

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

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OFFICE OF THE
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: Regional Jail and Correctional Facility Authority TITLE NUMBER: 95CSR1

AMENDMENT TO AN EXISTING RULE: YES X, NO _____

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 95CSR1

TITLE OF RULE BEING AMENDED: West Virginia Minimum Standards For
Construction, Operation, and Maintenance of Jails

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____


TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) Senate Bill 88

SECTION 64-6-2, PASSED ON March 10, 1995

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: March 28, 1995


Authorized Signature

STATE OF WEST VIRGINIA



REGIONAL JAIL and CORRECTIONAL FACILITY AUTHORITY

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March 28, 1995

PROMULGATION HISTORY

95CSR1

Filed for Public Comment	February 4, 1994
Comment Period Ended	March 5, 1994
Filed with Legislative Rule Making Review Committee	August 11, 1994
Modified and Approved by Legislative Rule Making Review Committee	October 2, 1994
Refiled with Secretary of State	November 4, 1994
Legislative Enactment of Senate Bill No. 88 authorizing rule	March 10, 1995
Final Filing of Rule	March 28, 1995

TITLE 95
LEGISLATIVE RULES
JAIL AND PRISON STANDARDS COMMISSION

SERIES 1
WEST VIRGINIA MINIMUM STANDARDS
FOR CONSTRUCTION, OPERATION,
AND MAINTENANCE OF JAILS

§95-1-1. General

1.1. Scope. This legislative rule establishes minimum standards and procedures for jail facilities in West Virginia. The standards as developed for construction, operation and maintenance of jail facilities only apply to jail facilities completed after April 5, 1988, but shall serve as guidelines for any jail facility in operation before that date.

1.2. Authority. W. Va. Code §31-20-9

1.3. Filing date. March 28, 1995

1.4. Effective date. March 28, 1995

1.5. Repeal of former rule. This legislative rule amends and replaces 95CSR1 "West Virginia Minimum Standards for Construction, Operation, and Maintenance of Jails" which was filed on August 4, 1993 and which became effective on November 2, 1993.

§95-1-2. Administration, Organization, And Management.

2.1. Philosophy, goals and policies. A written statement shall be prepared by the authority having jurisdiction that describes the philosophy, goals and policies of the facilities under its control, and which is reviewed annually and updated as necessary. This statement shall be made available to staff, inmates and the general public.

2.2. Jail Administrator. The jail facility shall be managed by a single administrator to whom all employees or units of management are responsible.

2.3. Appointment. The jail facility administrator shall be appointed by the chief executive officer or governing board of the authority having jurisdiction.

2.4. Qualifications. The educational, operational and administrative qualifications of the jail facility administrator shall be stated in writing and include, at a minimum, a bachelor's degree and/or three years of experience and training at the supervisory level.

2.5. Term. The term of the jail facility administrator shall be continuous, except for assignment to a position of equal responsibility, and may be terminated by the appointing authority only for good cause, and if requested, subsequent to a formal and open hearing on specific charges.

2.6. Outside agencies. There shall be policy which is reviewed annually which specifies the roles and functions of employees of other agencies which provide a service to the jail facility.

2.7. Organization subunits. There shall be a written plan with an organization chart which describes the facility's organization structure and which groups similar functions, services and activities into administrative subunits. This plan shall be reviewed at least annually and updated as needed.

2.8. Operations manual. There shall be a written operations manual that delineates the procedures for operating and maintaining the jail facility. The operations manual shall be made available to employees, reviewed annually and updated as needed.

2.9. Legal assistance. Legal assistance shall be available to the administrator and other staff as needed in the performance of their duties.

2.10. Authority to release. When the facility is designated to operate any type of pretrial intervention service or other release program, its authority and responsibility is stated by statute or administrative regulation.

§95-1-3. Fiscal Management.

3.1. Budgetary system. The budgetary system shall link operations and activities to the cost necessary for their support.

3.2. Fiscal system. The fiscal system shall account for all income and expenditures on an ongoing basis.

3.3. Accounting procedures. The methods used for collection, safeguarding and disbursement of monies shall comply with accounting procedures established by the appropriate jurisdiction.

3.4. Minimum policies. The jail facility shall have written policies and procedures approved by the parent agency that includes, at a minimum:

- a. Internal controls;
- b. Petty Cash procedures;
- c. Bonding for all appropriate staff;
- d. Signature control on checks;
- e. Handling of inmate funds;
- f. Employee expense reimbursement; and,
- g. Issuance or use of vouchers.

3.5. Audit. The jail facility or its parent agency's fiscal process shall include an external financial audit of the jail facility at time periods stipulated by applicable statutes and/or rules.

3.6. Inventory. There shall be inventory control of property, stores and other assets. The inventories shall be conducted at time periods stipulated by applicable statutes, however, they should not exceed every two (2) years.

3.7. Insurance coverage. Each jail facility shall maintain insurance coverage which includes, at a minimum: Worker's compensation, civil liability, liability for official vehicles, and a public employee blanket bond.

3.8. Personnel assessment. Budget policy and procedure shall provide for an annual assessment of presently assigned positions and future personnel needs required to meet jail facility objectives.

§95-1-4. Personnel.

4.1. Selection, retention, and promotion. The selection, retention, and promotion of all personnel shall be on the basis of merit and specified

qualifications.

4.2. Psychological testing. All jail facility personnel who have direct contact with inmates shall undergo psychological testing prior to their employment and when a justifiable need exists during their employment, to determine their suitability for appointment and retention. The testing shall include, but not necessarily be limited to, measurements of basic attitudes and tendencies toward honesty and against unprovoked acts of personal violence and shall be administered, scored and interpreted by, or under the supervision of, a licensed psychologist.

4.3. Affirmative action. Each jail facility shall maintain a program of affirmative action and equal employment opportunities.

4.4. Criminal record check. In accordance with state and federal statutes, a criminal records check and complete background investigation shall be conducted on all new employees to ascertain whether there are criminal convictions or other information in the applicant's background which have a specific relationship to job performance and their ability to perform.

4.5. Physical examination. A physical examination of all employees by a physician at the time of employment is required. The examination may not be used in violation of the requirements of federal legislation related to employment of disabled persons. Provision shall exist for reexamination of applicants or employees when indicated.

4.6. Probationary employees. There shall be a procedure governing probationary employment. New or promoted employees are appointed initially for a probationary period of one year. After successful completion of the initial probationary period, employees shall be granted permanent status.

4.7. Job classification. A job classification or post audit system shall exist which is linked to the salary and benefit compensation plan.

4.8. Personnel policy manual. There shall be a personnel policy manual. A copy of this manual shall be available to each employee for examination and review during employee orientations. A signed statement shall be obtained from each employee, to be kept in their personnel files, certifying their understanding of the manual and its contents. The manual shall include, at a minimum, the following areas:

- a. Organization structure;
- b. Recruitment and selection procedures;
- c. Equal employment opportunity provisions;
- d. Job qualifications, descriptions and responsibilities;
- e. Job classification plan;
- f. Wage and benefit plan;
- g. Holidays, leave and work hours;
- h. Policies and procedures related to personnel records;
- i. Performance evaluation procedures;

- j. Promotion, retirement, resignation, layoff and termination procedures;
- k. Employee/management relations;
- l. Physical fitness policy;
- m. Disciplinary procedures;
- n. Grievance and appeal procedures; and,
- o. Insurance and professional liability provisions.

4.9. Conflict of interest. Employees shall not use their official position to secure privileges for themselves or others or engage in activities that constitute a conflict of interest.

4.10. Disciplinary investigations. A staff person charged with alleged maltreatment of an inmate shall not work directly with any inmate until and investigation is completed.

4.11. Disciplinary actions. Disciplinary actions against employees shall be consistent with Division of Personnel policies and in accordance with chapter twenty-nine of the code; disciplinary actions shall be subject to the policies and procedures of the Education and State Employees Grievance Board created by §29-6a-5 of the West Virginia Code.

4.12. Annual evaluation. A written performance evaluation of all employees, based on defined criteria related to job performance shall be provided at least annually. The evaluation criteria shall bear a direct relationship to the skills, knowledge areas, aptitudes and personal characteristics defined in the job description. Employees shall review and discuss the performance evaluation with the person who completes it. If an employee disagrees with the evaluation, they shall have an opportunity to express their opinions in writing; their statements shall be included in their personnel file.

4.13. Transfer, assignment and selection. Procedures shall provide for the transfer, assignment and selection of employees on the basis of facility need and the ability of the employee to perform the job.

4.14. Emergency Medical Technician. There shall be at least one medically trained employee of at least emergency medical technician licensure, available at all times on each shift. (See section 14.13 of this rule also)

4.15. Provisional appointments. Resources shall provide for provisional appointments and/or reserve correctional officers to ensure the availability of trained personnel for short-term, full-time or part-time work in special or emergency situations.

4.16. Personnel records. The jail facility administrator or the parent agency shall maintain a current, accurate and confidential personnel record for each employee.

4.17. Record confidentiality. Written policy and procedure shall provide for the confidentiality of the personnel record and restrict its availability to the employee who is the subject of the record, to administrators and supervisors directly responsible for the employee, and to other personnel who need the information for the performance of their duties.

4.18. Record correction. Provisions shall be available to any employee to challenge information in their personnel files and shall include a process for

correction or removal of inaccuracies.

§95-1-5. Training And Staff Development.

5.1. Program supervision. The training program of each jail facility for all employees shall be specifically planned, coordinated, and supervised by a qualified employee at a supervisory level; in jail facilities of over one hundred (100) employees, this person shall be employed full time for this purpose.

5.2. Supervisory training. The individual coordinating the training and staff development program shall receive specialized training for that position.

5.3. Training curriculum. A training curriculum shall be developed, evaluated, and updated based on an annual assessment that identifies current job-related training needs. The Regional Jail and Correctional Facility Authority is the approving agency.

5.4. Trainer certification. Any individual providing pre-service, in-service, or basic training for correctional staff shall be certified as a correctional trainer by the Regional Jail and Correctional Facility Authority.

5.5. Outside resources. The training and staff development program shall use the resources of other public and private agencies, private industry, colleges, libraries and reference services to complement the program.

5.6. Budget. The budget shall include funds for compensating staff for additional time spent in training, or for replacement personnel required when regular personnel are off duty for training purposes.

5.7. New clerical/support employees. All new clerical/support employees who have minimal inmate contact shall receive at least forty (40) hours of orientation and approved training during their first year of employment. Twenty-four (24) of these hours shall be completed prior to being independently assigned to a particular job. All persons in this category shall be given at least an additional eight (8) hours of training during each subsequent year of employment. The Regional Jail and Correctional Facility Authority is the approving agency.

5.8. New clerical/support employees. All new clerical/support employees who have regular daily inmate contact shall receive at least forty (40) hours of orientation and approved training during their first year of employment. Twenty-four (24) of these hours shall be completed prior to being independently assigned to a particular job. They shall be given at least an additional sixteen (16) hours of training each subsequent year of employment. The Regional Jail and Correctional Facility Authority is the approving agency. At a minimum, this training shall cover the following areas:

- a. Security procedures and regulations;
- b. Rights and responsibilities of inmates;
- c. All emergency procedures;
- d. Interpersonal relations;
- e. Communication skills; and,
- f. First aid.

5.9. New correctional officers. All new correctional officer personnel shall receive at least one hundred twenty (120) hours of approved orientation and training during their first year of employment. The Regional Jail and Correctional Facility Authority is the approving agency. Forty (40) of these

hours shall be completed prior to being independently assigned to a particular post. All persons in this category shall be given an additional forty (40) hours of training each year thereafter. At a minimum, this training shall cover the following areas:

- a. Security and search procedures;
- b. Use of force regulations and tactics;
- c. Supervision of inmates;
- d. Report writing;
- e. Inmate and staff rules and regulations;
- f. Rights and responsibilities of inmates;
- g. All emergency procedures;
- h. Interpersonal relationships;
- i. Social/cultural life style of the inmate population;
- j. Communication skills; and,
- k. First aid.

5.10. Administrative and managerial staff. The jail facility's administrative and managerial staff shall receive at least forty (40) hours of orientation if they are new to the jail facility and at least eight (8) hours of management training each year thereafter. This training shall cover, at a minimum, the following:

- a. General management and related subjects;
- b. Decision making processes;
- c. Labor law, employee/management relations;
- d. The interaction of elements of the criminal justice system; and,
- e. Relationships with other service agencies.

5.11. Emergency Response Unit. When there is an emergency response unit, all officers assigned to that unit shall receive forty (40) hours of training relative to the unit's purpose and function prior to their assignment.

5.12. Weaponry and chemical agents. All personnel authorized to use firearms or chemical agents shall be trained in weaponry and the use of chemical agents on a continuing, in-service basis, and are required to qualify annually.

5.13. Security personnel. All security personnel shall be trained in approved methods of self-defense and the use of force, including passive restraint, to control inmates.

5.14. Continuing education. The jail facility administration shall encourage employees to continue their education and provide reimbursement to employees attending professional meetings, seminars and similar work-related activities as approved by the administrator.

§95-1-6. Management Information and Research.

6.1. System of information. The facility shall contribute to, have access to, and use an organized system of information storage and retrieval relative to both inmate and operational needs.

6.2. Security. Policies and procedures shall govern the security of the information and data collection system, including certification, access to data, and protection of the privacy of all inmates under the jurisdiction of the agency.

6.3. Collaboration. The facility, or its parent agency, shall collaborate with criminal justice and service agencies in information gathering, exchanges and standardization.

6.4. Inmate population accounting. There shall be an inmate population accounting system which includes records on the admission, processing and release of inmates.

6.5. Annual evaluation. There shall be at least annual evaluations of jail facility programs and services to determine progress toward achieving previously identified objectives.

6.6. Research. Written policy and procedure governing the conduct of research shall comply with state and federal guidelines for the use and dissemination of research findings and with accepted professional scientific ethics.

6.7. Inmate participation. Written policy and procedure shall govern voluntary inmate participation in non-medical, non-pharmaceutical and non-cosmetic research.

§95-1-7. Inmate Records.

7.1. Booking. Inmate booking information shall be recorded for every person admitted to the facility and include at least the following data, unless prohibited by law:

- a. Fingerprints;
- b. Photograph;
- c. Booking number;
- d. Name and aliases of person;
- e. Current address (or last known address);
- f. Date, duration of confinement, and copy of court order or other legal basis for commitment;
- g. Name, title and signature of delivering officer and arresting officer;
- h. Specific charge(s);
- i. Sex;
- j. Age;
- k. Date of birth;

- l. Place of birth;
- m. Race;
- n. Present or last place of employment;
- o. Health status, including any current medical or mental health needs;
- p. Emergency contact (name, relationship, address and phone number);
- q. Telephone calls made by the inmate at time of admission;
- r. Driver's license and social security numbers;
- s. Notation of case and all property; and
- t. Additional information concerning special custody requirements, service needs, or other identifying information such as birthmarks or tattoos.

7.2. Case record management. Case record management shall include, but is not limited to, the establishment, utilization, content, privacy, security and preservation of records, and a schedule for the retirement or destruction of inactive case records. These procedures shall be reviewed annually.

7.3. Custody records. The facility shall maintain custody records on all inmates committed or assigned to the facility, that contain, but are not limited to, the following:

7.4. Format. The contents of inmate records shall be identified and separated according to an established format.

7.5. Case records. A current and accurate classification or case record shall be maintained for each inmate committed to or housed in the facility. Procedures shall be established to safeguard legally privileged or confidential information. The records shall contain, at a minimum, the following:

- a. Classification and reclassification decisions;
- b. Reports of disciplinary actions, grievances, incidents and crimes committed while in custody;
- c. Medical and mental health information relevant to the classification; and,
- d. Information on work or study release when applicable.

7.6. Identification system. The jail facility shall maintain a system which identifies all inmates in custody and their actual physical location.

7.7. Access to records. Those persons within the jail facility and other authorized persons who have direct access to inmate classification or case records shall be defined.

7.8. Release of information. The administration shall use a consent form which complies with applicable federal and state regulations. The inmate shall sign a "Release of Information Consent Form" prior to the release of information, as required by statute or regulation, and a copy of the form shall be maintained in the inmate's case record.

§95-1-8. Physical Plant.

8.1. General. All new jail facilities shall be designed, constructed, maintained and operated in accordance with the rules promulgated by the State Fire Commission in State Fire Code 87CSR1. All existing jail facilities must comply with the provisions of State Fire Code 87CSR1.

8.2. Safety of occupants. Because the safety of all occupants in all detention and correctional facilities cannot be adequately assured solely by a dependence upon evacuation from the building, their protection from fire shall be provided by appropriate arrangement of facilities, an adequately trained staff, and careful development of operating, security, and maintenance procedures to include the following:

- a. Proper design, construction and compartmentalization;
- b. Provisions for fire detection, alarms and extinguishment;
- c. Fire prevention programs which include planning, training, and drills covering such protective activities as: Isolation of the fire; transfer of occupants to areas of refuge; and evacuation of the facility or measures for in-place protection of the occupants; and,
- d. Security provisions to the degree necessary to provide for the safety of both the occupants of the facility and the general public.

8.3. State Fire Marshal review. Plans and specifications for all new jail facilities shall be submitted to the State Fire Marshal for review prior to the start of construction.

8.4. State Fire Marshal certificate. No facility shall be occupied until a certificate of occupancy is issued by the State Fire Marshal's office.

8.5. Activity areas. All activity areas shall have sufficient air circulation (at least ten (10) cubic feet of outside or filtered air per minute per occupant), lighting and sanitary facilities. These areas include multipurpose rooms, recreation areas for inmates, or work areas for staff. Temperatures shall be maintained appropriate to the summer and winter comfort zones with consideration for the activity performed.

8.6. Inmate booking and release area. The inmate booking and release area shall be located inside the security perimeter, but outside inmate living quarters, and have the following facilities:

- a. Booking area;
- b. Security vestibule or sally port;
- c. Access to drinking water;

- d. Shower facilities;
- e. Secure storage for inmate's personal property;
- f. Telephone facilities;
- g. Private interview space(s);
- h. Temporary holding rooms with sufficient fixed seating for all inmates at its rated capacity; and,
- i. Operable toilets and wash basins.

8.7. Double Bunking of Inmates. Double bunking of inmates is permitted to the extent that the practice does not violate federal law or standards.

8.8. Floor space. All single rooms or cells in detention facilities shall have at least seventy (70) square feet of floor space.

8.9. Environment. All rooms or cells shall have access to the following facilities and/or conditions;

- a. A toilet above floor level which is available for use without staff assistance twenty-four (24) hours a day;
- b. A wash basin and drinking water;
- c. Hot and cold running water;
- d. A bed above floor level, a desk or writing surface, a clothes hook or closet space, and appropriate seating;
- e. Lighting of at least twenty (20) foot candles at desk level and in the personal grooming areas. (In additions to existing jail facilities and in new jail facilities, the lighting shall be both inmate and centrally controlled);
- f. Air circulation of at least ten (10) cubic feet of outside or recirculated air per minute per occupant;
- g. Temperatures appropriate to the summer and winter comfort zones;
- h. Noise levels not exceeding seventy (70) decibels in daytime and forty-five (45) decibels at night; and,
- i. Natural lighting.

8.10. Multiple occupancy. Where used, multiple occupancy rooms shall house no more than fifty (50) inmates each. Inmates shall be screened prior to admission to determine their suitability to group living. Multiple occupancy rooms shall provide for the following:

- a. Continuous observation by staff;

- b. A minimum floor area of fifty (50) square feet per occupant in the sleeping area and a clear floor to ceiling height of not less than eight (8) feet;
- c. Toilet and shower facilities with a minimum of one operable toilet and one shower for every eight (8) occupants;
- d. One operable wash basin with hot and cold running water for every six (6) occupants;
- e. Natural lighting;
- f. Beds above floor level, a desk or writing surface, appropriate seating;
- g. A locker for each occupant;
- h. Lighting of at least twenty (20) foot candles at desk level and in the personal grooming area;
- i. Air circulation of at least ten (10) cubic feet of outside or recirculated air per minute per occupant;
- j. Temperatures appropriate to the summer and winter comfort zones; and,
- k. Noise levels not exceeding seventy (70) decibels during daytime hours and forty-five (45) decibels during night hours.

8.11. Segregation rooms. Segregation rooms shall provide living conditions which approximate those of the general inmate population. Any exceptions shall be clearly documented. Segregation housing units shall provide for the following:

- a. Single occupancy rooms or cells with a floor area of at least seventy (70) square feet;
- b. A bed above floor level, a desk or writing space and appropriate seating;
- c. Continuous access to toilet facilities above the floor level;
- d. Hot and cold running water;
- e. Natural light;
- f. Lighting of at least twenty (20) foot candles at desk level and in the personal grooming area;
- g. Air circulation of at least ten (10) feet of outside or recirculated, filtered air per minute per occupant;
- h. Temperatures appropriate to the summer and

winter comfort zones; and,

- i. Noise levels not exceeding seventy (70) decibels during daytime hours and forty-five (45) decibels during night hours.

8.12. Communication. A room used for segregation shall permit inmates assigned to it to communicate with staff and have a door which permits observation by staff.

8.13. Continuous staff observation. When seriously ill, mentally disordered, injured or non-ambulatory inmates are held in the facility, there shall be at least one single-occupancy cell or room for them which provides for continuous staff observation.

8.14. Sleeping quarters. When both males and females are housed in the same facility, they shall be provided separate sleeping quarters which are separated visually and acoustically.

8.15. Perimeter security. The security perimeter shall be secured in a manner which provides that inmates remain within the perimeter and that access by the general public is denied without proper authorization.

8.16. Storage security. Space shall be provided for the secure storage of chemical agents, restraining devices and related security equipment and the equipment shall be located in an area which is readily accessible to authorized persons only.

8.17. Security Vestibules/Sally ports. There shall be security vestibules or sally ports between inmate areas and areas accessible to the public.

8.18. Day room. There shall be a separate day room or leisure time space for each cell block or detention room cluster, with space equivalent to a minimum of thirty-five (35) square feet per inmate.

8.19. Exercise areas. Space outside the cell or room shall be provided for inmate exercise. Indoor and outdoor exercise areas shall be secure and available to all inmates. Outdoor areas shall have adequate space and equipment to permit regular outdoor sports activities. For jail facilities with bed capacity of more than one hundred (100) inmates, this area shall be increased in proportion to the inmate population and shall provide adequate opportunity for exercise. Indoor exercise programs may be conducted in a multipurpose room or day room: Provided, that the space is available and the location is acceptable. Indoor space shall be an area in which lighting, temperature and ventilation is artificially controlled.

8.20. Kitchen. When the jail facility provides food service, the kitchen shall have a minimum of two hundred (200) square feet of floor space.

8.21. Employee space. Consistent with the size of the facility, space shall be provided for administrative, professional and clerical staff, including conference rooms, an employee lounge, a storage room for records, a public lobby and toilet facilities.

8.22. Multipurpose room. There shall be at least one multipurpose room available for inmate activities such as religious services, education programs, or visiting.

8.23. Janitor closet. A room or closet equipped with a sink shall be provided for the storage of cleaning supplies and equipment.

8.24. Storage space. Storage space shall be provided for clothing, bedding

and facility supplies.

8.25. Storage of personal property. Space shall be provided for the secure storage of inmates' personal property.

8.26. Maintenance and repairs. There shall be a written plan for preventive maintenance of the physical plant with provisions for emergency repairs or replacement of equipment. This plan shall be reviewed annually and updated if needed.

8.27. Accessibility. A new jail facility shall be geographically accessible to criminal justice agencies, community agencies and inmates' lawyers, families and friends.

8.28. Layout. The jail facility shall be designed and constructed so that inmates can be separated according to existing laws and regulations, or according to the facility's classification.

8.29. Disabled inmates. Disabled inmates shall be housed in a manner which provides for their safety and security. Cells or housing units used by them shall be designed in accordance with the American National Standards Institute (ANSI) Standard A117, and provide the maximum possible integration with the general population. Appropriate institutional programs and activities shall be accessible to disabled inmates confined in the jail facility.

8.30. Disabled visitors. All parts of the facility which are accessible to the public shall be accessible to and usable by disabled persons.

§95-1-9. Safety and Emergency Procedures.

9.1. Policies and procedures. Written policies and procedures shall be adopted which specify the jail facility's fire prevention regulations and practices. For purposes of clarification and identification these procedures and standards of fire prevention are divided into two (2) classifications:

- a. General requirements applicable to all occupancies covered by the State Fire Code; and,
- b. Specific detention and correctional occupancies.

9.2. General requirements. The following includes the general requirements applicable to all occupancies covered by the State Fire Code.

9.2.1. Construction, repair and improvement operations. Adequate escape facilities shall be maintained at all times in buildings under construction for the use of construction workers. Escape facilities shall consist of doors, walkways, stairs, ramps, fire escapes, ladders or other approved means or devices arranged in accordance with the general principles of the State Fire Code insofar as they can reasonably be applied to buildings under construction. Flammable or explosive substances or equipment for repairs or alterations may be introduced in a building of normally low or ordinary hazard classification while the building is occupied only if the conditions of use and safeguards provided are such as not to create any additional danger or handicap to egress beyond the normally permissible conditions in the building.

9.2.2. Reliability of means of egress. Every required exit, exit access or exit discharge shall be continuously maintained free of all obstructions or impediments to full instant use in the case of fire or other emergency.

9.2.3. Furnishings and decorations. Furnishings and decorations in the

means of egress are subject to the following:

- a. No furnishings, decorations, or other objects shall be so placed as to obstruct exits, access thereto, egress therefrom, or visibility thereof;
- b. Hangings or draperies shall not be placed over exit doors or conceal or obscure any exit. Mirrors shall not be placed in or adjacent to any exit in such a manner as to confuse the direction of exit; and,
- c. There shall be no obstruction by railing, barriers, or gates that divide the open space into sections appurtenant to individual rooms, apartments, or other uses. Where the jail facility administrator having jurisdiction finds the required path of travel to be obstructed by furniture or other movable objects, he or she may require that railings or other permanent barriers be installed to protect the path of travel against encroachment.

9.2.4. Equipment maintenance and testing. Equipment maintenance and testing shall include the following:

- a. Every required automatic sprinkler system, fire detection and alarm system, exit lighting, fire door, and other item of equipment required by this rule shall be continuously maintained in proper operating condition;
- b. Any equipment requiring testing or periodic operation to assure its maintenance shall be tested or operated as specified elsewhere in this rule or as directed by the authority having jurisdiction;
- c. Systems shall be under the supervision of a responsible person who shall cause proper tests to be made at specified intervals and who has general charge of all alterations and additions;
- d. Systems shall be tested at intervals recommended by the appropriate section of State Fire Code 87CSR1;
- e. All automatic sprinkler systems required by State Fire Code 87CSR1 shall be continuously maintained in operating condition at all times, and such periodic inspections, tests and maintenance shall be conducted as is necessary to assure proper operation; and,
- f. Fire alarm signaling and detection equipment shall be restored to service as promptly as possible after each test or

alarm and shall be kept in normal condition for operation.

9.2.5. Furnishings, decorations and treated finishes. Furnishings, decorations and treated finishes are subject to the following:

- a. Draperies, curtains and other similar furnishings and decorations shall be flame resistant where required by the applicable provisions of State Fire Code 87CSR1. The materials required in this section are to be tested in accordance with Standard Method of Fire Tests for Flame Resistant Textiles and Films, NFPA701 and shall comply with both the small and large-scale tests;
- b. Furnishings or decorations of an explosive or highly flammable character shall not be used; and,
- c. Fire retardant paints or solutions shall be renewed at such intervals as necessary to maintain the necessary flame retardant properties.

9.2.6. Fire Exit Drills. Fire drills are subject to the following requirements:

- a. Fire exit drills conforming to the provisions of State Fire Code 87CSR1 shall be regularly conducted in occupancies where specified by that rule;
- b. Fire exit drills, where required by the authority having jurisdiction, shall be held with sufficient frequency to familiarize all occupants with the drill procedure and to have the conduct of the drill a matter of established routine;
- c. Responsibility for the planning and conduct of drills shall be assigned only to competent persons qualified to exercise leadership;
- d. In the conduct of drills, emphasis shall be placed upon orderly evacuation under proper discipline rather than upon speed;
- e. Drills shall include suitable procedures to make sure all persons in the building, or all persons subject to the drill, actually participate; and,
- f. Drills shall be held at unexpected times and under varying conditions to simulate the unusual conditions prevalent in case of fire.

9.3. Detention and correctional occupancies. The following includes those

requirements specifically directed to detention and correctional occupancies.

9.3.1. Attendants, evacuation plan, fire exit drills. Attendants, evacuation plan, and fire exit drills shall include the following:

- a. Detention and correctional facilities, or those portions of facilities having such occupancy, must be provided with twenty-four (24) hour staffing on any floor level having residency and located within one hundred (100) feet (30.48m) of the access to any housing area. Under Use Conditions III, IV and V, as defined in State Fire Code 87CSR1 for classification of correctional occupancies, audio monitoring shall be provided for every sleeping space;
- b. The jail facility administrator of every detention and correctional facility shall have in effect and provide to all supervisory personnel, written copies of a plan for protection of all persons in the area in event of fire and for their evacuation to areas of refuge and from the building where necessary. All employees shall be periodically instructed and kept informed of their duties under the plan;
- c. Books, clothing and other combustible personal property allowed in sleeping rooms shall be stored in closeable metal lockers or fire resistant containers; and,
- d. The number of heat producing appliances (such as toasters, hot plates, etc.) and the overall use of electrical power within a sleeping room will be controlled by the jail facility administration.

9.3.2. Furnishings and decorations. Furnishings and decorations are subject to the following requirements:

- a. Furnishings and decorations in detention and correctional occupancies shall be in accordance with State Fire Code 87CSR1;
- b. Combustible decorations are prohibited in any detention or correctional occupancy unless flame retardant;
- c. Wastebaskets and other waste containers shall be of noncombustible or other approved materials;
- d. Furnishings, such as mattresses and upholstered or cushioned furniture shall not be of a highly flammable character; and,
- e. Window draperies, curtains for decoration or accoustical purposes and privacy curtains shall be non-combustible or rendered and

maintained flame resistant as per Standard Method of Fire Tests for Flame Resistant Textiles and Films, NFPA701.

9.3.3. Keys. All keys necessary for unlocking doors installed in means of egress shall be individually identified by both touch and sight.

9.3.4. Storage of flammable, toxic and caustic material. Written policy and procedures shall govern the storage and use of all flammable, toxic, and caustic materials which ensure that inmates are never in possession of items such as lye, insecticide, anti-freeze and denatured alcohol, unless they are under constant supervision by qualified personnel. Such material shall be stored in secure areas which are inaccessible to inmates; a prescribed system shall be used to account for their distribution.

9.3.5. Fire and safety officer. A staff member with appropriate training shall be appointed as Fire and Safety Officer. This officer is responsible for monthly inspection of the facility, development of Standing and Emergency Operating Procedures relating to fire safety and for staff training in fire safety.

9.3.6. Inspection. Each facility shall be inspected at least annually by the State Fire Marshal's Office. Any violation noted shall be corrected immediately.

§95-1-10. Sanitation and Hygiene.

10.1. Responsibility. Jail facility authorities shall maintain the facility in a condition that is clean, healthful and sanitary and which conforms to all applicable health laws and rules.

10.2. Maintenance. Jail facility authorities shall develop and implement a plan for the maintenance of all areas of the jail facility at an acceptable level of cleanliness and sanitation. The plan shall provide for a regular schedule of housekeeping tasks and inspections which shall include, but not be limited to, the following:

- a. The daily cleaning of toilets, sinks and showers;
- b. The daily cleaning of floors;
- c. The emptying and cleaning of receptacles provided for refuse each day and provision for adequate trash removal;
- d. The scrubbing and rinsing of each living unit, washing of windows, cleaning of janitors' closets, and dusting of bars, screens and ledges on a regular basis;
- e. The contracting of extermination services to be performed with sufficient frequency and thoroughness to keep the jail facility free from insects and vermin. Services shall include, at a minimum, monthly inspections by a qualified person; and,
- f. The cleaning and sanitary maintenance of all kitchen areas and all kitchen equipment.

10.3. Inspections. There shall be regular sanitation inspections of all jail facility areas by a designated staff member; at least annual inspections by federal, state and/or local sanitation and health officials, or other qualified person(s); and, compliance with all applicable laws and rules of the governing jurisdiction.

10.4. Water supply. The water supply and plumbing fixtures shall meet all applicable codes and be maintained in operable and sanitary condition. Water samples from both drinking and waste water shall be tested periodically to ensure that the jail facility's water meets all applicable laws. The facility shall provide hot and cold running water.

10.5. Cleaning equipment. Inmates shall be provided sufficient cleaning equipment to maintain their cells in a clean condition.

10.6. Floors. Jail facility floors shall be kept clean, dry, and free of hazardous substances. Floors shall be inspected regularly throughout the day for cleanliness. Particular attention should be given to potentially hazardous areas, such as showers, kitchens, detoxification rooms, boiler and furnace rooms.

10.7. Personal hygiene items. The jail facility shall provide each inmate, as part of the admission process, and thereafter as necessary, an adequate supply of soap, toothpaste, toilet paper, toothbrushes, combs, and feminine hygiene supplies. Timely access to shaving equipment shall also be provided.

10.8. Facility clothing. Clean, suitable, and presentable clothing shall be available to all inmates at all times. It is essential that inmates be provided clothing that is properly fitted, climatically suitable, durable, economical, easily laundered and repaired, and presentable to the extent that they do not provide such clothing themselves. Outer wear shall be available for recreation and work assignments.

10.9. Special clothing. Inmates shall be issued special, and where appropriate, protective clothing and equipment when participating in special work assignments. The clothing shall be available in quantities which permit exchange as frequently as the work assignment requires.

10.10. Bedding. Each inmate shall be provided with one clean, fire retardant mattress, two (2) clean sheets, a clean pillow and clean pillow case. Worn bedding and linen which are unfit for further use shall not be issued. Clean blankets shall be provided in a number appropriate to the season.

10.11. Towels. Each inmate shall be provided a clean towel and washcloth at least three (3) times a week.

10.12. Laundry of bedding. Laundry services shall be sufficient to permit the regular exchange of sheets and pillowcases at least weekly. Mattresses shall be cleaned or replaced as appropriate.

10.13. Laundry of clothing. Clean undergarments shall be provided daily and outer garments every other day, or as appropriate.

10.14. Recording. The issuance of all clothing and bedding shall be recorded to provide accountability for their use. Inmate accountability for clothing and bedding shall be specified in the Handbook of Inmate Rules and Conduct.

10.15. Supply. The clothing, linen, and bedding supply shall exceed that required for the maximum inmate population. This excess will allow for the replacement of items that are lost, destroyed or worn out.

10.16. Cleaning and storage of personal clothing. There shall be provision for cleaning and storage of inmate personal clothing. Prior to storage, inmate

clothing shall be cleaned and/or disinfected to prevent the accumulation of odors and vermin.

10.17. Court appearance. Whenever the court so directs, inmates shall be permitted to wear personal clothing during court appearances.

10.18. Removal of linen and bedding. Linen and bedding shall be removed from an inmate's bed only under extreme circumstances such as to protect the inmate from self-injury. An action to remove linen or bedding shall be reviewed daily by the supervisor and the deprivation ended as soon as practical. A record shall be kept of all such actions taken.

10.19. Showers. There shall be sufficient facilities in the housing areas to permit inmates to shower or bathe upon admission to the facility and daily thereafter.

10.20. Water temperatures. Water temperatures for showers or bathing shall be thermostatically controlled to ensure the safety of inmates.

10.21. Access to water. Inmates shall have continuous access to a washstand with running hot and cold water.

10.22. Hair care. Hair care services and facilities shall be available to inmates. Hair shall be cut under sanitary conditions. The area used for hair care shall be located to permit observation by staff. Equipment shall be stored securely when not in use.

§95-1-11. Security and Control.

11.1. Manual. Written policies and procedures for security and control, including procedures for emergencies, shall be contained in a manual which is available to all staff and is reviewed annually and updated as needed.

11.2. Control center. The jail facility shall maintain a control center.

11.3. Communication system. The jail facility shall have a communication system between the control center and the inmate living areas.

11.4. Alarm system. The jail facility shall have an emergency alarm system that is linked to the control center; signal devices shall be located throughout the facility.

11.5. Secure perimeter. All security perimeter entrances, control center doors and cell block doors which open into a corridor shall be kept locked except when in use for admission or exit of employees, inmates or visitors or during emergency conditions.

11.6. Electronic surveillance. When audio or visual electronic surveillance is used, it shall be located primarily in hallways, elevators, corridors or at points on the security perimeter, such as entrances and exits.

11.7. Immediate assistance. No staff member shall enter a high security cell block without the availability of immediate assistance from another staff member.

11.8. Inmate movement. Jail facility staff shall regulate inmate movement.

11.9. Personal interaction. Written policies and procedures shall facilitate personal contact and interaction between staff and inmates. Supervision of inmates shall be conducted by staff of the same sex whenever procedures require physical contact, examination or monitoring of personal hygiene activities.

11.10. Staffing. The jail facility shall have the staff needed to provide full coverage of designated security posts, full surveillance of inmates, and to perform all ancillary functions.

11.11. Emergency response. Correctional officers shall be located in or immediately adjacent to inmate living areas to permit officers to hear and respond promptly to emergency situations.

11.12. Observation. Written policies and procedures shall require that all high and medium security inmates shall be personally observed by a correctional officer at least every thirty (30) minutes, but on an irregular schedule. A schedule of observation at least every fifteen (15) minutes shall be required for those inmates who are violent, suicidal, mentally disordered or who demonstrate unusual or bizarre behavior.

11.13. Daily record. The jail facility administration shall maintain a written daily record of the following:

- a. Personnel on duty;
- b. Inmate population count;
- c. Admissions and release of inmates;
- d. Shift activities;
- e. Entry and exit of physicians, attorneys and other visitors; and,
- f. Unusual occurrences.

11.14. Daily inspections. Designated staff shall visit and inspect every area of the facility daily, including holidays and weekends, and report their findings in writing to designated officials with recommendations for action or with notations of action taken.

11.15. Weekly inspections. The jail facility administrator or his or her designee shall inspect all security facilities and devices at least weekly and initiate corrective action if needed.

11.16. Searches. Written policies and procedures shall provide for searches of facilities and inmates to control contraband and provide for its disposition and to develop recommendations for corrective action. Procedures shall provide that:

- a. Manual or instrument inspection of inmate body cavities is conducted only when there is reason to do so and when authorized by the jail facility administrator or his or her designee;
- b. Visual inspections are conducted only when there is a reasonable belief that the inmate is carrying contraband or other prohibited material;
- c. Strip searches are done without specific authorization only upon entry to the facility and at all other times are based on articulated suspicion; and,

- d. All such inspections are conducted in privacy and manual or instrumental inspection of body cavities is done by medically trained personnel or correctional personnel trained by health care personnel.

11.17. Preservation of evidence. The procedures governing searches shall require the preservation of evidence when a new crime is suspected. Searches shall be authorized only by the administrator or his or her designee.

11.18. Search policy published. The jail facility's policy regarding searches for the control of contraband shall be published, made available to both staff and inmates, reviewed at least annually and updated if necessary.

11.19. Control of security equipment. Written policies and procedures shall govern the availability, control and use of firearms, ammunition, chemical agents, "stun guns", and related security devices, and require that sufficient security equipment is available to meet the jail facility's needs.

11.20. Storage of security equipment. The procedures shall provide that security equipment is stored in a secure but readily accessible depository located outside inmate housing and activity areas, and is inventoried at least monthly to determine condition and expiration dates, if any there be.

11.21. Use of weapons. Written policies and procedures shall be established regarding the use of weapons, and shall include federal and state requirements, weapons security, weapons instructions and inspections, use of deadly force, and other appropriate actions to be taken regarding life threatening situations. The policies and procedures shall include the following requirements:

- a. Weapons are subject to stringent safety regulations and inspections;
- b. The secure weapons locker is located outside the security perimeter of the facility;
- c. Only during emergency situations are firearms and weapons, such as nightsticks or gas guns, permitted in areas to which inmates have access. At all other times, such weapons are maintained in areas to which inmates do not have access;
- d. Employees are instructed to use deadly force only after other actions have been tried and found ineffective unless the employee has reason to believe that a person's life is immediately threatened; and,
- e. Employees on duty only use firearms or other security equipment which have been issued through the jail facility and only when directed by or authorized by the jail facility administrator or his or her designee.

11.22. Written record. Each jail facility shall maintain a written record of both routine and emergency distribution of security equipment.

11.23. Written reports. Any employee who discharges a firearm, uses chemical agents or any other weapons, or uses force to control any inmate shall submit a written report to the jail facility administrator or his or her designee no later than the conclusion of his or her tour of duty.

11.24. Injuries. All persons injured in an incident shall receive an immediate medical examination and treatment, if required.

11.25. Incident reports. Written policies and procedures shall require prompt oral and written reporting of all incidents that result in physical harm to, or which threaten the safety of, any person in the facility, or which threaten the security of the facility.

11.26. Keys. Written policies and procedures shall govern the control and use of keys.

11.27. Tools. Written policies and procedures shall govern the control and use of tools, culinary and medical equipment.

11.28. Correctional/Security posts. There shall be written orders for every correctional/security post which are reviewed annually and updated if necessary.

11.29. Post orders. Procedures shall require that personnel read, sign and date the appropriate post orders each time they assume a new post.

11.30. Escapes. Procedures regarding escapes shall be available to all personnel, and shall be reviewed at least annually and updated if necessary.

11.31. Riots and other disturbances. There shall be plans that specify procedures to be followed in situations including, but not limited to, riots, hunger strikes, disturbances and the taking of a hostage. These plans shall be made available to applicable personnel, and reviewed and updated at least annually.

11.32. Mass arrests. There shall be procedures to be followed in the event of a mass arrest which results in the admission of inmates in excess of the maximum capacity of the jail facility.

11.33. Work stoppage. There shall be a written plan that provides for continuing jail facility operations in the event of a work stoppage or other job action. Copies of this plan shall be available to all supervisory personnel, who are required to familiarize themselves with it.

11.34. Physical force. Written policies and procedures shall restrict the use of physical force to instances of justifiable self-defense, protection of others, protection of property and prevention of escapes, and only when it is necessary to control inmates and in accordance with appropriate statutory authority. In no event is physical force justifiable as punishment. Any employee who uses physical force shall prepare a written report of the incident and submit it to the jail facility administrator.

11.35. Mechanical restraints. Instruments of restraint shall be used only as a precaution against escape, during transfer or transport, for medical reasons by direction of the medical officer, and as a preventive measure against inmate self-injury, injury to others or property damage when there is approval from the facility administrator or his or her designee. They shall be applied for only the length of time necessary to regain control of the inmate.

11.36. Inmate authority. No inmate or group of inmates shall be given control or authority over other inmates.

11.37. Shift reports. Correctional staff members shall maintain a permanent log and prepare shift reports that record routine and emergency situations, and unusual incidents.

11.38. Weekly inspection. The jail facility administrator or his or her designee, the chief correctional officer, and other department heads shall inspect the facility's living and activity areas at least weekly.

11.39. Transportation of inmates. When transportation is the responsibility of facility staff, written policies and procedures shall govern the transportation of inmates outside the facility.

11.40. Facility vehicles. Written policies and procedures shall govern the use and security of facility vehicles.

11.41. Personal vehicles. Written policies and procedures shall govern the use of personal vehicles for official purposes, including provision for insurance coverage.

§95-1-12. Special Management Inmates.

12.1. Operation of segregation units. Written policies and procedures shall provide for the operation of segregation units for the supervision of inmates under administrative segregation, protective custody or disciplinary detention.

12.2. Immediate segregation. Only the facility administrator or his or her designee can order immediate segregation of an inmate and then only when it is necessary to protect the inmate or others.

12.3. Disciplinary detention. Inmates shall be placed in disciplinary detention for a rule violation only after a hearing by the appropriate committee, or hearing officer, and when no other available alternative dispositions are adequate to regulate the inmate's behavior within acceptable limits and the inmate's presence in the general population poses a serious threat to the orderly operation or security of the jail facility.

12.4. Administrative segregation. Inmates shall be placed in administrative segregation only after a hearing before the jail facility administrator or shift supervisor, classification committee, or other standing committee specifically designated for this purpose.

12.5. Administrative segregation hearing. Placement in administrative segregation should be preceded by the inmate receiving notice of intended placement, appearance at the hearing and an opportunity to present his or her case to the hearing officer(s).

12.6. Review of administrative segregation. The status of the inmate shall be reviewed at least every fifteen (15) days to determine whether the reasons for initial placement in segregation continue to exist. If the reasons do not, the inmate shall be released from segregation.

12.7. Release and appeal from administrative segregation. An inmate shall be released from administrative segregation by action of the appropriate committee with jurisdiction over the inmate's placement in this status, or an appeal to the jail facility administrator or appropriate supervisory authority.

12.8. Protective custody. An inmate shall be admitted to the segregation unit for purposes of protective custody only when there is documentation that protective custody is warranted and no reasonable alternatives are available. Protective custody shall be used only for short period of time, except when an inmate needs long-term protection, and the facts are well documented. When an

inmate consents to protective custody, his or her consent shall be fully documented with a consent form signed by the inmate. The inmate may at any time request reassignment to the general inmate population.

12.9. Review of protective custody. Inmates in protective custody shall have their status reviewed by the appropriate personnel at least every fifteen (15) days.

12.10. Appeal of protective custody. When inmates are placed in protective custody an appeal process shall be provided to the jail facility administrator or an appropriate supervisory authority.

12.11. Isolation. The responsible physician shall approve a plan guiding the use of restraints in isolation. For an inmate to be kept in isolation for more than twenty-four (24) hours, a physician or mental health professional shall determine upon evaluation that the inmate is a threat to himself or herself or others. Transfer of the inmate to a hospital or state institution may be appropriate. Isolation shall be reviewed as soon as possible by the jail facility supervisor but in no event later than six (6) hours after the initial placement in isolation. Inmates placed in isolation as a result of being out of control shall be released immediately upon their regaining self-control. An appeal process to the jail facility administrator or the appropriate supervisory authority shall be provided.

12.12. Isolation observation. A monitoring procedure shall be developed to require observation of inmates in isolation. The procedures shall include regular observations and at least an hourly recording of the behavior observed. The individual recording shall include the following information: the inmate's name; the date and hour of placement in isolation; the reason or basis for placement in isolation; the behavior exhibited while in isolation; the release time; any physical or mental problems or needs; and, any visits by health personnel.

12.13. Permanent log in segregation units. Staff members in any segregation unit shall maintain a permanent log. Admissions of all inmates to these units shall be recorded with the following information included for each inmate: the inmate's name; the inmate's number; the inmate's previous housing location; the date admitted; the type of infraction or reason for admission; the tentative release date; and, any special medical or psychiatric problems or needs. The log should be used to record all visits by officials who inspect the units or counsel inmates, all unusual inmate behavior, and all releases.

12.14. Observation of potentially suicidal inmates. Inmates who are classified as potentially suicidal shall be continuously monitored which shall include a verbal exchange between the inmate and the monitoring staff. A recording of this monitoring shall be made and placed in the inmate's health record. High risk persons shall be placed on continuous observation.

12.15. Deprivation of authorized item or activity. Whenever an inmate in segregation is deprived of any usually authorized item or activity, a written report of the action shall be made and forwarded to the jail facility administrator. The report shall identify the inmate, the item or activity he or she was deprived of, and the reasons for the action. The report shall be forwarded to the chief security officer as soon as possible. If circumstances warrant the removal of all of an inmate's personal items, approval for this action shall be obtained in advance from the jail facility administrator or his or her designee. No item or activity shall be withheld longer than is necessary to ensure the inmate's safety and the well-being of the staff and other inmates. In no case shall an inmate be deprived of an item or activity for the purpose of punishment unless proper disciplinary process has been utilized.

12.16. Meals. Inmates in segregation shall receive the same meals as those served to the general population. Deprivation of food shall never be used as punishment.

12.17. Shower. Inmates in segregation shall have the opportunity to shave and shower daily. Inmates in segregation shall have the opportunity to maintain an acceptable level of personal hygiene, unless the activities present an undue security hazard.

12.18. Clothing, bedding, hair care service. The issuance and exchange of clothing, bedding and linen and laundry of those articles, barbering and hair care services shall be provided for inmates in segregation on the same basis as for inmates in the general population; exceptions to this rule are permitted only where found necessary by the senior officer on duty, and are recorded in the log required by section 12.13 of this rule and justified in writing. Inmates in segregation shall be afforded the same hygienic living conditions as the general inmate population.

12.19. Mail. Inmates in segregation shall be provided the same opportunities for the sending and receiving of letters as are available to the general inmate population. Letters shall be delivered promptly. If any item is rejected consistent with the policies and procedures for sending and receiving letters, the inmate shall be advised of the reason for the rejection, and the item shall be returned to the sender.

12.20. Visitation. Inmates in segregation shall be provided opportunities for visitation, unless there are substantial reasons for withholding such privileges. Every effort shall be made to notify the inmate and any approved visitors of any restrictions on visiting. This practice will avoid disappointment and unnecessary inconvenience for the visitors.

12.21. Telephone. Inmates in disciplinary detention shall be allowed limited telephone privileges, which consist of telephone calls related specifically to access to the judicial process and family emergencies as approved by the jail facility administrator or his or her designee. Inmates in administrative segregation and protective custody shall be allowed telephone privileges.

12.22. Legal materials. Inmates in segregation shall have access to both personal legal materials and to available legal reference materials. Reasonable arrangements shall be made to assist these inmates in meeting court deadlines.

12.23. Reading materials. Inmates in segregation shall have access to reading materials.

12.24. Exercise. Inmates in segregation shall be allowed the same opportunity for recreation as those in the general population unless specific temporary security restrictions are designated in writing by the jail facility administrator in advance.

12.25. Programs and services. Inmates in segregation shall be allowed to participate in facility programs to the same extent as the general inmate population, providing their participation is consistent with the safety and security of the facility and the community. They shall also have the same opportunity to receive treatment from professional persons, such as social workers, psychologists, counselors, and psychiatrists.

12.26. Visits from staff. Inmates in segregation shall receive daily visits from the chief security officer or the shift supervisor, members of the program staff upon request, or a qualified health care official three (3) times per week unless medical attention is needed more frequently.

12.27. Staffing of segregation units. Written policies and procedures shall govern selection criteria, supervision and assignment of staff who work with inmates on a regular and daily contact basis in segregation units. Procedures shall be established to supervise and evaluate the on-the-job performance of all staff members who work with inmates in segregation. Administrative procedures shall exist for promptly removing ineffective staff members from these positions. The need for reassignment shall be based on the intensity of the assignment.

§95-1-13. Food Service.

13.1. Menu inspection. A qualified nutritionist shall inspect and approve menus in advance of adoption and make recommendations regarding diets to assure adherence to nationally recommended basic daily caloric and nutritional requirements.

13.2. Review. All menus, including special diets, shall be planned, dated, and available for review at least one month in advance; notations shall be made of any substitutions in the meals actually served. Substitutions shall be of equal nutritional value.

13.3. Temperature. Meals must be served at the appropriate temperature. There shall be at least two (2) hot meals a day.

13.4. Meal variety and nutrition. Meals must include variety and be nutritious. There shall be a rotation of at least four (4) weeks duration of planned menus prepared by a registered dietician under the direction of the food service provider.

13.5. Special diets. Special diets for medical and religious reasons shall be provided.

13.6. Management. A staff member experienced in food service management shall be responsible for food service management and operations.

13.7. Health protection. Adequate health protection shall be provided for all inmates and staff in the jail facility as well as inmates and other persons working directly in food service. All food handlers, the jail facility, and food preparation equipment shall meet all applicable health and safety standards. Inmate food handlers shall be required to receive a complete physical examination prior to job assignment.

13.8. Food service records. Records of daily menus shall be maintained; any deviations from planned menus shall be appropriately noted on the records. Records of inmates' refusal to eat shall be noted in their medical files.

13.9. Restriction. Restriction of food shall not be used as a disciplinary punishment.

13.10. Toilet and hand washing facilities. A toilet and hand washing facility shall be available to food service personnel and inmates assigned to work in the food service preparation area.

13.11. Regimentation. Meals shall be served under conditions which minimize regimentation, although supervision of group dining by staff members should be available. Meals shall not be served in cells unless it is necessary for purposes of safety and security or the inmate is under disciplinary, administrative or medical segregation. When a meal is served in a cell a small table or shelf and appropriate seating distanced from the toilet shall be provided.

13.12. Frequency. At least three (3) regular meals, at least two (2) of which are hot, shall be served at regular meal times during each twenty-four (24) hour period with no more than thirteen (13) hours between the beginning of the evening and breakfast meals.

13.13. Budgeting, purchasing and accounting. The food service operations shall use budgeting, purchasing and accounting practices that include, but are not limited to, the following systems:

- a. Food expenditure cost accounting designed to determine cost per meal;
- b. Estimation of food supply requirements;
- c. Purchase of supplies at wholesale prices and under other favorable conditions, when possible;
- d. Determination of and responsiveness to inmate eating preference; and,
- e. Refrigeration and storage of food with specific storage periods.

13.14. Equipment and dining area inspection. Inspection of food service and dining areas shall be subject to the following conditions:

- a. Weekly general inspection of food service, dining and food preparation areas and equipment by a trained individual who shall maintain a record of such inspections;
- b. Daily inspection of the sanitary condition and proper operation of temperature controlled food storage facilities for food supplies; and,
- c. Daily inspection of refrigerators and dish washing temperatures by food service personnel to assure that proper operating temperatures are maintained.

13.15. Documentation. Documentation shall be maintained that complies with health and safety regulations.

13.16. Utensils. All inmates shall be provided appropriate utensils and drinking cups with meals.

§95-1-14. Medical and Health Care Services.

14.1. Right to medical care. All inmates shall have prompt access to necessary medical, dental and psychiatric care provided in a reasonable manner by licensed personnel.

14.2. Responsibility. Medical, dental and mental health decisions involving clinical judgements shall be the sole province of the responsible health care professional. The jail facility administrator shall provide administrative support for the availability of medical care to inmates and shall advise the health care professionals concerning jail facility security.

14.3. Responsible physician. A responsible physician shall be designated to approve health care policies, procedures and agreements which may include the

use of emergency rooms in local hospitals. Each jail facility shall have agreements or provisions for twenty-four hour coverage by an on-call physician. All physicians and dentists examining or treating inmates shall be licensed to practice in the State of West Virginia.

14.4. On site health authority. An on site health authority shall be designated and present at all times. The health authority may be a physician, physician's assistant, registered nurse, licensed practical nurse, nurse practitioner, paramedic, emergency medical technician, or a health trained staff member.

14.5. Medical autonomy and jail facility administration. Medical decisions shall be made only by the physician or his or her designee. It shall be made clear to the health authorities, that security rules which apply to non-medical jail facility staff also apply to health care staff. The jail facility administrator shall provide information and orientation concerning security rules to health care staff.

14.6. Duties and responsibilities. Appropriate state and federal licensure, certification or registration requirements and restrictions apply to personnel who provide health care services to inmates. The duties and responsibilities of medical care personnel shall be governed by written job descriptions approved by the responsible physician and the jail facility administrator. Verification of current credentials and job descriptions shall be on file in the jail facility. The provision of quality health care shall be ensured by the use of only qualified health care personnel to determine and supervise health care procedures. Written job descriptions shall include the qualifications required and the specific role in the health care delivery system of that position. Verification of qualifications may consist of copies of current certificates or licenses.

14.7. Administrative meetings and reports. There shall be meetings, at least quarterly, between the health care staff and the jail facility administrator to review and discuss health care programs in the jail facility. Notes of these meetings shall be kept by the jail facility administrator. The responsible physician shall submit quarterly reports on the health care delivery system and annual statistical reports. The report shall include topics such as the effectiveness of the health care delivery system, a description of any environmental factors which may require improvement, changes effected since the last report, and recommendations for corrective action if needed. The annual statistical report of inmate health care shall include the number and nature of sick call visits, diagnostic studies conducted, emergency services rendered, referrals to specialists, hospitalizations, special procedures performed, ambulance transports used, communicable diseases reported and deaths. The annual statistical report, along with an appraisal of the jail facility's health care system shall be submitted to the authority having jurisdiction over the jail facility by the responsible physician.

14.8. Review. Each policy, procedure and program in the health care delivery system shall be reviewed at least annually by the responsible physician and revised if necessary. Each policy or procedure document shall bear the date of the most recent review or revision and the signature of the reviewer.

14.9. Policies and procedures. The responsible physician shall write or approve pre-written health policies and procedures for the following components of jail facility health care:

14.9.1. Decision making for special problem inmates. Before inmates with diagnosed psychiatric or significant medical illnesses are given housing assignments, work assignments, disciplinary measures or transfers, the jail facility administrator and the responsible physician or their designees shall confer to consider any special precautions or preparations. A list of frequent

illnesses which require special arrangements shall be developed. Special diets must be provided when requested by health personnel and approved by the responsible physician.

14.9.2. Notification of next of kin. The jail facility administrator or responsible physician shall notify the next of kin or legal guardian of the serious illness, serious injury or death of any inmate in the custody of the jail facility.

14.9.3. Post mortem examination. The jail facility administrator or responsible physician shall immediately notify the State Medical Examiner of the death of any inmate. The jail facility shall cooperate with the State Medical Examiner in the conduct of post mortem examination if found to be necessary.

14.9.4. Minimum staff training requirements. Health trained staff is defined as jail personnel who have the equivalent of EMT training and also have received information regarding the symptoms of physical and mental illnesses common to the inmate population (including depression and chemical dependency), basic management of seizures, medication administration, health record maintenance, recognition of potentially suicidal behavior, ability to respond to health related situations within four (4) minutes, first aid training, and procedures for transfer of inmates to appropriate medical facilities or health care providers. Training may be effected through a local hospital, emergency room, county health department, county medical society, Red Cross chapter, or any other program approved by the responsible physician. An appropriate training course may be completed in approximately 60-80 hours. Each shift shall include at least one person who has become health trained as described in this subsection. Ideally these persons shall be from the health care profession but may be health trained jail facility personnel.

14.9.5. Suicide prevention. There shall be a written suicide prevention and intervention program that is reviewed and approved by a qualified medical or mental health professional. All jail facility staff who are responsible for inmate supervision shall be trained in the implementation of the program. The staff shall be responsible for intake screening and identification of potentially suicidal inmates in an effort to prevent suicide.

14.9.6. Prohibited inmate assignments. Inmates shall not be assigned the following duties:

- a. Performing direct patient care services;
- b. Scheduling health care appointments;
- c. Determining or controlling access to health care by other inmates;
- d. Handling or having access to surgical instruments, syringes, needles, medications or health records; and,
- e. Operating medical equipment.

The restrictions of this subsection shall not be construed to preclude inmates from participation in a certified vocational training program. Inmates may be permitted to perform janitorial or cleaning services in the medical areas under the supervision of qualified staff.

14.9.7. Receiving Medical Screening. A receiving medical screening appraisal to elicit information pertinent to the inmates' health shall be performed on every inmate at the time of admission. The screening shall be recorded on a form which has been approved by the responsible physician.

Screening is a means to discover and prevent health and safety threats to both inmates and staff. The goal of receiving screening shall be to detect any communicable diseases, chemical dependence, potential for suicide, or other medical or psychiatric problems before the inmate is placed within the jail population. When the inmate has been transferred from another facility and is accompanied by a previously completed screening form, the form shall be reviewed and verified. The receiving screening shall be conducted by a health-trained staff member. No inmate in obvious need of medical attention shall be admitted to any jail facility until such time as the arresting or transporting officer shall obtain written medical clearance indicating that the inmate is physically capable of withstanding incarceration. The screening inquiry shall include the following topical areas:

- a. Current illness and health problems, including dental problems;
- b. Venereal diseases and other infectious diseases;
- c. Current medication and special health requirements;
- d. Use of alcohol or other drugs, including types of drugs used, mode of use, amounts used, frequency of use, date or time of last use, and history of problems which may have occurred after cessation of use;
- e. Past and present treatment or hospitalization for mental disturbance or attempted suicide; and,
- f. Other health problems as may be identified by the responsible physician.

14.9.8. Disposition. The receiving screening process shall include a recommendation to one of the following population classifications: General population, with or without referral for appropriate health care services; emergency referral to appropriate health care services; or, medical isolation and special observation.

14.9.9. Health Appraisal. Within fourteen (14) days of admission, a health appraisal shall be completed for each inmate which includes a medical history and examination which is recorded on a form approved by the responsible physician. Although a physician, physician's assistant or nurse practitioner must perform the physical examination, the health history may be completed by a health trained staff member. The health appraisal shall include the following:

- a. Review of the earlier receiving screening by the examining clinician;
- b. Collection of additional data to complete the medical, dental, psychiatric and dental histories;
- c. Administration of laboratory and/or diagnostic tests to detect communicable diseases including tuberculosis;
- d. Recording of current height, weight, pulse rate, blood pressure and temperature, any other diagnostic tests administered and comments concerning mental and dental

status; and,

- e. The results of the medical examination, test results and other information collected shall be reviewed by a physician who shall direct the initiation of appropriate medical care and treatment.

14.9.10. Care for persons under the influence of drugs. The responsible physician shall approve policies and procedures for the identification of alcohol and drug dependence as well as subsequent management and/or transfer for the care of persons under a drug influence. Unless the jail facility has special facilities and constant medical supervision to perform detoxification, detoxification shall not be performed at the jail facility; inmates who require detoxification shall be transferred to a hospital or detoxification center designated by the responsible physician. Procedures for adequate care of persons under the influence of drugs include written policies and training concerning medical screening, observation, referral evaluation, and safety protection.

14.9.11. Psychiatric illness. Post admission screening and referral for the care of mentally ill or retarded inmates whose adaptation to the jail facility environment is significantly impaired shall be provided. Psychiatric problems identified, whether identified during receiving screening or after admission, shall be followed up by medical staff. The urgency of the presenting problem shall determine the response. Potentially suicidal and psychotic patients are emergencies and require prompt attention. Inmates awaiting emergency evaluation shall be housed in a specially designated area with constant supervision by trained staff. Inmates shall be held only for the minimum time necessary before emergency care is rendered. All sources of assistance for mentally ill or impaired inmates shall be identified in advance of need and referral procedures shall be in place for use in cases where the need exists. No person shall be housed in a jail facility solely upon an involuntary commitment proceeding pursuant to West Virginia Code §27-5-1 et. seq..

14.9.12. There shall be consultation between the jail facility administrator and the responsible physician or their designees prior to the making of housing assignment, program assignment, imposition of disciplinary measures or the transfer of any inmate who is diagnosed as having a psychiatric illness.

14.9.13. Access to treatment. Upon admission each inmate shall be informed of his or her right of access to medical treatment; in addition to verbal instruction, each inmate shall receive an information sheet which includes information about the jail facility's sick call schedule, the procedures for registration for sick call and the grievance procedures concerning medical care. The medical information sheet shall be approved by the responsible physician.

14.9.14. Daily health complaints. The health complaints of inmates shall be solicited daily and acted upon by trained personnel such as a licensed nurse or registered nurse and followed by appropriate triage and treatment by qualified personnel. Triage is the sorting and allocation of treatment of patients according to priorities of need.

14.9.15. Sick Call. Sick call is the system through which each inmate reports for and receives appropriate medical services for non-emergency illness or injury; if an inmate's custody status precludes attendance at sick call, arrangements shall be made to provide sick call services in the inmate's place of detention. Inmates will have daily access to sick call forms which shall be reviewed that day by the health authority or other person designated by the responsible physician. All complaint forms will become part of the inmate's health record. Sick call shall be performed by a licensed physician, physician's assistant, registered nurse, or other person designated by the responsible

physician. Sick call is a designated time to review non-emergency medical problems and shall be held at the following intervals:

- a. In jail facilities of less than fifty inmates, one time per week;
- b. In jail facilities of fifty to one hundred inmates, two times per week;
- c. In jail facilities of one hundred to two hundred inmates, three days per week; and,
- d. In jail facilities of more than two hundred inmates, five times per week.

14.9.16. Use of restraints or isolation for out of control inmates. The responsible physician shall approve a plan which guides the use of restraints or isolation and providing for mental health personnel to evaluate inmates who are repeatedly out of control or who remain out of control for more than a short amount of time. Use of physical restraints in the control of inmates inside the jail facility may only be used for the protection of the individual or others. The use of restraints shall be recorded in the inmate's record. Any time an inmate remains out of control for more than a short amount of time, mental health personnel shall be consulted.

14.9.17. Health Promotion/Wellness Promotion. The responsible physician shall consider plans which provide inmates with health education and preventive medical services.

14.9.18. Prevention of the spread of disease. Jail facilities shall establish an area for use by inmates who have medical problems which require separation or close observation. Inmates in such areas shall be allowed to participate in an appropriate form of exercise, including exercise of large muscle groups, for a minimum of one hour per day.

14.9.19. Dental Care. Dental care shall be provided to each inmate under the direction and supervision of a licensed dentist under the following conditions:

- a. Each inmate shall receive a dental examination as a component of his or her health evaluation within fourteen days of admission; and,
- b. Emergency dental treatment for conditions which adversely affect the inmate's health shall be provided within three (3) months of admission.

14.9.20. Special medical programs. Arrangements shall be made for the provision of special medical programs, including chronic care, convalescent care and preventive medical maintenance for inmates. The special medical program shall service a broad range of health problems, e.g., seizure disorders, diabetes, potential suicide, chemical dependency, and psychosis. These special medical programs require close medical supervision. Chronic care is medical service rendered to a patient over a long period of time for conditions such as diabetes, asthma, and epilepsy. Convalescent care is medical care provided to assist a patient in the recovery from illness, injury or surgery. Preventive medical maintenance includes health education and medical services such as inoculation and immunization and is provided to take measures in advance of the onset of illness or to provide instruction in the self-care of chronic conditions.

14.9.21. Prostheses. The responsible physician or dentist shall determine the medical necessity for prosthetic devices. Prosthetic devices shall be provided when medically necessary to avoid adverse affect upon the inmate's health.

14.9.22. -Management of pharmaceutical. Procedures for prescribing, dispensing and administering drugs shall be in compliance with federal and state laws and regulations. The responsible physician shall approve written procedures for the distribution, administration, accounting and disposal of medications. The responsible physician shall approve a written medication log which shall be maintained for each inmate receiving medication. The inmate's medication log shall include the date, time, name of drug and dosage administered. Any inmate who refuses medication shall sign a statement to that effect, which shall be signed by a staff member and filed in the inmate's medical record. Medications shall be administered only by a physician or nurse, or, after written approval from the responsible physician, by the health authority or health trained staff member; exception to this requirement may be made for self administration of insulin injections by inmates who have received appropriate instruction and are under the supervision of the health authority or a health trained staff member. The physician shall inform jail facility personnel of possible side effects of medication prescribed for inmates. When medications are taken orally, the person administering the medication shall take appropriate action to verify that the medication has been swallowed, thereby ensuring proper ingestion of the prescribed medication. The jail facility shall provide a locked storage area for medications and a list of stored medications shall be maintained. Refrigeration shall be provided if needed for proper storage of medications.

14.9.23. Administration of medications. Persons administering medications shall do so under the supervision of the responsible physician and shall have received training appropriate to their assignment. They are accountable for administering medications according to orders as to both frequency and dosage, and for recording the administration of medications in a manner and on a form approved by the responsible physician. Training from the responsible physician shall include the medical aspects of administration or distribution of medication. Training from the jail facility administrator shall include security matters inherent to the administration and distribution of medications in a jail facility.

14.9.24. Health records. A separate file shall be established for each inmate at the time of his or her receiving screening for the collection of medical information. The health record shall be sufficiently detailed to enable a practitioner to give continuing care and permit the retrospective determination of the inmate's condition and treatment at the time of examination and treatment and to provide information which will enable consulting medical professionals to render advice on the inmate's care and treatment. Entries in this record shall be made in ink, be legible, be signed by the maker, and dated. Records shall be maintained for at least seven (7) years following the inmate's most recent incarceration. The file shall contain the following:

- a. The completed receiving screening form;
- b. The completed health appraisal, if the inmate was incarcerated for more than thirty days;
- c. All findings, diagnoses, orders and treatments;
- d. A medication log sheet;
- e. The results of laboratory, x-ray or other diagnostic procedures;

- f. Any completed medical complaint forms;
- g. The date, place and time of health encounters;
- h. Dental, psychiatric or other consultation reports;
- i. Consent and refusal forms; and,
- j. Release of information forms.

14.9.25. Transfer of records. When an inmate receives off-site examination or treatment or is transferred to another facility or hospital the inmate's health record or a copy of the summary shall accompany him or her. Documentation of any off-site examination or treatment shall be made in the health record by the physician or other health professional involved. Health records shall be returned to the jail facility with the inmate or, in the event of the transfer or hospital admission of the inmate, as soon as possible thereafter. Written authorization by the inmate is required for the transfer of health record information, except in an emergency situation where the inmate is unable to authorize the transfer.

14.9.26. Confidentiality. The inmate's medical information, health record, and confidences entrusted to a physician or other medical care professional in the course of screening, examination or treatment are confidential and shall not be disclosed to anyone except in the following instances:

- a. With the informed consent of the inmate;
- b. When required by law, e.g. the reporting of communicable diseases;
- c. When the security of the institution or the safety of the individual requires disclosure, and then only to the extent necessary for the protection of the inmate and the security of the jail facility; and,
- d. When the chief administrative officer requests review of medical information, subject to all other requirements of this subsection.

14.9.27. Facilities and equipment. When health services are provided within a jail facility the jail facility shall provide a private examination/treatment area and such equipment necessary and appropriate for the delivery of medical care as provided in this section. Medical equipment shall be periodically inspected and kept in good repair.

14.9.28. First aid kits. Each jail facility shall have one or more first aid kits which contain, at a minimum, bandages, gauze, slings, adhesive tape and band-aids. The responsible physician shall designate the number, location and contents of first aid kits and shall provide for the periodic inspection and replenishment of the kits.

14.9.29. Informed consent. The informed consent of inmates is necessary for all medical examinations, treatment and procedures except those required by law, e.g., the treatment of infectious diseases when public health law requires such treatment, or in the event of an emergency. Informed consent is the voluntary consent of an inmate to an examination, treatment or procedure after

receiving information concerning the material facts regarding the nature, consequences, risks and alternative procedures. In the event a minor is admitted, the consent to medical care must be obtained from a parent, guardian or legal custodian.

14.9.30. Medical research. The use of inmates for medical, pharmaceutical, or cosmetic research or experiments is prohibited.

14.9.31. Serious illness or injury. A process to notify an inmate's next of kin in the event of serious illness or injury shall be developed. The jail facility's admission form shall provide for identification of the inmate's choice of a person to be notified in the event of serious illness, serious injury or death. When possible, permission for notification shall be obtained from the inmate.

§95-1-15. Inmate Rights.

15.1. Access to courts. Inmates shall have unlimited access to courts and to address uncensored communication to governmental authorities. Inmates seeking judicial or administrative redress shall not be subjected to reprisals or penalties as a consequence.

15.2. Attorneys. Sentenced and unsentenced inmates shall have access to attorneys or their representatives, paralegal and experts. Private Attorney/Client interview rooms shall be provided. Provisions shall be made for contacts during normal jail facility hours, for uncensored correspondence and telephone communication.

15.3. Access to legal materials. Inmates shall have access to appropriate legal materials. Provisions shall be made for reasonable and meaningful access to a library. The library shall include the following documents or their equivalent:

- a. Black's Law Dictionary;
- b. Legal Research in a Nutshell (latest ed.);
- c. Federal Habeas Corpus, Sokol, (Michie);
- d. Criminal Procedures in a Nutshell, Israel, Jerold J. and Lafave, Wayne R., St. Paul: West or a comparable service;
- e. Constitutional Rights of Prisoners, Palmer, John W., (with current supplement) Cincinnati: Anderson or a comparable service;
- f. Criminal Law Hornbook, Lafave & Scott (West);
- g. Court Rules;
- h. West Virginia Code, Vols 1-20 ,including Court Rules,with current supplements;
- i. Southeastern Reporter (2nd series, 1960 to date);
- j. Criminal Law Reporter, BNA;

- k. U. S. Code, Annotated, Titles 18, 29 and 42;
- l. Supreme Court Reporter (1960 to date);
- m. Federal Reporter (2nd series, 1960 to date);
- n. Federal Supplement (1970 to date);
- o. Corpus Juris Secundum (Criminal Law sections only);
- p. Modern Federal Practice Digest Second (Vols 16-19, 22-32, 53-54, Table of Cases and Indexes); and,
- q. Michie's Jurisprudence.

15.4. Access to paper and supplies. Inmates shall have access to paper and other supplies related to legal matters. Inmates shall be provided reasonable access to the services of a notary public for legal documents and other general purposes. There shall be no restricting or interfering with jailhouse lawyers or with inmates attempting to assist other inmates in legal matters. Such interaction of inmates is subject only to legitimate safety and security concerns.

15.5. Voting. Jail facility officials shall inform inmates on pre-trial status and those of misdemeanors of their right to vote and offer them the opportunity to exercise that right.

15.6. Religious observance. Inmates shall have reasonable opportunities to practice their religion, with visits permitted by spiritual advisors at reasonable times. Provisions shall be made for inmates to observe the requirements of their faith.

15.7. Checking and savings accounts. Inmates are entitled to maintain checking and savings accounts.

15.8. Discrimination. Each inmate shall be free from discrimination based upon race, religion, national origin, sex, handicap, or political beliefs. Inmates shall have equal access to various programs and work assignments, and involvement in decisions concerning classification status. There shall be no discrimination in regard to the rights and privileges, restrictive housing, or any other amenities afforded to inmates.

15.9. Protection. Inmates shall be protected from personal abuse, corporal punishment, personal injury, disease, property damage and harassment. In instances where physical force or disciplinary detention is required, only the least restrictive means necessary to secure order or control shall be used. Administrative segregation shall be used to protect inmates from themselves or other inmates.

15.10. Inmate appearance. Inmates' personal appearance shall not be limited unless it presents clear health, safety or security hazards.

15.11. Grievance procedure. The jail facility shall have a written grievance procedure which is explained and available to inmates and staff. It shall give inmates an opportunity to seek redress for violations of jail facility rules and regulations or interference with the inmate's rights or privileges. The procedure shall include a provision for an investigation of the grievance and for a written response within a reasonable time (seventy-two (72) hours) and

proper action taken to ensure fair resolution of complaints. The response shall state reasons for the response to the grievance. Unless grievances are clearly found to be in bad faith, the grievant shall have a personal opportunity to be heard before a decision on the grievance is made. If the grievance is denied, an appeal shall be available.

15.12. Good Time. Inmates sentenced to jail for a term exceeding six (6) months are entitled to good time. Inmates shall be presumed to have conducted themselves well and shall be entitled to good time credit unless they have a recorded history of misconduct. Jail facility authorities shall notify inmates of good time.

15.13. Due Process. No inmate shall be deprived of any good time credit for alleged misconduct unless they have first been afforded the following due process protection:

- a. Written notice of the claimed violation;
- b. Disclosure of the evidence against them;
- c. An opportunity to be heard and to present witnesses and documentary evidence;
- d. The right to confront and cross-examine adverse witnesses, unless the hearing officer specifically finds good cause for prohibiting confrontation;
- e. A neutral and detached hearing officer;
- f. A written statement by the fact-finders of the evidence relied upon and the reasons for discipline; and,
- g. The right to counsel, if the state is represented by an attorney, and otherwise the right to be assisted by another inmate, staff member, lay advocate or paralegal.

§95-1-16. Inmate rules and discipline.

16.1. Rules of conduct. There shall be written rules of inmate conduct which specify acts prohibited within the jail facility and penalties which may be imposed. These rules shall be provided to all inmates and procedures shall exist for ensuring that all inmates understand the rules.

16.2. Annual Review. The written rules of inmate conduct shall be reviewed annually and updated as necessary to ensure that they are consistent with constitutional and legal principles.

16.3. Training. All personnel who deal with inmates shall receive sufficient training so that they are thoroughly familiar with the rules of inmate conduct, the sanctions available, and the rationale for the rules.

16.4. Minor infractions. There shall be written guidelines for informally resolving minor infractions of the inmate rules.

16.5. Disciplinary reports. When rule violations require formal resolution, staff members shall prepare a disciplinary report and forward it to their supervisor.

16.6. Minimum contents. Disciplinary reports prepared by staff members

shall include the following minimum information:

- a. Specific rule alleged to have been violated;
- b. A formal statement of the charge;
- c. An explanation of the event, including who was involved, what transpired, and the time and location of the event;
- d. Any unusual inmate behavior;
- e. Any staff witnesses;
- f. The disposition of any physical evidence;
- g. Any immediate action taken, including the use of force;
- h. The reporting staff member's signature; and,
- i. The date and time the report is made.

16.7. Investigation. When an alleged rule violation is reported, an investigation shall begin within forty-eight (48) hours of the time the violation is reported.

16.8. Pre-hearing segregation. Pre-hearing segregation of inmates who are charged with a rule violation shall be used only when necessary to ensure the safety of the inmate or the security of the jail facility.

16.9. Sanctions. There shall be a schedule of sanctions for rule violations. The maximum sanction for rule violation shall be disciplinary confinement for fifteen (15) days for any one violation and no more than (30) thirty days for all violations arising from one incident. If more than one incident occurs, continuous disciplinary confinement for more than thirty (30) days shall require the review and approval of the jail facility administrator.

16.10. Prosecution. Written policies and procedures shall provide for referral of alleged criminal violations by inmates to appropriate law enforcement officials for prosecution.

16.11. Written copy of allegation. An inmate charged with a violation of jail facility rules shall be given a written copy of the alleged violation within twenty-four (24) hours of the determination of the charges.

16.12. Hearing. An inmate charged with a rule violation shall receive a hearing within seventy-two (72) hours of the charge, excluding weekends and holidays. The hearing may be postponed or continued by a written waiver by the inmate or for good cause.

16.13. Written notice of hearing. Written notice of the hearing shall be provided to the inmate at least twenty-four (24) hours prior to the hearing. The inmate may give written consent to a hearing within less than twenty-four (24) hours.

16.14. Inmate absence. Inmates charged with rule violation shall be present at the hearing unless they waive that right in writing or through behavior. Inmates may be excluded during the testimony of any inmate whose

testimony must be given in confidence. The reasons for the inmate's absence or exclusion shall be documented.

16.15. Hearing panel. Disciplinary hearings of rule violations shall be conducted by an impartial person or panel of persons.

16.16. Inmate representation. Staff assistance to represent inmates at disciplinary hearings shall be provided upon request by the inmate.

16.17. Rules of evidence. The inmate shall be given an opportunity to make a statement, present documentary evidence, and to have present any person who has relevant and not unduly cumulative information, except when doing so may jeopardize the life or safety of persons or the security or order of the jail facility; reasons for denial shall be stated in writing. The formal rules of evidence shall not apply to inmate disciplinary proceedings.

16.18. Written record of decision. A written record shall be made of the disciplinary hearing decision and a copy shall be given to the inmate.

16.19. Review. A review of all disciplinary hearings and dispositions shall be made by the jail facility administrator or his or her designee.

16.20. Appeal. Inmates shall have the right to appeal decisions of the disciplinary hearing officer to the jail facility administrator or his or her designee. The administrator, or their designee, shall either affirm or reverse the decision of the disciplinary hearing officer within five (5) days of the appeal.

16.21. Effect of negative finding. The disciplinary report shall be removed from the files of any inmate found not guilty of an alleged rule violation.

§95-1-17. Communication, Mail and Visitation.

17.1. Inmate correspondence. Written policies and procedures shall govern inmate correspondence, shall be available to all staff and inmates, and shall be reviewed annually and updated as needed.

17.2. Limitations. The volume of lawful mail, including letters and publications, which an inmate may send or receive or the length, language, content or source of the mail may not be limited except for reasons of public safety or jail facility order and security. Outgoing mail shall be at the inmate's expense except as provided in section 17.3 of this rule.

17.3. Indigent inmates. Indigent inmates shall be provided, without cost, sufficient stationery and postage for all letters to attorneys, courts, and public officials and two (2) personal letters per week.

17.4. Restrictions. Written policies and procedures shall define the type of publications allowed in the jail facility and inspection procedures. Restrictions of access to publications shall be directly related to the maintenance of jail facility order and security.

17.5. Mail processing. Incoming and outgoing letters shall not be held for more than twenty-four (24) hours, excluding weekends and holidays.

17.6. Inspection. Inmate letters, both incoming and outgoing, may be opened and inspected for contraband, but shall not be censored. The letters shall not be read or rejected except where there is reliable information that there is a threat to order or security or that they are being used in the furtherance of illegal activity. Inmates shall be notified when incoming or outgoing letters are rejected.

17.7. Cash. Procedures shall provide for the inspection of inmate letters to intercept cash, checks, money orders and contraband. A receipt shall be given to the addressee.

17.8. Sealed letters. Inmates shall be permitted to send sealed letters to a specified class of persons and organizations, which shall include courts, counsel, officials of the confining agency, government officials, administrators of grievance systems, and members of the parole authority. Mail to inmates from this specified class of persons and organizations shall be opened only to inspect for contraband and only in the presence of the inmate.

17.9. Telephone access. Inmates shall be afforded the right to reasonable telephone access. Telephone calls shall not be monitored unless authorized by a prior court order.

17.10. Visitation. The number of visitors an inmate may receive and the length of visits shall be limited only by jail facility schedules, space and personnel constraints. Visitation shall be provided at least four (4) times weekly including weekends, holidays and evening hours as well as daytime hours. The scheduled visitation hours shall be at least three (3) hours in duration. Individual visitations shall not be limited to less than one-half hour. Visitors whose schedule cannot accommodate the jail facility's visiting schedule may be granted special visitation hours upon request to the jail facility administrator. The visitation schedule and visitation policies shall be posted.

17.11. Visitation limitations. Any visitor shall be allowed except those excluded by court order, visibly under the influence of alcohol and/or drugs, or unable to produce appropriate identification. Inmates may receive visits from immediate family regardless of age provided that all children under the age of eighteen (18) are accompanied by an adult parent, or guardian. Any emancipated child under the age of eighteen (18) must provide proof of emancipation.

17.12. Contact visits. Contact visits shall be available unless otherwise requested, or the inmate's behavior risks causing harm to a person, or the inmate is on disciplinary status related to an offense related to visitation.

17.13. Risk Inmates. Visiting hours for high risk inmates shall approximate those for other inmates.

17.14. Searches. Inmates may be searched prior to and subsequent to visitation. Visitors may be subject to non-intrusive personal searches.

17.15. Privacy. Visitation facilities shall be private and confidential with no monitoring of conversations.

17.16. Contact visitation area. The contact visiting area shall contain tables which do not impair visibility and communication.

17.17. Notification and visitation challenges. Inmates shall be given written notification whenever a visitor is excluded from visitation and shall be given reasons for the action. An inmate shall be given an opportunity to challenge the denial of visitation.

17.18. Visitation by counsel. The number of visits with counsel shall not be restricted, during reasonable hours.

17.19. Visitation to home county. The regional jail authority shall provide transportation to the inmate's home county for purposes of visitation if (1) The home county has a holding facility which may be used for purposes of visitation (2) The county commission and the sheriff of the county agree to provide space in the holding facility for purposes of visitation and to accept custody of the inmate during such period of visitation and (3) Additional

transportation space is available on regularly scheduled runs to the home county required for other necessary purposes such as transporting other inmates to court proceedings. Priorities for inmates seeking transportation to the home county for visitation shall be assigned to available space on regularly scheduled runs as follows in the following order of priority: (1) Emergency circumstances (2) Transportation for inmates awaiting court proceedings and not under a sentence of incarceration for any crime (3) Inmates who have not received a visit within a three-month period and (4) Other inmates on a first-come, first-served basis in order of date and time of request.

§95-1-18. Admission, Orientation, Property Control and Release.

18.1. New Inmates. Written policies and procedures shall govern the admission and orientation of new inmates. They shall be reviewed annually and updated as necessary. The jail facility shall not accept persons who are being committed solely because of the initiation of procedures for involuntary commitment pursuant to §27-6A-1 et. seq. of the West Virginia Code.

18.2. Mentally disable inmates. Care shall be provided for inmates who are believed to be mentally ill, retarded, or addicted and in need of treatment, training or other services. The jail facility administrator shall be made aware of the illness and shall arrange for a mental health assessment. If the report of the examination confirms the condition and services cannot be provided at the jail facility, the administrator shall immediately take action to initiate the inmate's transfer to an appropriate facility pursuant to §27-6A-1, et. seq. of the West Virginia Code.

18.3. Minimum admission requirements. Written policies and procedures for admitting new inmates to a jail facility shall be provided and shall contain at least the following requirements:

- a. Verification of court commitment papers or other legal documentation of authority to detain the individual;
- b. A complete search of the individual and his or her clothing and personal possessions;
- c. Appropriate disposition of the individual's clothing and personal possessions;
- d. Medical screening including tests for infectious diseases;
- e. Provisions for telephone calls by inmates;
- f. Shower and hair care, if necessary;
- g. Issuance of clean clothing;
- h. Photographing and fingerprinting;
- i. An interview to obtain identifying data;
- j. A screening interview by a counselor or other trained interviewer;
- k. An orientation to the jail facility;
- l. Issuance of personal hygiene items;
- m. Classification of custody level for

assignment to a housing area; and,

n. Assignment to a housing unit.

18.4. Housing of alcoholics. The jail facility administration shall refrain from housing or retaining in the jail facility any persons who are known to be or should be known to be chronic alcoholics when the person has been charged solely with the offense of public intoxication; the person shall be afforded all reasonable and necessary medical and health care services immediately; at all times the proper procedures for treatment of such persons shall be followed in the manner set forth by the West Virginia Supreme Court of Appeals in State ex rel. Harper v. Zeeger, No. 14950 (filed May 18, 1982) and in its Addendum (filed July 15, 1982).

18.5. Intoxicated or drugged inmates. There shall be written policies and procedures for the safe handling of intoxicated or drugged inmates committed to the jail facility when such persons are charged with offenses other than or in addition to public intoxication, the policies shall include requirements that:

- a. All reasonable and necessary medical and health care services are provided immediately in the manner set forth by the Harper decision and its addendum;
- b. Such persons are segregated from the general inmate population until they can be safely integrated without danger to themselves or others; and,
- c. When such persons are housed in the jail facility, they shall have access to a bed, a toilet and a wash basin with hot and cold running water.

18.6. Location of admission area. Inmates shall be separated from the general population during the admissions process.

18.7. Orientation. All newly admitted inmates shall receive verbal and written orientation information in language they understand. Completion of orientation shall be documented by a dated statement signed by the inmate.

18.8. Telephone. Newly admitted inmates shall be permitted to complete at least three (3) collect local or long distance telephone calls during the admissions process.

18.9. Personal Property. The personal property which inmates may retain in their possession shall be specified.

18.10. Inventory and receipt. A written inventory of all personal property of newly admitted inmates and secure storage of inmate property, including money and other valuables shall be provided. The inmate shall be given a receipt for all property held until release.

18.11. Release. Written procedures for releasing inmates shall be developed to include the following:

- a. Verification of identity;
- b. Verification of release papers;
- c. Completion of release arrangements,

including the person or agency to whom the inmate is to be released;

- d. Return of personal effects;
- e. Verification that no facility property leaves the facility with the inmate; and,
- f. Completion of any pending action such as a grievance or a claim for damages or lost possessions.

§95-1-19. Classification.

19.1. General. Written policies and procedures shall provide for inmate classification in terms of the level of custody required, housing assignments and participation in correctional programs. They shall be reviewed at least annually and updated as necessary.

19.2. Criteria and appeal. The inmate classification plan shall specify criteria and procedures for determining and changing the status of an inmate, including custody, transfers and major changes in programs. The plan shall include an appeals process for a classification decision.

19.3. Classification categories. The jail facility shall provide for the separate management of the following categories of inmates:

- a. Male and female inmates;
- b. Pre-trial and convicted inmates;
- c. Felon and misdemeanor;
- d. Other classes of detainees (witnesses, civil prisoners);
- e. Community custody inmates (work release, weekender, trustees);
- f. Inmates with special problems (alcoholics, narcotic addicts, mentally ill persons, physically disabled persons, or persons with communicable diseases);
- g. Inmates who require disciplinary detention;
- h. Inmates who require administrative segregation;
- i. Violent and non-violent inmates; and,
- j. Juveniles.

19.4. Juveniles. Juveniles, who are subjected to trial as adults, if held in the jail facility, shall be separated by sight and sound from adult inmates, although they may be housed in the facility's structure. Juveniles who are not subject to trial as adults are not to be housed in the jail facility in accordance with §49-5-16 and §49-5-16a of the West Virginia Code.

19.5. Discrimination. Segregation of inmates by race, color, creed, or national origin is prohibited.

§95-1-20. Inmate Work Programs.

20.1. Inmate assignments. The jail facility shall have a written inmate work assignment plan that provides for inmate employment, subject to the number of work opportunities available consistent with the maintenance of security in the jail facility.

20.2. Required work. Pre-trial and unsentenced detainees shall not be required to work except to do personal housekeeping. Any inmate may volunteer for work assignments or institutional programs.

20.3. Maintenance and operation. The inmate work plan shall include provisions for work in the maintenance and operation of the jail facility, except that no inmate shall be permitted within any control room of the jail facility.

20.4. Public works projects. The inmate work plan may provide for inmate work assignments in public works projects.

20.5. Community service. The inmate work plan shall include provision for inmates to work in various non-profit and community service projects.

20.6. Discrimination. Discrimination in inmate work assignments based upon sex, race, religion or national origin is prohibited.

20.7. Disabled Inmates. The inmate work plan shall include provisions for the employment of disabled inmates.

20.8. Compensation. If required under the West Virginia Code, inmates shall be compensated for work performed.

20.9. Working conditions. Inmate working conditions shall comply with applicable federal, state and local work place safety laws and rules.

20.10. Reduction of sentence. The inmate work plan shall provide for the earning of credit toward sentence completion in accordance with the West Virginia Code.

§95-1-21. Inmate Services and Programs.

21.1. Availability. Inmate programs and services shall be made available and shall include, but not necessarily limited to, social services, religious services, recreation and leisure time activities, and library services.

21.2. Use of community resources. Inmate programs and services shall provide for the identification and use of available community resources.

21.3. Inmate option to refuse. Inmates may refuse to participate in jail facility programs, except work assignments and programs required by statute or court order. There shall be written documentation of each refusal to participate maintained in the inmate's file.

21.4. Equal Opportunity. Male and female inmates will have equal opportunities to participate in programs and services.

21.5. Services for drug and alcohol addiction. The jail facility shall provide for counseling and program services for inmates with drug and/or alcohol problems. All necessary medical and health care services shall be provided. The jailing of alcoholics for public intoxication is prohibited. Efforts shall be made to encourage the active involvement of local Alcoholics Anonymous and other similar groups in the delivery of services to inmates and reasonable accommodations made for their use. Alcoholism rehabilitation and drug awareness programs may be established through a local agency or other qualified person.

21.6. Religion. Inmates shall be provided opportunities to participate in religious services and counseling on a voluntary basis.

21.7. Leisure time activities. The jail facility shall provide opportunities for inmates to participate in leisure time activities outside their cell or room on a daily basis. Each inmate shall be permitted at least one hour of leisure time activity each day outside their cell or room. Leisure time activities may include radio, television, movies, crafts, cards, puzzles, checkers, chess or space for indoor exercise.

21.8. Outdoor exercise. The jail facility shall provide each inmate with at least one hour of outdoor exercise per day in an outdoor area with adequate space for the exercise of large muscle groups. The outdoor exercise area shall be constructed to ensure privacy from and safety for the general public.

21.9. Records. The hours and place of recreation for each inmate shall be recorded daily.

21.10. Work Release. The jail facility shall establish a program for the implementation of a work release program pursuant to West Virginia Code §62-11A-1 and §62-11A-2. All inmates shall be notified of their right to apply for the program; appropriate applications and assistance in their completion shall be provided to inmates upon admission to the jail facility.

21.11. GED Program. The jail facility shall arrange for a G.E.D. program for inmates who desire to participate.

21.12. Vocational programs. Inmates shall have access to vocational counseling, pre-vocational career assessment, adult basic education, and vocational training.

21.13. Labor in jail facility. Inmates over the age of sixteen years may consent to perform labor within the jail facility, for county government. The jail facility shall develop a written resident work plan for work in the jail facility, the county government or a community service agency.

21.14. Good time. Good time policy will be coordinated with the vocational, education and work programs.

21.15. Library services. Library services shall be available to inmates and shall include at least the following types of materials: materials responsive to the interests and educational needs of inmates; information services to locate facts needed; programs for individuals or group information and enjoyment, such as books, discussion groups, music, creative writing, speakers and a distinct library setting. Library resources may be supplemented by the entire collection of local, regional and state libraries, law libraries and inter-library loan services. When appropriate, provisions shall be made for accommodation of inmates with visual and auditory deficits.

21.16. Staff. The jail facility shall assign a staff member to coordinate and supervise the library and its services. The number of staff required for this function may vary dependent upon the number of inmates involved in the program.

21.17. Pre-trial intervention program. When a pre-trial intervention program, diversion program, pre-trial release program or paroles program is conducted in the jail facility, sufficient staff, space and equipment shall be provided to meet the needs of the particular program.

§95-1-22. Release preparation.

22.1. Release preparation. A program of release preparation to prepare

inmates for release from the jail facility shall be available to all inmates.

22.2. Work and educational programs. Inmate participation in work or educational release programs shall be allowed in accordance with the West Virginia Code and applicable rules.

22.3. Separation from the general population. Inmates who are participating in work or educational release programs shall be separated from inmates in the general population.

§95-1-23. Citizen involvement and volunteers.

23.1. Citizen involvement. The involvement of citizens in the delivery of inmate programs may be permitted.

23.2. Volunteer coordination. A jail facility staff member shall be responsible for the coordination of the volunteer services program.

23.3. Lines of authority. Lines of authority, responsibility, and accountability for the volunteer services program shall be developed and communicated to jail facility staff and volunteers by the jail facility administrator.

23.4. Selection, screening and orientation of volunteers. The volunteer service program shall include procedures for the selection, screening and orientation of volunteers to the unique area of service to an inmate population. Recruitment from all cultural and socioeconomic segments of the community shall be encouraged.

23.5. Identification. A system which provides for the easy identification of volunteers while they are within the jail facility shall be provided.

23.6. Written contract. Each volunteer shall sign a written agreement to abide by all applicable facility policies, with specific reference to policies related to jail facility security and confidentiality of inmate information.

23.7. Professional services. Volunteers shall perform professional services only when properly licensed.

23.8. Level of involvement. The curtailment, postponement or discontinuation of the services of an individual volunteer or a volunteer group shall be within the discretion of the jail facility administrator.

§95-1-24. Glossary.

24.1. Audit. An audit is the examination of jail facility records or accounts to check their accuracy; an audit is conducted by a person not directly involved in the creation or maintenance of the records or accounts. An independent audit will result in an opinion which will either affirm or disaffirm the accuracy of records or accounts. An operational or internal audit usually results in a report to management within the agency which is not shared with persons outside the agency.

24.2. Administrative segregation. Administrative segregation is a form of separation of an inmate from the general population and is authorized by the classification committee or other authorized group when the continued presence of an inmate in the general population poses a serious threat to life, property, the inmate, staff or other inmates, or the security or orderly management of the jail facility. Inmates may be placed in administrative segregation pending investigation or trial for a criminal act or pending transfer. Cross reference, protective custody and segregation.

24.3. Booking. As a police administrative action, booking is the official recording of an arrest and the identification of the person, the time, the arresting authority and the reason for the arrest of a person. As a jail facility procedure, booking is the procedure for the admission of a person to the jail facility; it includes a physical search of the person and his or her possessions, the taking of fingerprints and photographs, the conduct of interviews for medical history and personal history, the inventory and storage of personal belongings, and the assignment of the person to a housing area.

24.4. Chemical agent. An active substance, such as tear gas or pepper gas, used to deter behavior which may cause personal injury or property damage.

24.5. Classification. A process by which the security needs and requirements, appropriate housing assignment, and program needs for incarcerated persons is determined.

24.6. Contraband. Any item in the possession of an inmate or found within the boundaries of a jail facility which is declared illegal by law or not specifically approved for possession by an inmate by those legally charged with the administration of a jail facility.

24.7. Disciplinary hearing. A nonjudicial, administrative procedure to determine if substantial evidence exists to find an inmate guilty of a violation of a jail facility rule.

24.8. Disciplinary detention. A form of separation from the general population during which an inmate who has committed a violation of a rule is confined by the disciplinary hearing officer or other authorized body for a short period of time to an individual cell. Placement in detention may occur only after a finding of a rule violation at an impartial hearing. Cross reference, protective custody and segregation.

24.9. Educational release. A custody status under which an inmate is permitted to leave a jail facility to attend school in the community and return to the jail facility after school hours.

24.10. Emergency. A significant disruption of normal jail facility procedure, policy, or activity caused by a riot, a strike, an escape, a fire, a natural disaster or other serious incident.

24.11. Facility Administrator. Any official, regardless of local title (e.g., sheriff, chief of police, jail administrator, warden, superintendent) who has the ultimate responsibility for managing and operating the local detention facility.

24.12. Grievance. A written complaint filed by an inmate with the facility administrator concerning personal health and welfare or the operations and services of the facility.

24.13. Holidays. All days legally designated as non-workdays by statute or by the chief governing authority of a jurisdiction.

24.14. Inmate. A person, whether charged with an offense or convicted of an offense, who is confined in a jail facility by order of a court of competent jurisdiction.

24.15. Inmate records. Information concerning the individual's personal, criminal and medical history, behavior and activities while in custody, including commitment papers, court orders, personal property receipts, visitors lists, photographs, fingerprints, notations of disciplinary infractions and actions, grievances, and miscellaneous notes, writings or documents.

24.16. Jail facility. A confinement facility which holds persons detained pending trial and/or persons sentenced to terms of incarceration upon conviction for violations of criminal codes.

24.17. Protective custody. A form of separation from the general population for inmates who request or require protection from other inmates for reasons of health or safety. Cross reference, administrative segregation and disciplinary detention.

24.18. Segregation. The confinement of an inmate to an individual cell or sleeping room that separates that inmate from the general population of the jail facility. Cross reference, administrative segregation, disciplinary detention, and protective custody.

KEN HECHLER
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help we can get)

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March 28, 1995

Frank G. Shumaker
Jail & Correctional Standards Comm
307 Jefferson St.
Charleston, WV 25305

SB 88 authorizing, Title 95, Series 1, WV Minimum Standards for Construction, Operation and Maintenance of Jails, passed the Legislature on **March 10, 1995**. It is was signed by the Governor on March 23, 1995.

You have sixty (60) days after the Governor signs SB 88, to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office with a promulgation history of the rule. Authorization for your legislative rule is cited in **SB 88** section **64-6-2**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

*****IMPORTANT: YOUR AGENCY MUST SUBMIT A CLEAN COPY OF THE LEGISLATIVE RULE ON DISK, WITH ALL UNDERLINING, STRIKE-THROUGHS AND HEADERS/FOOTERS TAKEN OUT, TO OUR OFFICE WHEN FINAL FILING THE RULE. THE DISK MUST BE ON A WORD PERFECT (5.1 OR 5.2 VERSION) OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM 3 1/2" DOUBLE DENSITY DISK. STATE ON THE DISK THE FORMAT THE RULE IS IN AND THE TITLE IT IS FILED UNDER. THIS WILL ENABLE US TO ENTER YOUR RULES ON THE LEGISLATIVE DATA BASE. REMEMBER THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING, STRIKE-THROUGHS AND HEADERS/FOOTERS TAKEN OUT, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE.**

After the final rule is entered into the legislative data base, the rule will be sent to the agency for review and proofing. Following confirmation or corrections, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to call our office.

Thank You
Administrative Law Division

SENATE BILL NO. 111

(By Senators Manchin, Anderson, Boley, Grubb and Macnaughtan)

[Introduced January 20, 1995; referred to the Committee on the Judiciary]

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95-1

10 A BILL to amend and reenact section three, article six, chapter
11 sixty-four of the code of West Virginia, one thousand nine
12 hundred thirty-one, as amended, relating to authorizing the jail
13 and correctional facility standards commission to promulgate
14 legislative rules relating to West Virginia minimum standards
15 for construction, operation and maintenance of jails.

16 Be it enacted by the Legislature of West Virginia:

17 That section three, article six, chapter sixty-four of the code
18 of West Virginia, one thousand nine hundred thirty-one, as amended,
19 be amended and reenacted, to read as follows:

20 **ARTICLE 6. AUTHORIZATION FOR DEPARTMENT OF MILITARY AFFAIRS AND**
21 **PUBLIC SAFETY TO PROMULGATE LEGISLATIVE RULES.**

22 **§64-6-3. Jail and correctional facility standards commission.**

23 (a) The legislative rules filed in the state register on the
24 fifth day of November, one thousand nine hundred eighty-seven,

1 relating to the jail and prison standards commission (West Virginia
2 minimum standards for construction, operation and maintenance of
3 jails), are authorized.

4 (b) The legislative rules filed in the state register on the
5 ninth day of May, one thousand nine hundred eighty-eight, modified
6 by the jail and prison standards commission to meet the objections
7 of the legislative rule-making review committee and refiled in the
8 state register on the twenty-seventh day of February, one thousand
9 nine hundred eighty-nine, relating to the jail and prison standards
10 commission (West Virginia minimum standards for construction,
11 operation and maintenance of holding facilities), are authorized.

12 (c) The legislative rules filed in the state register on the
13 eighteenth day of March, one thousand nine hundred eighty-eight,
14 modified by the jail and prison standards commission to meet the
15 objections of the legislative rule-making review committee and
16 refiled in the state register on the twenty-seventh day of February,
17 one thousand nine hundred eighty-nine, relating to the jail and
18 prison standards commission (West Virginia minimum standards for
19 construction, operation and maintenance of prisons), are authorized.

20 (d) The Legislature hereby authorizes and directs the jail and
21 prison standards commission to amend its rules relating to West
22 Virginia minimum standards for construction, operation and
23 maintenance of jails which were filed in the code of state
24 regulations (95 CSR 1) on the fifth day of April, one thousand nine
25 hundred eighty-eight, with the following amendment set forth below:

1 On page 7, §8.10 by striking out in the first sentence, after
2 the word "house", the following words: "no less than four (4)" and

3 On page 30 by adding a new section 17.21 to read as follows:

4 "17.21 Visitation to Home County. To the extent that the
5 previous subsections provide requirements for visitation with inmates
6 housed in regional jail facilities, it is the intent that such
7 requirements apply only to visitation provided in a regional jail
8 facility. When visitation with family and friends is required to be
9 provided to a person incarcerated in a regional jail facility in a
10 location other than the regional jail, the following provisions shall
11 apply:

12 17.21.1 The regional jail need not assume the responsibility for
13 transportation to the home county seat of a person incarcerated in
14 the regional jail facility for visitation with their family and
15 friends unless that person has had no visits from family and friends
16 in the previous three months.

17 17.21.2 In providing any transportation under subsection 17.21.1
18 the regional jail has the right to schedule such transportation for
19 visits with family and friends of the person incarcerated in a manner
20 which would utilize to the utmost the regional jail's regularly
21 scheduled trips to each of the respective counties it serves,
22 including the scheduling of round-trips, so long as a minimum of 30
23 minutes is available for visitation.

24 17.21.3 The regional jail need not assume any responsibility for
25 transportation under subsection 17.21.1 when the distance from the

1 regional jail to the respective county seat is less than two hours
2 driving time."

3 (e) The legislative rules filed in the state register on the
4 twentieth day of September, one thousand nine hundred ninety-one,
5 modified by the jail and correctional facility standards commission
6 to meet the objections of the legislative rule-making review
7 committee and refiled in the state register on the ninth day of July,
8 one thousand nine hundred ninety-two, relating to the jail and
9 correctional facility standards commission (minimum standards for
10 construction, operation and maintenance of jails), are authorized,
11 with the following amendment:

12 On page 4, section 1.1, by striking everything after the word
13 "Scope" and inserting in lieu thereof the following: "This
14 legislative rule establishes minimum standards and procedures for new
15 jail facilities completed after the fifth day of April, one thousand
16 nine hundred eighty-eight, and shall serve only as guidelines for
17 jail facilities that were in operation prior to fifth day of April,
18 one thousand nine hundred eighty-eight."

19 (f) The Legislature hereby authorizes and directs the jail and
20 prison standards commission to amend its rules relating to West
21 Virginia minimum standards for construction, operation and
22 maintenance of holding facilities which were filed in the code of
23 state regulations (95 CSR 3) on the twenty-seventh day of June, one
24 thousand nine hundred eighty-nine, with the following amendment:

25 On page 30, by striking out all of §8.7, and renumbering the

1 following subsections.

2 (g) The legislative rules filed in the state register on the
3 eleventh day of August, one thousand nine hundred ninety-four,
4 modified by the jail and correctional facility standards commission
5 to meet the objections of the legislative rule-making review
6 committee and refiled in the state register on the fourth day of
7 November, one thousand nine hundred ninety-four, relating to the jail
8 and correctional facility standards commission (West Virginia minimum
9 standards for construction, operation and maintenance of jails), are
10 authorized.

11
12 NOTE: The purpose of this bill is to authorize the Jail and
13 Correctional Facility Standards Commission to promulgate legislative
14 rules relating to West Virginia minimum standards for construction,
15 operation and maintenance of jails.

16
17 Strike-throughs indicate language that would be stricken from
18 the present law, and underscoring indicates new language that would
19 be added.
20

Bill-Jails, Min Standards

9L12

95-1

H. B. 2176

(By Delegates Gallagher, Douglas, Compton,

Linch, Faircloth and Riggs)

(Introduced January 23, 1995; referred to the

Committee on Government Organization then the Judiciary)

A BILL to amend and reenact section three, article six, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to authorizing the jail and correctional facility standards commission to promulgate legislative rules relating to West Virginia minimum standards for construction, operation and maintenance of jails.

Be it enacted by the Legislature of West Virginia:

That section three, article six, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, to read as follows:

ARTICLE 6. AUTHORIZATION FOR DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY TO PROMULGATE LEGISLATIVE RULES.

§64-6-3. Jail and correctional facility standards commission.

(a) The legislative rules filed in the state register on the fifth day of November, one thousand nine hundred eighty-seven,

1 relating to the jail and prison standards commission (West Virginia
2 minimum standards for construction, operation and maintenance of
3 jails), are authorized.

4 (b) The legislative rules filed in the state register on the
5 ninth day of May, one thousand nine hundred eighty-eight, modified
6 by the jail and prison standards commission to meet the objections
7 of the legislative rule-making review committee and refiled in the
8 state register on the twenty-seventh day of February, one thousand
9 nine hundred eighty-nine, relating to the jail and prison standards
10 commission (West Virginia minimum standards for construction,
11 operation and maintenance of holding facilities), are authorized.

12 (c) The legislative rules filed in the state register on the
13 eighteenth day of March, one thousand nine hundred eighty-eight,
14 modified by the jail and prison standards commission to meet the
15 objections of the legislative rule-making review committee and
16 refiled in the state register on the twenty-seventh day of February,
17 one thousand nine hundred eighty-nine, relating to the jail and
18 prison standards commission (West Virginia minimum standards for
19 construction, operation and maintenance of prisons), are authorized.

20 (d) The Legislature hereby authorizes and directs the jail and
21 prison standards commission to amend its rules relating to West
22 Virginia minimum standards for construction, operation and
23 maintenance of jails which were filed in the code of state
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1 On page 7, §8.10 by striking out in the first sentence, after
2 the word "house", the following words: "no less than four (4)" and

3 On page 30 by adding a new section 17.21 to read as follows:

4 "17.21 Visitation to Home County. To the extent that the
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9 provided to a person incarcerated in a regional jail facility in a
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19 (f) The Legislature hereby authorizes and directs the jail and
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21 Virginia minimum standards for construction, operation and
22 maintenance of holding facilities which were filed in the code of
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4 modified by the jail and correctional facility standards commission
5 to meet the objections of the legislative rule-making review
6 committee and refiled in the state register on the fourth day of
7 November, one thousand nine hundred ninety-four, relating to the jail
8 and correctional facility standards commission (West Virginia minimum
9 standards for construction, operation and maintenance of jails), are
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12 NOTE: The purpose of this bill is to authorize the Jail and
13 Correctional Facility Standards Commission to promulgate legislative
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