

WEST VIRGINIA
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Form #7

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OFFICE OF WEST VIRGINIA
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NOTICE OF AN EMERGENCY RULE

AGENCY: Jail and Prisons Standards Commission TITLE NUMBER: 95

CITE AUTHORITY: Legislative §31-20-9

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

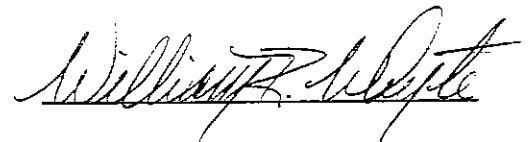
IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: 3

TITLE OF RULE BEING FILED AS AN EMERGENCY: West Virginia Minimum
Standards for Construction, Operation and Maintenance of
Holding Facilities

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE UPON FILING.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

Use Additional Sheets If Necessary.



The document entitled "West Virginia Minimum Standards for Construction, Operation, and Maintenance of Holding Facilities" is filed as an emergency rule based upon the following:

1. West Virginia Code § 31-20-9 directs the Jail and Prison Standards Commission to prescribe these specific standards, and in subsection (2) mandates that they be promulgated ". . . on or before the first day of July, one thousand nine hundred eighty-six." Said date has passed.
2. West Virginia Code § 31-20-25 apparently requires that holding facility standards be developed and a report on their existence be submitted ". . . to the joint committee on government and finance of the Legislature no later than the meeting of such committee in the month of December, one thousand nine hundred eighty-seven. . ." Said date has passed.
3. With the anticipated opening of West Virginia's first regional jail during the summer of 1988 at Martinsburg, the counties of Berkeley, Jefferson, and Morgan will be in position to convert their current county jails to short-term holding facilities. The holding facility standards developed and adopted by the Jail and Prison Standards Commission need to be in place as Emergency Rules for these, and following, county jail conversions.

WEST VIRGINIA JAIL AND PRISON STANDARDS COMMISSION
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WEST VIRGINIA
MINIMUM STANDARDS FOR
CONSTRUCTION, OPERATION, AND MAINTENANCE
OF HOLDING FACILITIES

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OFFICE OF THE ATTORNEY GENERAL
SECRETARY OF STATE
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PREPARED AND SUBMITTED BY:
THE WEST VIRGINIA JAIL AND PRISON STANDARDS COMMISSION

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January 12, 1988

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Legislative Rule, 31-20-9

WEST VIRGINIA LEGISLATIVE RULE
WEST VIRGINIA JAIL AND PRISON STANDARDS COMMISSION
CHAPTER 31-20-9
SERIES 3

Title: Minimum Standards for Construction, Operation, and
Maintenance of Holding Facilities.

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WEST VIRGINIA JAIL AND PRISON STANDARDS COMMISSION
CHAPTER 31-20-9
SERIES 3

Title: Minimum Standards for Construction, Operation and
Management of Holding Facilities.

Section 1. General

1.1 Scope - This legislative rule establishes minimum standards and procedures for holding facilities in West Virginia.

1.2 Authority & Related Code Citation - WV Code 31-20-9.

1.3 Filing Date -

1.4 Effective Date -

1.5 Repeal of Former Rule - none

Section 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 is made available to staff, inmates and the general public.

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

2.3 Appointment. The 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 facility administrator shall be stated in writing.

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

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

Section 3. Fiscal Management

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

3.2 Minimum Policies. The 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.

3.3 Audit. The facility or parent agency fiscal process shall include an annual external financial audit of the facility at time periods stipulated by applicable statutes and/or regulations.

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

3.5 Insurance Coverage. Each facility shall have insurance coverage which includes, at a minimum: worker's compensation, civil liability, liability for official vehicles, and public employee blanket bond.

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

Section 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 Criminal Record Check. In accordance with state and federal statutes, a criminal record check and complete background investigation shall be conducted on all new employees to ascertain whether there are criminal convictions or other information which has a specific relationship to job performance.

4.3 Physical Examination. A physical examination of all employees by a physician at the time of employment shall be required. Provision shall exist for re-examination when indicated.

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

4.5 Conflict of Interest. Employees shall be prohibited from using their official position to secure privileges for themselves or others and from engaging in activities that constitute a conflict of interest.

4.6 Disciplinary Actions. Employees on permanent status shall be terminated or demoted only for just cause and after grievance and appeals procedures, if requested, have been exhausted.

4.7 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 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 employees disagree with the evaluation, they shall have the opportunity to express their opinions in writing; their statements shall be included in their personnel files.

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4.8 First Aid Training. There shall be at least one employee certified in first aid and CPR available at all times on each shift.

4.9 Personnel Records. The facility administrator or parent agency shall maintain a current, accurate and confidential personnel record for each employee.

4.10 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.

4.11 Record Correction. Provision shall be available for employees to challenge all information in their personnel file and establish a process for correction or removal of inaccuracies.

Section 5. Training and Staff Development

5.1 Training Curriculum. A training curriculum shall be developed, evaluated, and updated based on an annual needs assessment that identifies current job-related training needs.

5.2 Trainer Certification. Any individual providing pre-service, in-service or basic training for correctional staff shall be certified as a correctional trainer.

5.3 New Clerical/Support Employees. All new clerical/support employees who have minimal inmate contact shall receive at least 40 hours of orientation and approved training during their first year of employment. Twenty-four 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 8 hours of training each subsequent year of employment.

5.4 New Support Employees. All new support employees who have regular daily inmate contact shall receive at least 40 hours of orientation and approved training during their first year of employment. Twenty-four of these hours shall be completed prior to being independently assigned to a particular job. They shall be given at least an additional 16 hours of training each

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subsequent year of employment. 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.

5.5 New Correctional Officers. All new correctional officer personnel shall receive at least 120 hours of approved orientation and training during their first year of employment. Forty 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 40 hours of training each year thereafter. At a minimum, this training covers 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.

5.6 Administrative and Managerial Staff. The facility's administrative and managerial staff shall receive at least 40 hours of orientation if they are new to the facility and at least 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.

5.7 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 shall be required to qualify annually.

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5.8 Security Personnel. All security personnel shall be trained in self-defense and the use of force including passive restraint to control inmates.

Section 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. Procedure 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.

Section 7. Inmate Records

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

- (a) Fingerprints;
- (b) Booking number;
- (c) Name and aliases of person;
- (d) Current address (or last known address);
- (e) Date, duration of confinement, and copy of court order or other legal basis for commitment;
- (f) Name, title and signature of delivering officer and arresting officer, if possible;
- (g) Specific charge(s);
- (h) Sex;
- (i) Age;
- (j) Date of Birth;
- (k) Place of Birth;
- (l) Race;
- (m) Present or last place of employment;
- (n) Health status, including any current medical or mental health needs;

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- (o) Emergency contact (name, relationship, address and phone number);
- (p) Telephone calls made by the inmate at time of admission;
- (q) Driver's license and social security numbers;
- (r) Notation of case and all property; and
- (s) Additional information concerning special custody requirements, service needs, or other identifying information such as birthmarks or tattoos.

7.2 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:

- (a) Intake/booking information;
- (b) Court generated background information;
- (c) Cash and property receipts;
- (d) Reports of incidents or crime(s) committed while in custody.

7.3 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) Report of grievances, incidents, and crimes while in custody; and
- (c) Medical and Mental Health information relevant to the classification.

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

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

7.6 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.

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Section 8. Physical Plant

8.1 General. All new facilities shall be designed, constructed, maintained and operated in accordance with the standards and requirements set out and established by the State Fire Code, including the current edition of the National Fire Code published by the National Fire Protection Association and the current BOCA National Building Code published by Building Official and Code Administrators International, Inc. (BOCA). In any conflict between or among any of the aforementioned standards, the West Virginia State Fire Code shall be preeminent.

Standards and Regulations. All existing facilities shall comply with the standards and regulations set forth for existing facilities in the State Fire Code, the current National Fire Codes published by the National Fire Protection Association (NFPA).

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; 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 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.

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8.5 Activity Areas. All activity areas shall have sufficient air circulation (at least 10 cubic feet of fresh, purified 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) 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 Single Occupancy. Only one inmate shall occupy a cell or detention room designed for single occupancy.

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

- (a) Toilet above floor level which is available for use without staff assistance 24 hours a day;
- (b) Wash basin and drinking water;
- (c) Hot and cold running water;
- (d) A bed at above floor level, desk or writing surface, hook or closet space, chair or stool;
- (e) Lighting of at least 20 foot candles at desk level;
- (f) Circulation is at least 10 cubic feet of outside or recirculated air per minute per occupant;
- (g) Temperatures are appropriate to the summer and winter comfort zones;
- (h) Noise levels do not exceed 70 decibels in daytime and 45 decibels at night; and
- (i) Natural lighting.

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8.9 Multiple Occupancy. Where used, multiple occupancy rooms shall house no less than four and no more than 50 inmates each. Inmates shall be screened prior to admission for suitability to group living. Multiple occupancy rooms shall provide for:

- (a) Continuing observation by staff;
- (b) A minimum floor area of 50 square feet per occupant in the sleeping area and a clear floor to ceiling height or not less than eight feet;
- (c) Toilet and shower facilities at a minimum of one operable toilet and shower for every eight occupants;
- (d) One operable wash basin with hot and cold running water for every six occupants;
- (e) Natural lighting;
- (f) Beds above floor level, desk or writing surface, chair or stool;
- (g) A locker for each occupant;
- (h) Lighting is at least 20 foot candles at desk level and in the personal grooming area;
- (i) Circulation is at least 10 cubic feet outside or recirculated air per minute per occupant;
- (j) Temperatures are appropriate to the summer and winter comfort zones; and
- (k) Noise levels do not exceed 70 decibels in daytime and 45 decibels at night.

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

8.11 Continuing 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 continuing staff observation.

8.12 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 accoustically.

8.13 Perimeter Security. The facility perimeter shall be secured in a way which provides that inmates remain within the perimeter and that access by the general public is denied without proper authorization.

8.14 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.

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8.15 Sally Ports. There shall be sally ports between inmate areas and areas providing access to the public.

8.16 Multipurpose Room. There shall be at least one multipurpose room available for inmate activities.

8.17 Storage of Personal Property. Space shall be provided for the secure storage of inmates' personal property.

8.18 Handicapped Inmates. Handicapped inmates shall be housed in a manner which provides for their safety and security, and have access to any activity areas.

8.19 Handicapped Visitors. All parts of the facility which are accessible to the public shall be accessible to and usable by handicapped persons.

8.20 Exercise Space. An exercise space shall be available to allow large muscle exercise.

Section 9. Safety and Emergency Procedures

9.1 Policies and Procedures. Written policies and procedures shall be adopted specifying the facility's fire prevention regulations and practices. For purposes of clarification and identification these procedures and standards of fire prevention are divided into two 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. Please refer to Standard on Building Construction and Demolition Operations, NFPA 241. Flammable or explosive substances or equipment for repairs or alternations may be introduced in a building of normally low or ordinary hazard classification while the

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building is occupied only if the conditions of use and safeguards provided are such a 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 shall be 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 otherwise located as to 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 authority having jurisdiction finds the required path of travel to be obstructed by furniture or other movable objects, he 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 these standards shall be continuously maintained in proper operating condition;
- (b) Any equipment requiring test or periodic operation to assure its maintenance shall be tested or operated as specified elsewhere in these standards 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 has general charge of all alterations and additions;
- (d) Systems shall be tested at intervals recommended by the appropriate standards listed in the National Fire Protection Association (NFPA) Fire Code;

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- (e) Automatic Sprinkler Systems. All automatic sprinkler systems required by these standards shall be continuously maintained in operating condition at all times, and such periodic inspections and tests shall be made as are necessary to assure proper maintenance; and
- (f) Alarm and Fire Detection Systems. Fire alarm signaling 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 shall be subject to the following:

- (a) Draperies, curtains and other similar furnishings and decorations shall be flame resistant where required by the applicable provisions of the State Fire Code. The materials required herein are to be tested in accordance with Standard Method of Fire Tests for Flame Resistant Textiles and Films, NFPA 701 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 shall be subject to the following:

- (a) Fire exit drills conforming to the provisions of the State Fire Code shall be regularly conducted in occupancies where specified by the provisions of the Code;
- (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

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(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 requirements specifically directed to detention and correctional occupancies.

9.3.1 Attendant, Evacuation Plan, Fire Exit Drills. Attendant, 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 24-hour staffing on any floor level having residency and located within 100 feet (30.48m) of the accessway to any housing area. Under Use Conditions III, IV and V, as defined in the NFPA Life Safety Code for classification of correctional occupancies, audio monitoring shall be provided for every sleeping space;

(b) The administration of every detention and correctional facility shall have in effect and provided to all supervisory personnel, written copies of a plan for the 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 respecting 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 amount of heat producing appliances (such as toasters, hot plates, etc.) and the overall use of electrical power within a sleeping room shall be controlled by facility administration.

9.3.2 Furnishings and Decorations. Furnishings and decorations shall be subjected to the following:

(a) Furnishings and decorations in detention and correctional occupancies shall be in accordance with the provisions the NFPA Life Safety Code operating features;

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(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 acoustical purposes and privacy curtains shall be noncombustible or rendered and maintained flame resistant as per Standard Method of Fire Tests for Flame Resistant Textiles and Films, NFPA 701.

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 procedure shall govern the storage and use of all flammable, toxic, and caustic material ensuring 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 that are inaccessible to inmates; a prescribed system shall be used to account for their distribution.

9.3.5 Fire and Safety Officer. An administrative staff member shall be appointed as Fire and Safety Officer. This officer shall be responsible for monthly inspection of the facility and development of Standing and Emergency Operating Procedures relating to fire and safety and for staff and safety training.

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.

Section 10. Sanitation and Hygiene

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

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10.2 Maintenance. Facility authorities shall develop and implement a plan for the maintenance at an acceptable level of cleanliness and sanitation throughout the jail. Such a 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 cigarettes and other refuse each day and provision for adequate trash removal;
- (d) The scrubbing and rinsing of 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 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 equipment.

10.3 Inspections. There shall be weekly sanitation inspections of all institution areas by a designated administrative 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 regulations 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 facility's water meets all applicable laws. The facility shall provide hot and cold running water.

10.5 Cleaning Equipment. Inmates shall have available sufficient cleaning equipment to maintain their cells in a clean condition.

10.6 Floors. 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.

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10.7 Personal Hygiene Items. The facility shall provide each inmate as part of the admission process and thereafter an adequate supply of soap, toothpaste, toilet paper, toothbrush, comb, 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 inmates on an as needed basis.

10.9 Bedding. Each inmate shall be provided with one clean, fire retardant mattress, two 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.

10.10 Towels. Each inmate shall be provided a clean towel and washcloth.

10.11 Laundry of Bedding. Laundry services shall be sufficient to permit the regular exchange of sheets and pillow-cases. Mattresses shall be cleaned and sanitized monthly, or replaced upon reasonable request of the inmate.

10.12 Recording. The issue of all clothing and bedding shall be recorded to provide accountability for their use. Inmate accountability for clothing and bedding shall be specified in inmate rules and regulations.

10.13 Court Appearance. Inmates shall be permitted to wear personal clothing for court appearances.

10.14 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.

10.15 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.

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

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

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Series 3, Section 11

Section 11. Security and Control.

11.1 Manual. Written policy and procedure 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 facility shall maintain a control center.

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

11.4 Alarm System. The 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 blocks doors opening into a corridor shall be kept locked, except when used for admission or exit for employees, inmates or visitors, and in emergencies.

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 Inmate Movement. Staff shall regulate inmate movement.

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

11.9 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.

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

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11.11 Daily Record. The 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.

11.12 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 notations of action taken.

11.13 Searches. Written policy and procedure shall provide for searches of facilities and inmates to control contraband and provide for its disposition and recommendations for corrective action. Procedure shall provide for the following:

- (a) Manual or instrument inspection of inmate body cavities is conducted only when there is reason to do so and when authorized by the facility administrator or his 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 articulable 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.

11.14 Preservation of Evidence. Procedure shall govern searches and the preservation of evidence when a new crime is suspected. Searches shall be authorized only by the administrator or designee.

11.15 Search Policy Published. The policy regarding searches for the control of contraband shall be published, made available to the staff and inmates, reviewed at least annually and updated if necessary.

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11.16 Control of Security Equipment. Written policy and procedure govern the availability, control and use of firearms, ammunition, chemical agents, "stun guns", and related security devices, and require that sufficient security equipment shall be available to meet the facility needs.

11.17 Storage of Security Equipment. Procedures shall provide that ammunition, chemical agents and related security equipment are stored in a secure but readily accessible depository located outside inmate housing and activity areas, and are inventoried at least monthly to determine their condition and expiration dates.

11.18 Use of Firearms. Written policy and procedure shall govern the use of firearms and include the following requirements:

- (a) Weapons are subjected to stringent safety regulations and inspections;
- (b) Secure weapons locker is located outside the security perimeter of the facility;
- (c) Except in emergency situations, firearms and weapons, such as nightsticks are permitted only in designated areas to which inmates have no access;
- (d) Employees are instructed to use deadly force only after other actions have been tried and found ineffective unless the employee believes 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 facility and only when directed by or authorized by the facility administrator.

11.19 Written Record. Personnel shall maintain a written record of routine and emergency distribution of security equipment.

11.20 Written Reports. Personnel discharging firearms, using chemical agents or any other weapons, or using force to control inmates shall submit written reports to the facility administrator or designee no later than the conclusion of that person's tour of duty.

11.21 Injuries. All persons injured in an incident shall receive an immediate medical examination and treatment.

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11.22 Incident Reports. Written policy and procedure shall require prompt oral and written reporting of all incidents that result in physical harm to, or threaten the safety of any person in the facility, or that threaten the security of the facility.

11.23 Keys. Written policy and procedure shall govern the control and use of keys.

11.24 Tools. Written policy and procedure shall govern the control and use of tools and culinary and medical equipment.

11.25 Custodial Posts. There shall be written orders for every custodial post which are reviewed annually and updated if necessary.

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

11.27 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 taking of a hostage. These plans shall be made available to applicable personnel, and reviewed and updated at least annually.

11.28 Mass Arrests. There shall be procedures to be followed in the event of a mass arrest that exceeds the maximum capacity of the detention facility.

11.29 Work Stoppage. There shall be a written plan that provides for continuing 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.

11.30 Physical Force. Written policy and procedure 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 shall physical force be justifiable as punishment. A written report shall be prepared following all use of force and submitted to the facility administrator.

Series 3, Section 11

11.31 Mechanical Restraints. Instruments of restraint shall be used only as a precaution against escape, during transfer, for medical reasons by direction of the medical officer, and as a prevention against inmate self-injury, injury to others or property damage when there is approval from the facility administrator or designee. They are applied for only the amount of time absolutely necessary.

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

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

11.34 Transportation of Inmates. When transportation is the responsibility of facility staff, written policy and procedure shall govern the transportation of inmates outside the facility.

11.35 Facility Vehicles. Written policy and procedure shall govern the use and security of facility vehicles.

11.36 Personal Vehicles. Written policy and procedure shall govern the use of personal vehicles for official purposes, including provision for insurance coverage.

Section 12. Food Service

12.1 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.

12.2 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.

12.3 Temperature. Meals must be served at the appropriate temperature. There shall be at least two hot meals a day.

12.4 Varied and Nutritional. Meals must be varied and nutritional.

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12.5 Special Diets. Special diets for medical and religious reasons shall be provided.

12.6 Management. If food service is provided, a staff member experienced in food service shall be designated to be responsible for food service operations.

12.7 Health Protection. Adequate health protection shall be provided for all inmates and staff in the facility, and inmates and other persons working in food service. Food handlers, facility, and equipment shall meet all applicable health and safety standards.

12.8 Records. Records of daily menus shall be maintained. Records of inmates' refusal to eat shall be noted in their medical files.

12.9 Restriction. Restriction of food shall not be used as discipline.

12.10 Toilet and Wash Basin. Toilet and wash basin facilities shall be available to food service personnel in the vicinity of the food preparation area.

12.11 Regimentation. Meals shall be served under conditions that minimize regimentation, although there should be supervision by staff members. When a meal must be served in a cell, a small table or shelf and some type of seat shall be provided which shall not be in close proximity to toilets.

12.12 Frequency. At least three regular meals of which two are hot meals, shall be served at regular meal times during each 24-hour period with no more than 15 hours between the beginning of the evening and breakfast meals.

12.13 Documentation. There shall be documentation that health and safety regulations are met.

12.14 Utensils. All inmates shall be provided all necessary utensils and drinking cups with each meal.

Section 13. Medical and Health Care Services

13.1 Right to Medical Care. All inmates shall have access to necessary medical, dental and psychiatric care provided by licensed personnel.

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13.2 Responsibility. Medical, dental and mental health matters involving clinical judgments shall be the sole province of the physician, dentist and psychiatrist or qualified psychologist respectively; however, security regulations applicable to facility personnel also apply to health personnel. The official responsible for the facility provides the administrative support for the accessibility of health services to inmates.

13.3 Responsible Physician. A physician shall be designated to approve health care policies, procedures and agreements which can include use of hospital emergency rooms. Each facility shall have agreements for 24 hour medical coverage. All physicians and dentists examining or treating inmates shall be licensed to practice in the State of West Virginia.

13.4 Medical Autonomy and Facility Administration. Medical decisions shall be made only by the physician or designee(s). It shall be made clear to the health authorities and physicians that security regulations which apply to the non-medical staff also apply to them. They will be provided with a list of these regulations and an orientation to the facility system.

13.5 Decision-making: Special Problem Patients. Before inmates with diagnosed psychiatric or significant medical illnesses are given housing assignments, work assignments or transfers, consultation between the facility administrator and physician or their designees shall take place to decide on any special precautions or preparations. Special diets must be provided when ordered by health personnel and approved by the physician.

13.6 Notification of Next of Kin. Any inmate having any serious illness or injury or who dies while incarcerated shall have his next of kin or legal guardian notified by the facility administrator or the physician.

13.7 Post-mortem Examination. In the event of an inmate death, the state medical examiner shall be notified immediately. If the cause of death is unknown, or the death occurred under suspicious circumstances, or the inmate was unattended from the standpoint of not being under current medical care, a post-mortem examination shall be performed.

Series 3, Section 13

13.8 Minimum Staff Training Requirements. Health trained staff is defined as personnel who have certified first-aid and CPR training and also have received information regarding the symptoms of physical and mental illnesses common to the inmate population (including depression and chemical dependence), basic management of seizures, medication administration, health record maintenance, recognition of potential suicides, and procedures for patient transfers to appropriate medical facilities or health care providers. Each shift shall include at least one member who has become health-trained as described above.

13.9 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 staff with responsibility for inmate supervision shall be trained in the implementation of the program. Staff shall make every reasonable effort to prevent suicides through intake screening, identification and supervision of suicide-prone inmates.

13.10 Prohibitions. Inmates shall not be used for the following duties:

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

They shall be able to perform maintenance and janitorial services under supervision of qualified staff.

13.11 Receiving Medical Screening. A receiving medical screening appraisal to elicit information pertinent to the inmate's 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 physician. 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. Receiving screening shall be conducted by a health-trained staff member. Inmates who are in need of immediate medical attention at the time of admission shall be referred immediately for emergency care. The screening process shall include at least an inquiry, observations and disposition.

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13.11.1 Inquiry. The screening process shall include, but is not limited to, an inquiry into:

- (a) Current illness and health problems, including dental problems;
- (b) Venereal diseases and other infectious disease;
- (c) Medication taken and special health requirements;
- (d) Use of alcohol and other drugs which includes types of drugs used, mode of use, amounts used, frequency used, date or time of last use and history of problems which may have occurred after ceasing use (e.g. convulsions);
- (e) Past and present treatment or hospitalization for mental disturbance or suicide; and
- (f) Other health problems designated by the responsible physician.

13.11.2 Observations. The screening process shall include, but not be limited to, observations including:

- (a) Behavior, which includes state of consciousness, mental status, appearance, conduct, tremor and sweating;
- (b) Body deformities, trauma markings, bruises, lesions, jaundice, ease of movement, etc.; and
- (c) Indications of recent or chronic substance abuse, i.e., needle marks.

13.11.3 Disposition. The screening process shall include the following disposition to:

- (a) General population;
- (b) General population and referral to appropriate health care services;
- (c) Referral to appropriate health care services on an emergency basis; or,
- (d) Medical isolation for special observation.

13.12 Care for Persons Under the Influence of Drugs. The 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 facility has special facilities and constant medical supervision to perform detoxification, the process shall not be performed on site; the inmate shall be transferred to a hospital or community detoxification center designated by the physician. Procedures for adequate care of persons under the influence of drugs include policies and training of staff relating to medical screening, observation, referral evaluation, and safety protections.

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13.13 Mentally Ill. Post admission screening and referral for care of mentally ill or retarded inmates whose adaptation to the correctional environment is significantly impaired shall be provided. Psychiatric problems identified either at receiving screening or after admission shall be followed up by medical staff. The urgency of the problems determines the responses. Suicidal and psychotic patients may be 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 for only the minimum time necessary, before emergency care is rendered. All sources of assistance for mentally ill and retarded inmates shall be identified in advance of need, and referrals should be made on all such cases. No person shall be housed solely on account of involuntary commitment proceedings pursuant to Chapter 27, Article 5 of West Virginia Code.

13.14 Psychiatric Illness. There shall be consultation between the facility administrator and the physician or their designees prior to the following actions being taken regarding patients who are diagnosed as having a psychiatric illness:

- (a) Housing assignments;
- (b) Program assignments; and,
- (c) Transfers in and out of the institution.

13.15 Access to Treatment. It shall be required that each inmate, at time of admission be provided information concerning the right to medical treatment. The information sheet shall be approved by the physician, and shall include procedures for registering complaints and the facility's sick call schedule.

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

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13.17 Emergency Services. There shall be twenty-four hour emergency medical care available. By definition, a medical emergency is an acute illness or unexpected health need that must be attended to immediately and cannot be delayed until the next scheduled sick call. The responsible physician shall approve a plan providing for the use of emergency transportation, use of a local hospital emergency department or appropriate health facility with emergency on-call physician services, procedures for the transfer of inmates to other medical facilities and security procedures.

13.18 Use of Restraints or Isolation For Out of Control Inmates. The physician shall approve a plan guiding the use of restraints, or isolation and providing for mental health personnel to evaluate inmates who are repeatedly out of control or remain out of control for more than a short period of time. Use of physical restraints in controlling inmates inside the facility may be used only for the protection of the individual or others. The use of restraints shall be recorded in the inmate's file. Any time an inmate remains out of control for more than a short period of time mental health personnel shall be consulted.

13.19 Disease Prevention. Holding facilities shall establish an area for use by inmates having medical problems which require separation or close observation.

13.20 Management of Pharmaceuticals. Procedures for prescribing, dispensing and administering drugs shall be in compliance with applicable state and federal laws and regulations. The physician shall approve written procedures for distribution, administration, accounting and disposal of medications. The physician shall approve a written medication log and maintain one for each inmate receiving medication to include the date, time, name of drug and dosage. Any inmate refusing medication must sign a statement to that effect, which is also signed by a staff member and filed in the health record. Medications will be administered only by a physician or nurse, or, after written approval by the physician, by the health authority or health-trained staff members; exception to this requirement may be made in that insulin injections may be self-administered by the inmate with supervision by the health authority or health-trained staff member. The physician shall inform facility personnel of possible side effects of medication on inmates. When medications are taken orally, the person administering the drug shall observe the inmate swallow the drug and have him/her speak after swallowing to ensure the ingestion of the medication. The facility shall provide a locked storage area for medications and maintain a list of medications stocked by the facility. Medications shall be refrigerated, if necessary.

Series 3, Section 13

13.21 Administration of Medication. Persons administering medications shall do so under the authority of the physician and shall have received training appropriate to their assignment. They are accountable for the administration of medication according to orders, and recording of the administration of medications in a manner and on a form approved by the physician. Training, from the physician, encompasses the medical aspects of the administration or distribution of medication; training, from the facility administrator, encompasses security matters inherent in the administration or distribution of medications in a correctional facility. The concept of administration or distribution of medication according to orders includes performance in a timely manner.

13.22 Health Records. A separate health file shall be established on every inmate at the time of his/her receiving screening. The health record shall be sufficiently detailed to enable any practitioner to give continuing care and enable them to determine what the inmate's condition was at a specific time and what procedures were done and to enable consultants to give an opinion after examination of the inmate. Entries must be written in ink and be legible, signed and dated. Records shall be maintained for a minimum of seven years after the inmate's last incarceration. The file shall contain the following:

- (a) The completed receiving screening form;
- (b) All findings, diagnoses, orders and treatments;
- (c) Medication log sheet;
- (d) Results of any laboratory, x-ray and diagnostic studies;
- (e) Completed medical complaint forms;
- (f) Place, date and time of health encounters;
- (g) Dental, psychiatric or other consultation reports;
- (h) Consent and refusal forms; and
- (i) Release of information forms.

13.23 Transfer of Records. In the case of off-site examination, treatment, transfer to another facility, or hospital admission, the inmate's health record or a copy of summary shall accompany them. 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 facility with the inmate, or, in the event of transfer or hospital admission, as soon as possible thereafter. Written authorization by the inmate is required for transfer of health record information, except in an emergency situation where the inmate is unable to authorize.

Series 3, Section 13

13.24 Confidentiality. The inmate's medical information, records 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:

- (a) With the inmate's informed consent; or
- (b) Where the law requires disclosure, e.g., reporting of communicable diseases; or
- (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 facility; or
- (d) The chief administrative officer can review medical records but must maintain their confidentiality except as provided above.

13.25 First Aid Kits. Each facility shall have one or more first aid kits. The physician shall designate the number, location and contents of first aid kits. The health authority must periodically inspect all equipment and first aid kits.

13.26 Informed Consent. Informed consent of inmates is necessary for all medical examinations, treatment and procedures except for those which are required by law, e.g., treatment of infectious diseases where public health law requires such treatment. Exceptions to obtaining informed consent are allowable if they are in accordance with state law (such as emergency situations or public health matters).

13.27 Notification of Serious Illness or Injury. A process shall be developed whereby individuals so designated by the inmate are notified in case of serious illness or injury of the inmate. Permission for notification shall be obtained from the inmate prior to need, if possible. There may be situations in which the inmate does not want their next of kin notified of their illness or injury; therefore, their consent shall be obtained whenever possible. The next of kin, or other individuals identified by the inmate to be notified in emergencies shall be included in the facility admission form.

Section 14. Inmates Rights

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

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Series 3, Section 14

14.2 Attorneys. Sentenced and unsentenced inmates shall have access to attorneys or their representatives, para-legals, and experts. Attorney/client interview rooms with privacy shall be provided. Provision shall be made for contacts during normal facility hours, for uncensored correspondence and telephone communication.

14.3 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, or in preparing written communications. Facility staff shall ensure that such interaction of inmates can occur to the maximum extent possible, subject only to legitimate safety and security concerns.

14.4 Voting. Facility officials shall offer inmates on pre-trial status and those convicted of a misdemeanor the opportunity to exercise their right to vote. Inmates shall be advised of their right to vote.

14.5 Religious Observance. Inmates shall have reasonable opportunities to practice their religions, be permitted visits by spiritual advisors at reasonable times, subject to security concerns. Provisions shall be made for access to clergy or spiritual advisors, publications and religious symbols, and for opportunities to adhere to dietary and other requirements of various faiths.

14.6 Discrimination. Each inmate shall be free from discrimination based on race, religion, national origin, sex, handicap, or political beliefs. There shall be no discrimination in regard to the rights and privileges, restrictive housing, or any other amenities afforded to inmates.

14.7 Protection. Inmates shall be protected from personal abuse, corporal punishment, personal injury, disease, property damage and harassment. In instances where physical force 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.

14.8 Appearance. Inmate appearance shall not be limited unless it presents clear health, safety or security hazards.

Series 3, Section 14

14.9 Grievance Procedure. The facility shall have a written grievance procedure explained and available to all inmates and staff. It shall give inmates an opportunity to seek redress for violations of facility rules and regulations or other 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 and proper action taken to insure 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 complainant shall have a personal opportunity to be heard before a decision on the complaint is made. If denied, an appeal shall be available.

Section 15. Inmate Rules and Discipline

15.1 Rules of Conduct. There shall be written rules of inmate conduct which specify acts prohibited within the facility. These rules shall be provided to all inmates, and procedures shall exist for ensuring that all inmates understand the rules, and disciplinary procedures in accordance with West Virginia jail standards.

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

15.3 Review. A review of all Administrative segregation cases by the facility administrator or his designee shall be provided.

15.4 Appeal. Inmates shall have the right to appeal Administrative segregation decisions to the administrator or designee. The administrator or designee shall either affirm, modify or reverse the decision.

Section 16. Communication, Mail and Visitation

16.1 Inmate Correspondence. Written policy and procedure shall govern inmate correspondence; they shall be available to all staff and inmates, reviewed annually and updated as needed.

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Series 3, Section 16

16.2 Limitations. There shall be no limitation on the volume of lawful mail, including letters, packages and publications, which an inmate may send or receive, or on the length, language, content or source of the mail, except where there is clear convincing evidence to justify the limitations for reason of public safety or facility order and security. Outgoing mail shall be at the inmate's expense except as provided in 16.3.

16.3 Indigent Inmates. Indigent inmates shall be provided sufficient stationary and postage for all letters to attorneys, courts, and public officials, as well as, two personal letters, without cost.

16.4 Mail Processing. Incoming and outgoing mail shall not be held for more than 24 hours, excluding weekends and holidays.

16.5 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 and security or that they are being used in the furtherance of illegal activity. Inmates shall be notified when incoming or outgoing letters are rejected.

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

16.7 Sealed Letters. Inmates shall be permitted to send sealed letters to a specified class of persons and organizations, including, but not limited to: courts, counsel, officials of the confining authority, 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.

16.8 Telephone Access. Residents shall be afforded the right to reasonable telephone access. Unless phone access is provided by pay phones in the cell blocks, local phone calls shall be free. Telephone calls shall not be monitored unless so authorized by a prior court order. Facility personnel shall take written messages of incoming calls to inmates, and such messages shall be delivered no later than the end of the shift during which they were received. Inmates shall be permitted to return calls within a reasonable time.

Series 3, Section 16

16.9 Number and Hours of Visitors. Visitation shall be at least four times weekly including weekends, holidays and evening hours as well as daytime hours. Said scheduled hours shall be of at least three hours in duration. Visits shall not be limited to less than one half hour. Visitors whose schedule cannot accommodate the jail's visiting hours may upon request be granted special hours.

16.10 Visitor Registration. Visitor registration upon entry into the facility shall be required. All circumstances under which visitors may be searched shall be in written policy.

16.11 Posting. A schedule of visitation and visitation policy shall be posted.

16.12 Limitations. Any visitor shall be allowed except those excluded by court order. Inmates shall receive visits from immediate family regardless of age.

16.13 Searches. Inmates may be searched prior and subsequent to visitation. Visitors may be subject to nonintrusive personal searches.

16.14 Privacy. There shall be no monitoring of conversations between inmates and visitors.

16.15 Counsel. The number of visits with counsel shall not be restricted during reasonable hours.

16.16 Contact Visitation. Contact visits, in an appropriate physical setting, shall be available to inmates unless otherwise requested by a party, or unless the inmate's behavior is so extreme as to risk causing serious harm to a person. Denial of contact visitation shall be recorded and explained in the inmate's file.

16.17 Publications Restriction. Written policy and procedure define the type of publications allowed in the facility and the inspection procedure. Restriction of access to publications shall be directly related to the maintenance of the order and security of the facility.

Series 3, Section 17

Section 17. Special Management Inmates

17.1 Operation of Segregation Units. Written policy and procedure shall provide for the operation of segregation units for the supervision of inmates under administrative segregation or protective custody.

17.2 Immediate Segregation. Only the facility administrator or designee can order immediate segregation and only when it is necessary to protect the inmate or others.

17.3 Release from Segregation. An inmate shall be released from segregation by action of the Administrator or appropriate supervisory authority.

17.4 Protective Custody. An inmate is 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. When an inmate consents to protective custody, it shall be fully documented with a consent form signed by the inmate.

17.5 Appeal of Protective Custody. When inmates are placed in protective custody an appeal process shall be provided to the administrator or appropriate supervisory authority.

17.6 Isolation. The physician shall approve a plan guiding the use of restraints or isolation. For an inmate to be kept in isolation for more than 24 hours, a physician or mental health professional shall determine upon evaluation that the inmate is a threat to self or other. Transfers to a hospital or state institution may be appropriate. Isolation shall be reviewed as soon as possible by the facility supervisor but in no event later than six hours after its initiation. Inmates placed in isolation as a result of being out of control shall be released immediately upon gaining self-control. An appeal process to the administrator or appropriate supervisory authority shall be provided.

17.7 Isolation Observation. A monitoring procedure shall be used to observe inmates in isolation. Such procedures shall include regular observations and at least an hourly recording. Recording shall include information on name, date and hour admitted, type of infraction or reason for isolation, release time and any physical or mental problems or needs. All visits by health personnel shall also be recorded.

WEST VIRGINIA JAIL AND PRISON STANDARDS COMMISSION
Legislative Rule, 31-20-9

Series 3, Section 17

17.8 Permanent Log In Segregation Units. Staff members in the segregation units shall maintain a permanent log. Admissions of all inmates to these units shall be recorded with information on name, number, housing location, date admitted, reason for admission, tentative release date, and 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.

17.9 Potential Suicide Watch. Inmates who are classified as potential suicide risks shall be continually monitored including verbal exchanges. Recording of this monitoring shall be made and placed in the inmate's health record. High risk persons shall be placed on continuous suicide watch.

17.10 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 facility administrator. The report shall identify the inmate, the item or activity he/she has been 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 inmate's personal items, approval for this action shall be obtained in advance from the facility administrator or 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.

17.11 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.

17.12 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 procedures present an undue security hazard.

17.13 Clothing, Bedding and Linen. The issue and exchange of clothing, bedding and linen shall be provided for inmates in segregation on the same basis as inmates in the general population; exceptions are permitted only where found necessary by the senior officer on duty, and recorded in the unit log and justified in writing. Inmates in segregation shall be afforded the same hygienic living conditions as the general inmate population.

Series 3, Section 17

17.14 Mail. Inmates in segregation shall be provided the same opportunities for the writing and receipt of letters as those available to the general inmate population. Letters shall be delivered promptly. If any item, consistent with the policy and procedure is rejected, the inmate shall be advised of the reason for the rejection, and the item shall be returned to the sender.

17.15 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 approved visitors of any restrictions on visiting. This procedure will avoid disappointment and unnecessary inconvenience for the visitors.

17.16 Telephone. Inmates in administrative segregation and protective custody shall be allowed telephone privileges.

17.17 Reading Materials. Inmates in segregation shall have access to reading materials.

17.18 Exercise. Inmates in segregation shall be allowed the same opportunity for recreation as those in general population absent specific temporary security restrictions designated in writing by the administrator in advance.

17.19 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.

17.20 Visits from Staff. Inmates in segregation shall receive daily visits from the chief security officer or shift supervisor.

Section 18. Admission, Orientation, Property Control and Release

18.1 New Inmates. Written policy and procedures shall govern the admission and orientation of new inmates. They shall be reviewed annually and updated if necessary. The jail shall not accept persons who are being committed solely because of the initiation of procedures for involuntary commitment pursuant to West Virginia Code, 27-5-1 et seq.

WEST VIRGINIA JAIL AND PRISON STANDARDS COMMISSION
Legislative Rule, 31-20-9

Series 3, Section 18

18.2 Mentally Disabled 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 administrator shall be made aware of the illness and shall arrange for a mental health referral.

18.3 Minimum Requirements. Written policy for admitting new inmates to a holding facility shall address at a minimum the following subjects:

- (a) Verification of court commitment papers or other legal documentation of detention;
- (b) Complete search of the individual and their possessions;
- (c) Disposition of clothing and personal possessions;
- (d) Medical screening including tests for infectious diseases;
- (e) Telephone calls by inmates;
- (f) Shower and hair care, if necessary;
- (g) Issue of clean clothing;
- (h) Photographing and/or fingerprinting;
- (i) Interview for obtaining identifying data;
- (j) Screening interview by counselor or other trained interviewer;
- (k) Orientation;
- (l) Issue of personal hygiene items;
- (m) Classification for assignment to a housing unit; and
- (n) Assignment to a housing unit.

18.4 Alcoholics. No person charged solely with the offense of public intoxication shall be housed in a holding facility. Such persons shall be treated in accordance with the procedures outlined 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 policy and procedure for the safe handling of intoxicated or drugged inmates committed to the holding facility, when such person are charged with offenses other than or in addition to public intoxication, including:

- (a) All reasonable and necessary medical and health care services shall be provided forthwith in the manner set forth by the Harper, supra, decision, and in its Addendum;
- (b) Such persons shall be segregated from the general inmate population until such time as they can be safely returned without endangering themselves or others;

Series 3, Section 18

(c) Whenever one or more such persons are temporarily segregated from the general population, the facility shall provide continuous supervision by posting an officer or other properly trained person to remain in close proximity to the areas wherein such inmates are housed.

18.6 Orientation. All newly admitted inmates shall receive orientation information in the language in which the inmate understands or comprehends. Completion of orientation shall be documented by a statement that is signed and dated by the inmate.

18.7 Telephone. Newly admitted inmates shall be permitted to complete at least three local or collect long distance telephone calls during the admission process.

18.8 Personal Property. The personal property inmates can retain in their possession shall be specified.

18.9 Inventory and Receipt. A written, itemized 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.

18.10 Release. Written procedures for releasing inmates include, but are not limited to 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 grievances or claims for damaged or lost possessions.

Section 19. Classification

19.1 General. Written policy and procedure provide for inmate classification in terms of level of custody required, and housing assignments. They shall be reviewed at least annually and updated if necessary.

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Series: 3, Section 19

19.2 Criteria and Appeal. The inmate classification plan shall specify criteria and procedures for determining and changing the status of an inmate. The plan shall include an appeals process for classification decisions.

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

- (a) Female and male inmates;
- (b) Pretrial and convicted inmates;
- (c) Felons and misdemeanors;
- (d) Other classes of detainees (witnesses, civil prisoners, etc.);
- (e) Inmates with special problems (alcoholics, narcotics addicts, mentally disturbed persons, physically handicapped persons, persons with communicable diseases, etc.);
- (f) Inmates requiring administrative segregation;
- (g) Violent and nonviolent inmates; and
- (h) Juveniles.

19.4 Juveniles. Juveniles, who are subjected to trial as adults, shall be separated by sight and sound from adult inmates, although they may be in the same facility structure. Juveniles who are not subjected to trial as adults are not housed in the facility. The procedures as outlined in West Virginia Code, 49-5-16 and 49-5-16a shall be followed.

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

Section 20. Inmate Work Programs

20.1 Required Work. Pretrial and unsentenced detainees shall not be required to work except to do personal housekeeping. Any inmate may volunteer for work assignments or institutional programs.

20.2 Discrimination. Discrimination in inmate work assignments based on sex, race, religion and national origin shall be prohibited.

GLOSSARY

AUDIT

An examination of facility records or accounts to check their accuracy, which is conducted by a person(s) not directly involved in the creation and maintenance of the records or accounts. An independent audit results in an opinion which either affirms or disaffirms the accuracy of records or accounts. An operational or internal audit usually results in a report to management which is not shared with persons outside the agency.

ADMINISTRATIVE SEGREGATION

A form of separation from the general population administered by the classification committee or other authorized group, when the continued presence of the inmate in the general population would pose a serious threat to life, property, self, staff or other inmates, or the security or orderly running of the institution. Inmates pending investigation for trial on a criminal act or pending transfer can also be included. (See Protective Custody and Segregation).

BOOKING

Both a law enforcement process and a detention facility procedure. As a police administrative action, it is an official recording of an arrest and the identification of the person, place, time, arresting authority, and reason for the arrest. In the detention facility, it is a procedure for the admission of a person charged with or convicted of an offense, which includes searching, fingerprinting, photographing, medical screening, and collecting personal history data. Booking also includes the inventory and storage of the individual's personal property.

CHEMICAL AGENT

An active substance, such as tear gas, used to deter activities which might cause personal injury or property damage.

CELL BLOCK

A group or cluster of single and/or multiple occupancy cells or detention rooms immediately adjacent and directly accessible to a day or activity room. In some facilities the cell block consists of a row of cells fronted by a day room of corridor-like proportion.

WEST VIRGINIA JAIL AND PRISON STANDARDS COMMISSION
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CHIEF OF POLICE

A local law enforcement official who is the appointed or elected chief executive of a police department and is responsible for the operation of the city jail or lockup.

CLASSIFICATION

A process for determining the needs and requirements of those for whom confinement has been ordered and for assigning them to housing units and programs according to their needs and existing resources.

COMMUNITY RESOURCES

Public and private organizations or agencies, or any individual from the community which offers services, facilities and other functions which can meet the needs of the facility.

CONTACT VISITATION

Visitation between an inmate and a visitor in which limited physical contact is permissible and occurs in a setting without physical barriers between the inmate and the visitor.

CONTRABAND

Any item possessed by inmates or found within the confinement facility which is declared illegal by law or not specifically approved for inmate possession by those legally charged with the responsibility for administration and operation of the facility.

CONTRACTOR

A person or organization which agrees to furnish materials or perform services for the facility/jurisdiction at a specified price. Contractors operating in detention facilities are subject to all applicable rules and regulations for the facility.

CORRECTIONAL OFFICER

A trained employee of the authority having jurisdiction, usually uniformed, who is responsible for the custody, control, safety and well-being of confined persons.

DETAINEE

Any person confined in a local detention facility not serving a sentence for a criminal offense.

DETENTION FACILITY

A confinement institution to which adults may be sentenced for up to one year or confined pending adjudication. (See Jail)

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EMERGENCY

Any significant disruption of normal facility procedure, policy or activity caused by riot, strike, escape, fire, natural disaster or other serious incident.

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.

FOOTCANDLE

A unit for measuring the intensity of illumination, the amount of light thrown on a surface one foot away from the light source.

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.

HEALTH AUTHORITY

A physician or qualified health administrator who is responsible for the provision of health care services at an institution or system of institutions.

HEALTH CARE

The sum of all action taken, preventive and therapeutic, to provide for the physical and mental well-being of a population. Health care includes medical and dental services, mental health services, nursing, personal hygiene, dietary services, and environmental conditions.

HEALTH CARE PERSONNEL

Individuals whose primary duties are to provide health services to inmates in keeping with their respective levels of health care training or experience.

HEALTH-TRAINED PERSONNEL (MEDICALLY TRAINED PERSONNEL)

Correctional officers or other correctional personnel such as social workers, who may be trained and appropriately supervised to carry out certain specific duties with regard to the administration of health care.

HOLDING FACILITY OR LOCKUP

A temporary confinement facility, for which the custodial authority is less than 72 hours, where arrested persons are held pending release, adjudication, or transfer to another facility.

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HOLIDAYS

All days legally designated as nonworkdays by statute or by the chief governing authority of a jurisdiction.

INFORMATION SYSTEM

Includes the concepts, personnel and supporting technology for the collection, organization and delivery of information for administrative use. There are two types of information:

1) Standard information, consisting of the data required for operational control, such as daily county, positive and negative release rates, absconding or runaway rates, referral sources, and payroll data in a personnel office.

2) Demand information, which can be generated when a report is required, such as the number of inmates in educational and training programs, and duration of confinement.

INMATE

Any person, whether pretrial, unsentenced, or sentenced, who is confined in a detention or holding facility.

INMATE RECORDS

Information concerning the individual's personal, criminal and medical history, behavior and activities while in custody, including but not limited to; commitment papers, court orders, detainers, personal property receipts, visitors list, photographs, fingerprints, type of custody, disciplinary infractions and actions taken, grievance reports, work assignments, program participation, miscellaneous correspondence, etc.

JAIL

A confinement facility, usually operated by a local law enforcement agency, which holds persons detained pending adjudication and/or persons committed after adjudication for sentences of one year or less. Jails, while intended for the confinement of adults, sometimes hold juveniles as well. (See Detention Facility)

LIFE SAFETY CODE

A manual published by the National Fire Protection Association specifying minimum standards for fire safety necessary in the public interest; two chapters are devoted to corrections facilities.

WEST VIRGINIA JAIL AND PRISON STANDARDS COMMISSION
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MEDICAL RECORDS

Separate records of medical examinations and diagnoses maintained by the responsible physician. The following information from these records should be transferred to the inmate records; date and time of all medical examinations and copies of standing or direct medical orders from the physician to facility staff.

MEDICAL RESTRAINTS

Either chemical restraints, such as sedatives, or physical restraints, such as straight jackets, applied only for medical or psychiatric purposes.

MEDICAL SCREENING

A system of structured observation/ initial health assessment to identify newly arrived inmates who pose a health or safety threat to themselves or others.

NON-CONTACT VISITATION

Visitation between an inmate and visitor which occurs in an area with physical barriers which preclude physical contact between the inmate and visitor.

OFFENDER

A person confined in a local detention facility serving a sentence for a criminal offense.

PARENT AGENCY

The administrative department or division to whom the facility administrator reports; it is the policy-setting body. For a county facility, this is the sheriff's department or the County Commission. For a city facility, it is usually the police department.

POLICY

A definite, stated course or method of action which guides and determines present and future decision and actions.

PRETRIAL RELEASE

A procedure whereby an accused person who has been taken into custody is allowed to be unconfined before and during his/her trial.

PROGRAM

The plan or system through which a detention/correctional agency works to meet its goals; often this program requires a distinct physical setting, such as a detention facility.

WEST VIRGINIA JAIL AND PRISON STANDARDS COMMISSION
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PROTECTIVE CUSTODY

A form of separation from the general population for inmates requesting or requiring protection from other inmates for reasons of health or safety. The inmate's status is reviewed periodically by the classification committee or other designated groups. (See Administrative Segregation and Disciplinary Detention)

QUALIFIED HEALTH PERSONNEL

Physicians, dentists, and other professional and technical workers who by state law engage in activities that support, complement or supplement the functions of physicians and/or dentists and who are licensed, registered, or certified, as appropriate to their qualifications, to practice.

RELEASE ON BAIL

The release by a judicial officer of an accused person who has been taken into custody, upon the accused's promise to pay a certain amount of money or property if he/she fails to appear in court as required; the promise may or may not be secured by the deposit of an actual sum of money or property, and may involve a bonding agency.

RELEASE ON OWN RECOGNIZANCE (ROR)

The release by a judicial officer of an accused person who has been taken into custody, upon the accused's promise to appear in court as required for criminal proceedings.

RESPONSIBLE PHYSICIAN

A person licensed to practice medicine with whom the facility enters into a contractual agreement to plan for and provide health services to the inmate population of the facility.

SAFETY EQUIPMENT

This includes firefighting equipment, i.e., chemical extinguishers, hoses, nozzles, water supplies, alarm systems, sprinkler systems, portable breathing devices, gas masks, fans, first aid kits, stretchers, and emergency alarms.

SALLY PORT

A square or rectangular enclosure situated either in the perimeter wall or fence of the facility or within the interior of the facility, containing gates or doors at both ends, only one of which opens at a time. This method of entry and exit ensures there will be no breach in the perimeter or interior of the facility.

WEST VIRGINIA JAIL AND PRISON STANDARDS COMMISSION
Legislative Rule, 31-20-9

SECURITY OR CUSTODY

The degree of restriction of inmate movement within a detention/correctional facility, usually divided into maximum, medium and minimum risk levels.

SECURITY DEVICES

Locks, gates, doors, bars, fences, screens, ceilings, floors, walls and barriers used to confine and control inmates. Also electronic monitoring equipment, security alarm systems, security light units, auxiliary power supply, and other equipment used to maintain facility security.

SECURITY PERIMETER

The outer portion of a facility which actually provide for secure confinement of inmates. This perimeter may vary for individual inmates, depending upon their security classification.

SEGREGATION

The confinement of an inmate to an individual cell that is separated from the general population. There are three forms of segregation: administrative segregation, disciplinary detention and protective custody.

SELF-INSURER

Any parent agency or governmental jurisdiction which acts as the insurer. For public agencies, the self-insurance program is usually authorized by the legislature. A "memorandum of insurance" or similar document is required which acts as a policy, setting the limits of liability for various categories of risk, including deductible limits. Approval of the policy by a cabinet level official is also required.

SHERIFF

The elected or appointed chief executive officer of a county law enforcement agency, who can serve several functions, including: responsibility for law enforcement in unincorporated areas, operation of the county jail and assignment as officers of the court.

SPECIAL MANAGEMENT INMATES

Persons whose behavior presents a serious threat to the safety and security of the facility, the inmate, the staff or the general inmate population. Special handling and/or housing is required to regulate their behavior.

STRIP SEARCH

An examination that can include body cavities of an inmate's naked body for weapons, contraband and physical abnormalities. This also includes a thorough search of all the inmate's clothing while not being worn by the inmate.

WEST VIRGINIA JAIL AND PRISON STANDARDS COMMISSION
Legislative Rule, 31-20-9

TEMPORARY RELEASE

A period of time during which an inmate is allowed to leave the program or institution and go into the community unsupervised for various purposes consistent with the public interest.

TRAINING

An organized, planned, and evaluated activity designed to achieve specific learning objectives. Training may occur on site, at an academy or training center, at an institution of higher learning, through contact service, at professional meetings, or through closely supervised on-the-job training. Meetings of professional associations are considered training when there is clear evidence of the above elements.

VOLUNTEERS

Persons from the community who participate in the detention facility operations. They are selected on the basis of their skills or personal qualities to provide programs and services for the inmate population in recreation, counseling, education and religious activities. Their services are provided without cost to the facility.

WORK RELEASE

A formal arrangement, sanctioned by law, whereby an inmate is permitted to leave confinement to maintain approved and regular employment in the community, returning to custody during nonworking hours.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

BARBARA STARCHER
Deputy Secretary of State

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(Plus all the volunteer
help we can get)

May 16, 1988

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: Jail and Prison Standards Commission

RULE: New Rule, Series 3, Minimum Standards for Construction,
Operation and Maintenance of Holding Facilities

DATE FILED AS AN EMERGENCY RULE: April 4, 1988

DECISION NO. 3-88

Following review under WV Code 29A-3-15a, it is the decision of the Secretary of State that the above emergency rule be approved. A copy of the complete decision with required findings is available from this office.

A handwritten signature in cursive script that reads "Ken Hechler".

KEN HECHLER
Secretary of State

FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE May 16, 1988
ADMINISTRATIVE LAW DIVISION

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Secretary of State

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DECISION EMERGENCY RULE DECISION (ERD 3-88)

AGENCY: Jail and Prison Standards Commission
RULE: New Rule, Series 3, Minimum Standards for Construction, Operation and Maintenance of Holding Facilities
DATE FILED AS AN EMERGENCY RULE: April 4, 1988

- par. 1 The Jail and Prison Standards Commission has filed the above new rule as an emergency legislative rule.
- par. 2 West Virginia Code 29A-3-15A requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.
- par. 3 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [29A-3-15a(a)].
- par. 4 (A) Procedural Compliance: WV Code 29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).
- par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the ERD is issued or the expiration of the forty-two day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.

par. 6 The Jail and Prison Standards Commission has filed this emergency rule with supporting documents with the Secretary of State on April 4, 1988, and with the LRMRC on April 6, 1988.

par. 7 It is the determination of the Secretary of State that the Jail and Prison Standards Commission has complied with the procedural requirements of WV Code §29A-3-15.

par. 8 (B) Statutory Authority -- WV Code §31-20-9 reads in part:

§31-29-9. Purpose; powers and duties.

The purpose of the commission is to assure that proper minimum standards and procedures are developed for jail, work farm and prison operation, maintenance management of inmates for prisons, regional jails and local jail facilities used as temporary building facilities. In order to accomplish this purpose, the commission shall:

(1) Prescribe standards for the maintenance and operation of prisons, county and regional jails.

(2) Promulgate such rules pursuant to the provisions of chapter twenty-nine-a (§29A-1-1 et seq.) of this code as are necessary to implement the provisions of this article, including, without limitation, minimum jail, work farm and prison standards which shall be promulgated on or before the first day of July, one thousand nine hundred eighty-six.

par. 9 It is the determination of the Secretary of State that the Jail and Prison Standards Commission has not exceeded its statutory authority in promulgating this emergency rule.

par. 10 (C) Emergency: WV Code 29A-3-15(g) defines "emergency" as follows:

(g) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest.

par. 11 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the circumstances creating at least one of the above three emergency categories.

par. 12 The facts and circumstances as presented by the Jail and Prison Standards Commission are as follows:

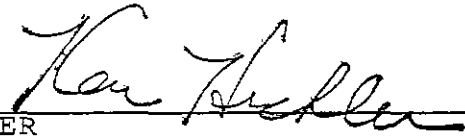
1. West Virginia Code §31-20-9 directs the Jail and Prison Standards Commission to prescribe these specific standards, and in subsection 92) mandates that they be promulgated ". . . on or before the first day of July, one thousand nine hundred eighty-six." Said date has passed.

2. West Virginia Code §31-20-25 apparently requires that holding facility standards be developed and a report on their existence be submitted ". . .to the joint committee on government and finance of the Legislature no later than the meeting of such committee in the month of December, one thousand nine hundred eighty-seven. . ." Said date has passed.

3. With the anticipated opening of West Virginia's first regional jail during the summer of 1988 at Martinsburg, the counties of Berkeley, Jefferson, and Morgan will be in position to convert their current county jails to short-term holding facilities. The holding facility standards developed and adopted by the Jail and Prison Standards Commission need to be in place as Emergency Rules for these, and following, county jail conversions.

par. 13 It is the determination of the Secretary of State that this proposal qualifies as an emergency under the "immediate preservation" definition.

par. 14 This decision shall be cited as Emergency Rule Decision 3-88 or ERD 3-88 and may be cited as precedent. This decision is available from the Secretary of State's office and has been filed with the Jail and Prison Standards Commission, the Attorney General and the Legislative Rule Making Review Committee.



KEN HECHLER
SECRETARY OF STATE
FILED IN THE OFFICE OF
THE SECRETARY OF STATE

THIS DATE May 16, 1988
ADMINISTRATIVE LAW DIVISION

Entered _____