

MONTGOMERY COUNTY CORRECTIONAL FACILITY

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ORIGINAL: 2544

July 21, 2006



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Chairman Alvin C. Bush
Independent Regulatory Review Commission
333 Market St., 14th Floor
Harrisburg, PA. 17101

Re: Proposed Rulemaking, Department of Corrections [37 Pa Code Ch.95]

Dear Chairman Bush:

In 1996 a Governor's Executive Order required all departments of the Commonwealth to review regulations to reduce regulatory burden which they imposed on the counties. This was the development of regional meetings in determining which sections of Title 37 required reviews with the specific intent to eliminate burdensome and outdated regulations.

This directive experienced a complete metamorphosis within the Pennsylvania Department of Corrections and instead directed itself in imposing its (DOC) created and subjective standards upon each county jail. The DOC loosely attempted to reference the American Corrections Association (ACA) and the American Jailers Association (AJA) as its foundation of standards to be achieved by each jail.

Title 37 revision in its present proposed form and language is opposed by many county prison/jail administrators. Request for inclusion and recommendations by Wardens remain unaddressed. This proposed revision requires further examination at the local level. Any proposed changes that will ultimately affect Wardens, the County Commissioners and Prison Boards should be examined very closely. Possible unfunded mandates required regulatory statistical reporting and compliance may result in additional burdens caused by factors beyond our control.

The process with the intent to relieve burdensome and outdated regulations and the process to seek input by and from the County jail administrators was very short lived. I believe there is a clear attempt to ignore the established authority and powers of our Prison Board of Inspectors and the prison's funding authority the county Board of Commissioners. Giving itself the power to "decertify", investigate,

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issue citations, and conduct hearings does not lend itself to positive regulatory revision.

I do not oppose revision of some parts of Title 37, nor do I promote self-inspection. I am opposed to the present language and sections that will give the Department of Corrections the unquestionable authority to "decertify" a prison, issue citations and have it go on record that this will be the result of a prison remaining in "violation of the minimum requirement". We must be concerned with the ramifications both legally and operationally if this process is accepted.

Existing accreditation inspections conducted by the National Commission on Correctional Health Care will no longer provide a waiver of inspection of our medical department. Recognized as comprehensive national standards but not acceptable to the DOC. We will be subject to yet another exhausting and time consuming inspection. Further inspections will result in dedicated staff time, staff cost, and additional record keeping.

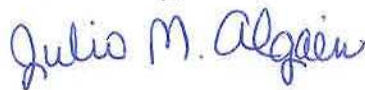
Reference to the proposed declassification and its process is and has not been explained. I also have a concern with the authority of the Secretary to authorize a vulnerability analysis of a county prison when a pre-inspection audit or prison inspection finds one or more violations of the minimum requirements. It further lists sections that basically include almost every part of a prison operation.

This report will be "issued" to the governing county prison authority and prison administrator. Vulnerability analysis for example can indicate, again subjectively, a prison not in compliance with staff to inmate ratios and compliance will have a fiscal impact upon the county disregarding what we have determined and funded to be the proper level. Jails/Prisons may now face "violations" of the minimum standards as a result of "non-compliance" and will be subjected to progressive sanctions by the DOC, publicly or administratively and who decides in what venue.

There is no funding by the DOC in assisting local jails/prisons that are or may be in non-compliance. The language of this proposed change requires review. Revisions that may financially impact a county jail/prison, regardless of how insignificant must be considered. I agree with some of my fellow Wardens in stating that the DOC is not familiar with the local jail/prison operations.

I request that we oppose the proposed changes to Pa. Code Title 37, chapter 95 as presently written.

Yours truly,



Julio M. Algarin
Warden

JMA/sac