

**COUNTY OF GREENE
GREENE COUNTY PRISON**



Harry D. Gillispie
Warden

Susan M. Haxton
Deputy Warden

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July 14, 2006

Alvin C. Bush, Chairman
IRRC
14th Floor
333 Market St.
Harrisburg, PA 17101

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2006 JUL 19 AM 9:09
INDEPENDENT REGULATORY
PRISON WARDENS ASSOCIATION

Mr. Bush,

Warden Gillispie and I have reviewed the recently proposed changes to Title 37, Chapter 95, (published Pennsylvania Bulletin, June 24, 2006) concerning standards for county prisons in the Commonwealth of Pennsylvania. As you may be aware, the Pennsylvania County Prison Warden's Association (PCPWA) has been opposed to the direction the re-write has taken since its inception. The County Commissioners Association of Pennsylvania (CCAP) has also been involved in trying to change that direction.

It should be noted, that none of the county prisons administrators or Prison Boards are opposed to regulations, standards or an inspection process. We do believe, however, that the Pennsylvania Department of Corrections has proposed an extensive re-write of the regulations that will cause fiscal hardships for many counties, ours included, and eliminated much of the flexibility the county prisons need to write policy that works for each of our facilities. The counties do not have the financial resources that the DOC enjoys. We (county prisons) also, for the most part, manage a very temporary inmate population versus the long-term population in the state facilities. Security and treatment needs are inherently different in these types of facilities.

Although there were several meetings with the DOC regarding the proposed changes, there is no significant change in the final draft. It appears that the concerns voiced by the county prison administrators during these meetings were disregarded and the DOC forged ahead in their chosen direction despite the impact on the facilities affected by the changes.

CORNERSTONE OF THE KEYSTONE STATE

Pam Snyder, Chairman • Dave Coder, Commissioner • John R. Gardner, Commissioner

Enclosed is a compilation of the proposed changes that we felt needed comment. Our remarks are in bold print. I have also included quotes from the current president of the PCPWA, John Whetsell, because he is able to make a point more clearly than I. His remarks are in quotations.

Warden Gillispie and I request that you review our comments and delay implementation of any changes. We agree that changes are needed but would like to start the process from the beginning and have *meaningful* input into any changes. We feel that the current version will, indeed, have a significant fiscal impact on the County of Greene and its residents.

We are requesting to present our comments personally, via testimony at the IRRC hearing on the proposed changes. Thank you for time and consideration in this matter.

Sincerely,



Susan M. Haxton
Deputy Warden



Harry D. Gillispie
Warden

Proposed Rulemaking
Department of Corrections
37 PA. Code Ch. 95
County Correctional Institutions

36 Pa.B. 3094
Saturday June 24, 2006

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INDEPENDENT REGULATORY
REVIEW COMMISSION

Statutory Authority

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

“There is a question as to the authority of the PA DOC to both promulgate standards and more specifically to classify county jails to be able to receive prisoners. Title 61 clearly gives the authority to operate county prisons (jails) to Prison Boards. In doing so, it calls in to question the DOC’s authority to take any action that would impede the Prison Board’s management of jails. It should also be noted that all funding for county jails comes from general fund tax dollars appropriated by the County Commissioners, and that the PA DOC does not provide ANY FUNDING for jails.” –John Whetsell, Franklin County Prison, Warden.

The Pennsylvania County Prison’s Warden’s Association fully supports Mr. Whetsell’s view.

Purpose and Background

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

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

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

Department proposes amendments to Chapter 95 to read as set forth in Annex A.

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

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

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

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

§ 95.220b. Scope.

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

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

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

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

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

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

These sections have been completely replaced as part of the final phase of the Department's efforts to replace outdated standards. Each section requires that the county jail establish a written policy on the subject matter and that the policy contain or address the

minimum requirements described in the regulation. In each instance, the requirements are consistent with recognized professional standards for adult local detention facilities. Whenever possible, the Department eliminates requirements that are too technical and devises the minimum requirements so that county prison administrators are afforded flexibility in addressing prison management issues.

Fiscal Impact

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

This section is not supported by the proposed rulemaking. It is our belief that there will be a significant fiscal impact for our county facility. Proposed rules changes in treatment requirements will dictate that a minimum of one employee (and most likely two) will need to be added to our staff complement. Documentation and inspection requirements within the proposed changes to security and maintenance will require an additional supervisory corrections staff member. Also, to re-write current, effective policies and to create new policies to comply with the proposed rules changes will require duties re-assignment for prison administration for an undetermined length of time. None of us has the luxury of delaying the daily prison operations to focus on the research and time needed to write policies deemed necessary by an entity that has no vested interest in the daily operations and budget concerns of our prison.

Paperwork Requirements

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

This section is not supported by the proposed rulemaking changes. We anticipate needing an additional shift supervisor to document all of the proposed changes. Current in-stock forms will have to be discarded and new forms created and purchased to comply with the new requirements. Most of the documentation required under the proposed changes already occurs regularly in our facility. However, the concern here is that the DOC will indicate a non-compliance rating in areas that we document information elsewhere or in conjunction with other information but does not have a separate report as required under the changes. The proposed changes do not allow greater flexibility that the DOC claims will occur.

§ 95.220a. Definitions.

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

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

This definition does not include the use of physical force to effect compliance with a lawful order. This omission makes inmate management nearly impossible. Justifiable penological interests should be included in this definition.

§ 95.220b. Scope.

Each section sets forth minimum requirements, which are mandatory.

(1) Every county prison shall be subject to a prison inspection cycle. An inspection cycle will consist of a preinspection audit and, if necessary, a prison inspection. A preinspection audit will be scheduled at least every 24 months. The prison inspection, if

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

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

The phrase “at a minimum” goes beyond the intent of the inspection process which is to ensure compliance with the minimum requirements; nothing further. Information contained in the preinspection audit reports is public information. The concern is that any opinions or suggestions made by the inspector will be construed as an area of non-compliance by the public.

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

(4) A prison inspection will be conducted any time the preinspection audit finds the county prison is not in compliance with the minimum requirements. The Department will issue a Compliance Report following the prison inspection. The report will

be issued to the county prison administrator and the governing county prison authority. The report will identify whether the county prison has corrected the instances of noncompliance set forth in the Preinspection Audit Report.

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

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

This procedure will subject county prisons to two inspections per year, regardless of the severity of the non-compliance issue. Minor water damage to ceiling tiles in the administration area carry the same weight of non-compliance as unsecured doors in an area housing inmates that would facilitate an escape. We would suggest the same standards be used to determine the need for an "inspection" as proposed for determining a vulnerability analysis as outlined in paragraph (6) below.

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

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

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

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

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

(viii) Section 243--Treatment Services.

(ix) Section 248--Sanitation and Safety.

Who will conduct the vulnerability analysis? Who will pay for the analysis?

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

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

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

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

(ii) If the county prison continues in subsequent prison inspections to violate the minimum standards for which it has been issued, a Citation of Noncompliance in accordance with paragraph (4)(iv) and the governing county prison authority's written response

to the Compliance Reports fails to show a good faith effort to correct those violations.

This section will fiscally punish those counties who cannot or choose not to replace or expand existing facilities. The areas of non-compliance will not change from inspection to inspection if the non-compliance is due to a less than ideal physical plant and the monies needed are not available to make changes. Holding a DOC ordered hearing will not change the fiscal situation, either.

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

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

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

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

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

This section gives broad discretionary power to the Secretary of Corrections to both order a Vulnerability Analysis and to Declassify a jail based on the inspection process, which is subjective in nature. Will the DOC accept county inmates? Will the county be financially responsible for housing the inmates?

95.221. Personnel

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

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

This may not be an issue for larger counties, but our county has a Human Resources Department that supplies a county personnel policy. Why is it necessary to have a separate policy for the prison? The requirements for the manual are Human Resource or Union areas that would be better addressed by those entities to avoid conflict. Also the time required for prison personnel to re-write a separate manual, as well as the cost to publish such, are prohibitive.

§ 95.229. Bedding.

The following are the minimum requirements applicable to bedding:

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

This section assumes that county prisons can schedule admissions or have the option of refusing inmates if there are not beds available, as the DOC does routinely. There is no flexibility in this requirement to allow for temporary housing. County prison administrators realize that county- or area-wide drug sweeps cause a dramatic, although almost always temporary, rise in the prison population. Will the DOC accept our overflow?

§ 95.237. Religion.

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

Although this is a good idea, this should be left to each county prison to determine the appropriate level of qualification and not the DOC.

§ 95.240. Inmate disciplinary procedures.

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

This, again, allows no flexibility for local policy and needs. The duties and assignments of OUR correctional staff members is being determined by the DOC. It will require additional staff to process minor infractions in this manner. The majority of misconducts issued in our prison are minor

infractions. We encourage staff to handle minor infractions in the most time effective manner AND on the shift the infraction occurs. We do not have the staffing resources to have minor infractions dealt with by a neutral staff member.

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

By narrowing the criteria to an inmate in 'disciplinary' status, this will preclude inmates on a suicide watch, administrative segregation or other classifications used locally that may have a use for an alternative meal due to unacceptable behavior. We are exposing the counties to lawsuits if an alternative meal is served to an inmate on any status other than disciplinary.

§ 95.241. Security.

(1) *Supervision of inmates.*

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

Who will conduct the staffing analysis? Who will pay for the staffing analysis? Who better than the prison administration, who are familiar with staffing needs, duties, activity schedules and all other aspects of daily operation, knows the appropriate staff complement? This could, in all likelihood, become an unfunded mandate. There may also be issues with local union contracts, depending on the outcome of the staffing analysis.

There is a contradiction in the middle of this section: one sentence requires review of the staffing analysis on an annual basis, while the next sentence states the results of 'this annual staffing analysis' must serve as the required staffing allotment. The last sentence requires the information about filled and vacant positions shall be available at all times. Available to whom?

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

The assignment of duties to specific staff, MUST be determined on a local level. Granted, this information is important and is, most likely, already documented in the prison. However, the requirement that a specific duty post be mandated to document this information is preposterous.

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

"While a good jail administrator tours the facility at a greater frequency than this standard would suggest, the documentation of such increases the paperwork required."—John Whetsell, Franklin County Prison, Warden.

We concur.

(2) *Use of force.*

(i) Force shall be restricted to instances of justifiable self-defense, protection of others, protection of property and prevention

of escapes, and only the least amount of force necessary to achieve that purpose is authorized. Force may not be used as a means of punishment or revenge.

Addressed in the definitions section.

(ii) Written local policy must specify:

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

The language should be changed to reflect that it is not required to begin with the least amount of force in the force continuum. Circumstances frequently require that staff jump into the force continuum above 'presence or verbal' to achieve correctional/management goals.

(5) *Contraband control.*

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

(iii) Procedures for conducting cell/dormitory/area searches.

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

(iv) Procedures for conducting security checks of the interior and the security perimeter of the prison. At least one daily security check shall be conducted of all interior areas and the security perimeter to determine matters such as staff and inmate concerns and faulty or unsafe conditions. The results of this

security check shall be documented and submitted to the prison administrator or designee.

We believe that the first sentence in each of the above is adequate. Procedures should be determined at a local level.

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

§ 95.243. Treatment services.

The following are the minimum requirements applicable to treatment services:

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

- (i) Education.
- (ii) Social services.
- (iii) Alcohol and other drugs.
- (iv) Counseling services.

“This standard represents the PA DOC dictating how services are delivered in a local jurisdiction without providing the requisite funding necessary. Furthermore, it precludes a community based approach to treatment. Specifically, in our jurisdiction, the Criminal Justice System, through the Criminal Justice Advisory Board has set up a community based Day Reporting Center to address higher level treatment needs, to include Alcohol and Drug counseling. This was a conscious decision that was made, and the sentencing practices were modified to ensure that inmates who have these needs will spend less time in jail and more time in community-based treatment along with Probation/Parole supervision. Accordingly, the Drug and Alcohol services in the jail were correspondingly reduced. Since these programs are funded locally, as opposed to by the PA DOC, local policy was made to address the needs in the most efficient and effective manner. The above standard precludes the use of this approach and represents the PA

DOC again overstepping their bounds.”—John Whetsell, Franklin County Prison, Warden.

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

- (i) Review of history of psychotherapy, psycho-educational groups and classes or support groups.
- (ii) Review of history of drug and alcohol treatment.
- (iii) Review of educational history.
- (iv) Review of history of sexual abuse-victimization and predatory behavior.
- (v) Review of history of violence.

“This section is apparently an attempt to increase treatment services to inmates through better assessment. However, it obviously lacks knowledge of how local jails deliver services. In a state facility, where inmates stay YEARS, an exhaustive assessment plan is indicated. But at the local level, a “triage” of sorts takes place where those with the highest level of needs receive the highest level of service. Those with little to no needs, are put lower on the priority list. To expect each inmate who comes in to jail and stays longer than 2 weeks to receive a full and exhaustive assessment will translate into either non-compliance, inmates getting assessed and not treated or a significant increase in the number of Treatment Staff. In other words, an unfunded mandate. With the level of collateral information that this standard mandates being collected, it is not unreasonable to expect 1 hour per assessment (and I believe this to be a conservative estimate). In jurisdictions who struggle for funding, this will directly lead to a DECREASE IN TREATMENT SERVICES PROVIDED as many of these

positions both assess and provide treatment.”—John Whetsell, Franklin County Prison, Warden

This chapter of the Title 37 proposed changes will have the greatest fiscal impact on our facility. The requirement to conduct a ‘treatment needs assessment’ will force the county to hire additional treatment staff—most likely, 2-3 positions—to comply with the mandate. In our case, this will be approximately \$120,000 (salary and benefits) added to our budget. This amount is ten percent of our 2006 budget. I echo Warden Whetsell’s thought that the results of the assessment will be fewer services being provided in order to comply with proposed changes. The related costs for compliance reiterate that there will be a significant fiscal impact on county governments without any funding from the state.

§ 95.246. Investigations

The following are the minimum requirements for investigation of:

(1) *Deaths.*

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

§ 95.248. Sanitation, maintenance and safety.

