/community service program shall be supervised by persons designated by the prison administrator or designee. These inmates shall be subject to searches as prescribed by procedure.

(g) *Count control.* Written local policy must require that at least one formal, physical inmate headcount be conducted for each shift, with at least three headcounts being completed within each 24-hour period. Each headcount shall be documented in the prison's records. In the performance of the formal inmate headcounts, each inmate in attendance shall be observed as to flesh and movement. There shall be strict accountability for all temporary absences from the prison by an inmate. Only prison staff trained to conduct a formal inmate headcount shall perform the count. Written local policy must describe time, methods and techniques to be followed in making any counts and remedying count discrepancies.

(h) *Inmate transportation.* Written local policy must identify the circumstances and means for transporting inmates, including specifying the vehicles and persons authorized for that purpose. Written local policy must identify what restraint and search techniques are to be used and any special precautions. Written local policy must include contingency plans to be followed in the event of an accident, escape/security breach or medical emergency during transportation.

§ 95.242. [Extraordinary occurrences reports] Statistical/informational reporting.

[*Minimum requirements.* The following are the minimum requirements applicable to extraordinary occurrences reports:

(1) Extraordinary occurrences which involve or endanger the lives or physical welfare of jail officers or prisoners in the jail shall be reported to the Division of County Correctional Services, Department of Corrections, in writing on a form supplied by the Division within 48 hours.

(2) Extraordinary occurrences shall include the following:

(i) Death, including suicide or homicide, even if the person was transferred to a hospital before death occurred and thus did not actually expire in the jail.

(ii) Attempted suicide.

(iii) Escape.

(iv) Attempted escape.

(v) Fire.

(vi) Riot or serious disturbances.

(vii) Serious injuries.

(viii) Assault on officers.

(ix) Use of mace or gas.

(x) Use of instruments of restraint, other than in the transportation of prisoners and for medical reasons in a hospital setting.

(xi) Physical force used on a prisoner.

(xii) Outbreak of infectious diseases. ]

The following are the minimum requirements applicable to the collection of statistics and other information by the Department:

(1) *Monthly county prison and jail data.* County prisons shall submit to the Department a completed County Data Monthly Report (Population Information) on designated report forms or by other available approved methods. The County Data Monthly Report (Population Information) shall be submitted within 30 days of the end of the reporting month.

(2) *Report of extraordinary occurrence.*

(i) County prisons shall submit to the Department a completed County Extraordinary Occurrence Monthly Report (Incident Information) on designated report forms or by other available approved methods. The County Extraordinary Occurrence Monthly Report (Incident Information) shall be submitted within 30 days of the end of the reporting month.

(ii) An incident qualifies as an extraordinary occurrence when an incident involves one or more of

the following and meets the associated conditions:

| TYPE OF INCIDENT                                 | ONLY COMPLETE IF  |
|--|---|
| <i>Death</i>                                     | — All cases   |
| Natural  |   |
| Accidental                                       |   |
| Homicide   |   |
| Suicide  |   |
| <i>Escape</i>                                    | — Law enforcement referral  |
| Actual   |   |
| Walk-a-way                                       |   |
| Attempt  |   |
| <i>Infectious Diseases/Communicable Diseases</i> | — Department of Health reporting required   |
| <i>Mental Health Commitment</i>                  | — All cases   |
| Mental Health 302                                |   |
| Mental Health 304                                |   |
| <i>Attempted Suicide</i>                         | — Medical treatment beyond immediate first aid or mental health referral or both                          |
| <i>Use Of Force</i>                              | — Whenever utilized for other than routine use of restraints during inmate movement/escort/transportation |
| Physical   |   |
| Restraints                                       |   |
| Chemical agent                                   |   |
| Stun device                                      |   |
| Baton  |   |
| Firearms   |   |
| <i>Assault</i>                                   | — Medical treatment beyond immediate first aid or law enforcement referral or both                        |
| On staff by inmate                               |   |
| On inmate by staff                               |   |
| On inmate by inmate                              |   |
| <i>Emergency</i>                                 | — Outside agency assistance or law enforcement referral or both   |
| Fire   |   |
| Disturbance                                      |   |
| Hostage  |   |
| Bomb threat                                      |   |
| Terrorism  |   |
| Biological/chemical                              |   |
| Utility outages                                  |   |
| Evacuation/relocation                            |   |

(iii) An incident qualifies as an extraordinary occurrence when an incident involves an inmate, prison employee, contractor, volunteer or visitor in a situation occurring within the prison, on prison property or while an inmate is under custody of the prison, or during the performance of a prison employee's official duties.

(3) County prisons shall submit to the Department a completed Annual County Prison General Information Report on designated report forms or by means of other available approved methods. The Annual County Prison General Information Report for the preceding calendar year shall be submitted by the first Monday in March of each year.

(4) The data and information submitted to the Department in the County Data Monthly Report, the County Extraordinary Occurrence Monthly Report and the Annual County Prison General Infor-

mation Report shall be collected for statistical, analytical and trending purposes only.

§ 95.243. Treatment services.

[(a) *Minimum requirements.* The following are the minimum requirements governing treatment services:

(1) Jails shall provide counseling services to the inmate population. Subject to the size of the inmate population, counseling services shall be available a minimum number of hours per week and may be offered by paid, qualified counselors; by negotiating contracts with existing public or private qualified agencies; by the use of professional volunteers; by self-help groups; or by a combination of any or all of these. The services shall be given by or be under the supervision of a qualified counselor, who may be hired on a part-time basis, according to the size of the inmate population, or who may be employed by a qualified agency with whom the jail contracts for services. Counseling shall include group and individual counseling of a general nature; vocational rehabilitation counseling; social casework and group work, including self-help groups such as Alcoholics Anonymous and similar groups; testing and clinical psychological services; and psychiatric services. A qualified counselor is one who has preferably a Master's Degree, but no less than a Bachelor's degree in one of the behavioral sciences and who meets the minimum standards of the profession for the job he or she is performing. A contracting agency may be either public or private, provided the employees who perform the services in the jail meet the standards for qualified counselor. A professionally qualified volunteer counselor is one who meets the standards for qualified counselor, is professionally employed or retired, and who volunteers his or her services.

(2) Counseling services shall be provided on the following basis:

(i) In jails with an average daily inmate population of ten or less, the administrator shall submit a letter to the Department of Corrections, Division of County Correctional Services, explaining how all inmates have access to counseling services.

(ii) Jails with an average daily inmate population of under 25 but over ten shall provide no less than eight hours of counseling services per week.

(iii) Jails with an average daily inmate population of under 50 but over 25 shall provide no less than 16 hours of counseling services per week.

(iv) Jails with an average daily inmate population of under 75 but over 50 shall provide no less than 40 hours of counseling services per week.

(v) Jails with an average daily inmate population of under 175, but over 75 shall have two full-time treatment personnel, one of whom shall be the treatment supervisor. Counseling services shall be available no less than five days per week. The treatment supervisor shall coordinate all counseling programs, the use of self-help groups, involve local qualified agencies both by promoting professional volunteers and by contracting for needed services, as well as provided services himself or herself. The treatment supervisor shall meet the minimum standards for qualified counselor. In jails

where a classification committee exists, the treatment supervisor shall be a member of the classification committee.

(vi) Jails with an average daily inmate population of 175 or more shall have, in addition to the treatment supervisor, one qualified counselor for every 75 inmates over the first 75. His duties shall be to provide direct services and help the overall treatment program under the direction of the treatment supervisor.

(3) The jail administrator shall develop a written plan as to how he plans to meet the minimal treatment standards and send it to the Department of Corrections, Division of County Correctional Services. Qualifications set forth in this section do not apply to personnel currently employed in treatment services if they pursue courses leading to the above stated qualifications.

(4) If the jail administrator is faced with unusual problems which make it unfeasible or impossible to meet the minimum requirements for treatment services, he or she should write to the Department of Corrections, Division of County Correctional Services and request an appropriate alternative.

(5) Jails not required to hire full-time treatment personnel may meet the minimum requirements by complying with the following:

(i) Hiring a part-time counselor.

(ii) Contracting with an existing qualified agency.

(iii) Utilizing the services of a professionally qualified volunteer.

(6) Jails not required to hire full-time treatment personnel shall appoint a liaison person to help the counselor or counselors operate in the jail with a maximum of efficiency and effectiveness and the minimum of red-tape. This liaison person may be the warden or some employee designated by the warden. Volunteers shall undergo a training and orientation program supervised by the warden.

(7) Jails shall have each prisoner interviewed as soon as possible after admission.

(8) On the basis of the initial interview, and with the aid of psychological testing if deemed necessary and feasible, a treatment plan shall be developed and discussed with the inmate. Within reasonable limits, the inmate should have the right to accept or refuse the treatment.

(9) An unsentenced inmate shall have the right to refuse treatment without qualification.

(10) If an inmate is found to be psychotic or otherwise mentally disturbed, he or she shall not be treated in the jail, but shall be transferred to a mental health facility in accordance with the provisions of the Mental Health Act (50 P. S. § 4412).

(b) *Recommended guidelines.* The following are the recommended guidelines for treatment services:

(1) Wherever possible, a sufficient number of other specialists such as psychologists, social workers, teachers, and trade instructors should be provided.

(2) Good jail administrators shall encourage diversionary measures wherever possible. The progressive administrator shall strive to make maxi-

mum use of community treatment centers, release on recognizance, bail bonding, and any other programs which shall protect the public and at the same time serve the best interests of justice. ]

The following are the minimum requirements applicable to treatment services:

(1) Written local policy must:

(i) Designate that the delivery of treatment services shall be supervised by a treatment professional who is employed by the prison, someone under contract with the prison or who serves as a volunteer.

(ii) Identify treatment programs.

(iii) Designate who is responsible to provide each treatment program.

(iv) Identify the number of hours provided per week for each treatment program and the total number of hours provided per week for all treatment programs.

(2) Treatment services must include, but are not limited to, the following programs:

(i) Education.

(ii) Social services.

(iii) Alcohol and other drugs.

(iv) Counseling services.

(3) Treatment programs shall be provided by a treatment professional or a person certified, licensed or trained to provide that programming who is employed by the prison, under contract with the prison or who serves as a volunteer, or by any combination thereof.

(4) Written local policy must specify that all inmates admitted to the prison receive a treatment intake screening, performed and recorded by a person with treatment training. This screening must include, but not be limited to, the determination of current mental and emotional stability, medical status, immediate personal/family issues, the identification of legal representation, and the obtaining of the name of a relative or other person for notification in the event of an emergency. A record of the screening shall be kept as part of the permanent prison document.

(5) An inmate determined upon admission to be in need of immediate treatment services shall be assessed by a treatment professional within 7 days.

(6) Following review of the initial treatment intake screening by a treatment professional, a treatment needs assessment shall be conducted by a treatment professional within 14 days following admission. This assessment must identify individual treatment needs and, within available prison and community resources, provide for access to supportive and rehabilitative services. The assessment shall be recorded as part of the inmate's file. This assessment must include, but is not limited to:

(i) Review of history of psychotherapy, psycho-educational groups and classes or support groups.

(ii) Review of history of drug and alcohol treatment.

(iii) Review of educational history.

(iv) Review of history of sexual abuse-victimization and predatory behavior.

(v) Review of history of violence.

(7) Written local policy must identify the procedures for evaluating whether an inmate is mentally ill and proceedings under the Mental Health Procedures Act (50 P. S. §§ 7101—7503), should be initiated.

(8) Except when subject to an involuntary commitment under the Mental Health Procedures Act or unless otherwise directed by court order, inmates shall have the option to refuse treatment services.

(9) Written local policy must specify that there is no discrimination regarding treatment services access based on an inmate's race, religion, national origin, gender, or disability. If both genders are housed in the prison, all available services and programs shall be comparable.

§ 95.244. Community involvement.

[ *Recommended guidelines.* The following are the recommended guidelines for community involvement:

(1) Community involvement with the jail and involvement of personnel and selected inmates in community activities should be encouraged. This may include the following:

(i) Tours of facilities by church groups, college classes, fraternal, civic and other responsible organizations. Such tours shall be conducted not only for viewing the physical plant, but as a means of interpreting treatment programs and correctional needs. Every effort should be made during such tours to respect the privacy of prisoners desiring such.

(ii) Participation of community organizations in meaningful institutional programs.

(iii) The use of volunteers who are trained and supervised in structured activities.

(iv) Speaking engagements by jail administrator and staff.

(v) Participation in community activities by inmate speakers, panels, choirs, and sports teams.

(2) Members of the news media with proper credentials should be encouraged to visit the jail. Such occasions should be utilized by the jail administrator, custodial, and professional staff to orient newsmen to jail management, inmate behavior, rehabilitation efforts, and to problems and limitations of the jail. ]

The following are the minimum requirements applicable to community involvement:

(1) Written local policy must identify and explain any authorized community involvement activities. Adherence to inmate privacy rights shall be maintained and a waiver process shall be established.

(2) Written local policy must identify the criteria for permitting the interaction of members of the community with staff and inmates. Before participating in any activity, these individuals or groups shall receive documented direction as to their general and specific responsibilities, as well as the

rules of the prison. Individuals may only participate in activities consistent with their credentials, training or experience.

(3) Written local policy must identify the person responsible for coordinating and supervising community involvement activities.

§ 95.245. Incoming publications.

[ *Recommended guidelines.* The following are the recommended guidelines for incoming publications:

(1) The jail administrator should give a wide latitude in allowing outside magazines, newspapers, reference materials, training manuals, religious tracts and pamphlets, fiction and nonfiction books, and legal publications to enter the jail whether a part of the library or as personal inmate purchase.

(2) A decision to declare a publication unacceptable should be based on a clear showing that admission of the publication shall jeopardize the discipline and good order of the jail.

(3) All prisoners should be permitted a reasonable quantity of reading materials and all legal materials necessary for research or preparation of his or her case, to be retained in his or her cell, locker, or dormitory. Neatness and good order should be of primary concern rather than a specified number of publications. Excessive quantities should be disposed of by amicable agreement with the inmate if at all possible. ]

The following are the minimum requirements applicable to incoming publications:

(1) Written local policy must specify the procedure for receiving, reviewing and allowing publications into the prison, including the searching of incoming publications for contraband.

(2) Written local policy must establish the criteria for prohibiting a publication from coming into the prison, including the defining of obscene material. Incoming publications may be read and examined by the prison administrator or a designee. The criteria for prohibiting a publication from coming into the prison must be related to maintaining the order, security or safety of the prison or the exclusion of obscene material.

(3) Written local policy must identify the procedure for allowing access to both recreational and instructional reading materials for use by inmates.

§ 95.246. Investigations [of deaths]—deaths and sexual assaults/threats.

[ *Minimum requirements.* The following are the minimum requirements for investigations of deaths of prisoners or jail staff:

(1) Whenever a prisoner or staff member dies within the jail or on jail property, whether the death be from suicide, violence, accident, or natural causes, an investigation by the local police or an appropriate law enforcement agency shall be requested. An extraordinary occurrence report shall be filed with the Department of Corrections, Division of County Correctional Services.

(2) The jail administrator or staff person in charge shall contact the county coroner and the local police via telephone and request an immedi-

ate investigation when notified of the death of a prisoner or a jail employe. A follow-up written request shall be made to the police or other law enforcement agency with an additional request that a copy of the investigation report be forwarded to the Department of Corrections, Division of County Correctional Services. ]

The following are the minimum requirements for investigation of:

(1) *Deaths.*

(i) The prison administrator shall immediately notify the coroner and the appropriate law enforcement agency when an inmate dies within the prison, on prison property or while in the custody of prison staff. Immediate notification shall also be made to the coroner and the appropriate law enforcement agency when a prison employee, volunteer, contractor or visitor dies within the prison, on prison property or while in the performance of his official duties.

(ii) Written local policy must describe the procedure to be followed in the event of the death of an inmate, prison employee, volunteer, contractor or visitor. The policy must include identification of the coroner and the law enforcement agency to be notified. The policy must also specify who is responsible for contacting the coroner and the law enforcement agency, coordinating investigative efforts with the coroner and the law enforcement agency and completing and submitting a report to the governing county prison authority. Whenever such a death occurs, it shall be documented and be reported to the Department and the United States Department of Justice.

(2) *Sexual assaults/threats.*

(i) The prison administrator or designee shall immediately report occurrences of sexual assault or threat in accordance with the laws of the jurisdiction. The designated law enforcement agency shall be notified and an investigation requested when a sexual assault or threat occurs within the prison, on prison property or while in the custody of prison staff. An immediate request for investigation shall also be made when a prison employee, volunteer, contractor or visitor indicates that a sexual assault or threat has occurred within the prison, on prison property or while in the performance of his official duties.

(ii) Written local policy shall describe the procedure to be followed in the event of a sexual assault or threat involving an inmate, prison employee, volunteer, contractor or visitor. The policy must include identification of the law enforcement agency to be notified. The policy must also specify who is responsible for contacting the law enforcement agency, coordinating investigative efforts with that said agency and completing and submitting a report to the governing county prison authority. Whenever such a sexual assault or threat occurs, it shall be documented and shall be reported to the Department and the United States Department of Justice.

§ 95.247. Notification.

[ *Minimum requirements.* The following are the minimum requirements governing notification of death of a prisoner, next of kin of a prisoner, or the transfer of the prisoner:

(1) A prisoner shall be informed at once of the death or serious illness of a family member. In such cases, if the family member resides in Pennsylvania, the prisoner may be authorized to go to the funeral or bedside either under escort or alone, with court approval.

(2) Upon the death or serious illness or serious injury to a prisoner, or his removal to an institution for the treatment of mental illness, the jail administrator shall at once inform the spouse, or nearest relative or other person previously designated by the prisoner.

(3) Every prisoner shall have the right to notify at once his family of his transfer to another institution. If the prisoner lacks funds, he shall be given a free letter to notify the family. ]

The following are the minimum requirements applicable to notification:

(1) Written local policy shall provide for prompt notification by prison authorities of an inmate's listed emergency contact in the event of the inmate's death, serious illness or serious injury. The policy must also provide for prompt notification to an inmate in the event of the death, serious illness or serious injury to the inmate's immediate family member.

(2) Written local policy, in accordance with sections 201 and 214 of the Crime Victims Act (18 P. S. §§ 11.201 and 11.214), must establish a victim notification procedure. The procedure must identify how victims register for notification, the circumstances for which victims are notified, how this information will be maintained in a confidential manner and who is responsible for notifying the victim. If the inmate is a State prisoner on writ for local court proceedings, the county prison shall immediately contact the State correctional institution from which the inmate was transferred when circumstances exist requiring notification of the victim. In this instance, disclosure to the victim will be then handled by the Department.

(3) Written local policy must specify a procedure for the transfer of inmate information. The procedure must identify the information to be transferred between county and State correctional facilities, when this information is to be transferred, how this information is to be transferred and who is responsible for the transfer of information.

§ 95.248. Sanitation, maintenance and safety.

[ *Minimum requirements.* The following minimum requirements shall apply to sanitation and safety:

(1) Local codes relating to fire, health and safety shall be followed.

(2) If available, fire safety standards shall follow guidelines of the local fire department. Otherwise a fire extinguisher, or hose assembly connectable to available water outlet, shall be required on every floor of the jail.

(3) If available, a fire safety plan shall be developed with the local fire department and evidence of this arrangement shall be on file.

(4) Jails shall follow the regulations set forth by the Department of Labor and Industry for safety standards and fire regulations. ]

The following are the minimum requirements applicable to sanitation, maintenance and safety:

(1) The prison shall adhere to applicable governmental regulations regarding sanitation, maintenance and safety as promulgated by those agencies and departments so authorized by law.

(2) Written local policy must identify a sanitation and housekeeping plan. This plan must address all prison areas and provide for daily housekeeping and regular maintenance by assigning specific duties and responsibilities to staff and inmates. Inmates shall be required to maintain their immediate living area and adjacent general space in a sanitary condition. The control of vermin and pests shall be addressed on a monthly basis by a qualified person, with documentation of the application of any pest or vermin control treatment. A sanitation inspection shall be conducted of all prison areas on a monthly basis to determine the health and safety status of the prison and the need for action. The results of this inspection shall be documented and submitted to the prison administrator or designee.

(3) Written local policy must identify a preventive maintenance program for the physical plant of the prison. This program must ensure the regular care and inspection of equipment that is essential for safe and efficient operation. A qualified person shall conduct an inspection of all equipment, at least semiannually, as specified by the manufacturer, to determine condition and need for action. The results of this inspection shall be documented and submitted to the prison administrator or designee.

(4) Written local policy must provide for the inventory, control, storage and clean-up of toxic, caustic and flammable substances. Written local policy must also specify an exposure control plan for governing the handling of blood-borne pathogens.

(5) Prison operational support areas, to include laundry room, janitorial closets, mechanical room, electrical room, boiler room, maintenance room and storage room shall be maintained in a safe and clean condition at all times.

(6) The prison administrator shall maintain any required licenses or documentation of the prison's compliance with applicable building code/life safety code. Current licenses or certificates of occupancy, or both, shall be available for inspection in the prison.

(7) The approved bed capacity shall be specified annually. The actual in-house population may not exceed the prison's approved bed capacity. The in-house population shall be calculated as the average daily inmate population for the 6 calendar months prior to the date of the preinspection audit.

(8) An emergency power back-up system shall be available and in operational condition. This system shall be load tested at least on a quarterly basis, with this load test and the operating status of the system documented.

(9) Written local policy must identify a fire emergency/evacuation plan. This plan shall be reviewed annually by the prison administrator or designee and identify an existing agreement with a

**responding fire departments. Staff training for the implementation of this plan shall be provided on an annual basis. All areas of the prison shall be involved and participate in fire drill exercises at least once each year, with all fire drills being documented. Written local policy shall also provide for a system of inspection, testing and certification by a qualified person of all fire/smoke detectors, fire/smoke alarms and panels and fire fighting equipment on an annual basis.**

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