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July 24, 2006

VIA FACSIMILE AND REGULAR MAIL

David B. Farney, Assistant Counsel
PA Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011
Fax No. (717) 975-2217

Dear Mr. Farney:

We are writing to convey the objections of the Cambria County Commissioners to the adoption of the Department's proposed rulemaking at 37 PA Code, Chapter 95, regarding county correctional institutions. Before getting into the specifics of the proposal, given that these new mandates do not come with any financial support from the Commonwealth, we take great exception to the Department's assertion in the filing documents indicating the regulations "are not expected to have a significant fiscal impact upon the Commonwealth, its political subdivisions, or the general public." While we agree that the Commonwealth will not be impacted financially, the counties and the tax paying public in the State of Pennsylvania will be impacted by increased costs as a result of simple compliance with the regulatory standards imposed by the regulations. In some instances, the new requirements will require the purchase of equipment. In others, additional staff may be required in order to comply. These mandates will cost counties, and thus, the taxpayer, as county real estate taxes increase in order to fund compliance costs.

The filing documents also indicate that the Department does not expect a significant increase in paperwork for the Commonwealth, political subdivisions, or the public; yet, sections of the regulations contain specific additional paperwork requirements for county prisons to achieve compliance.

Additionally, we question the authority of the Department to issue costly mandates to the counties given that statutory jurisdiction to operate county jails, pursuant to Title 61, lies with the local prison board, and the county funding authority is the board of county commissioners or their home rule counterparts. Under the proposed regulations, the governing body of local

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prisons will lose decision making authority, although there has been no change in the law to transfer such authority to the Commonwealth or to the Department of Corrections.

The filing documents also include a statement by the Department indicating that the rulemaking will define the circumstances for declassification of a county jail by the department. We have been unable to locate such a definition or a process for declassification or a procedure for appeal that would be available to counties. We also note, in a letter to the County Commissioners Association of Pennsylvania dated March 27, 2003, the Secretary of Corrections responded to county concerns on this issue by indicating that the decertification or declassification process would be removed from the regulations.

We strongly recommend that the regulations be withdrawn from the regulatory review process and that a new effort be undertaken involving commissioners and their home rule counterparts as well as local jail administrators from the beginning, taking into account the expertise of these individuals to assure that the Department, and taxpayers, can understand the impact of the proposed new mandates that are included. We do acknowledge that the Department spent considerable time in meeting with local prison administrators, county commissioners, and their home rule counterparts; however, much of the input provided during these events was not included in the proposed regulations as published on June 24, 2006 in the Pennsylvania Bulletin.

Again, the Commissioners of Cambria County urge the Department to withdraw the regulations from the Independent Regulatory Review Process and to begin anew with specific input from commissioners and jail administrators. There is a need to balance the interests of the State Department of Corrections with the fiscal impact on the local property owner. We do not believe that the regulations, as proposed, achieve that balance, and instead, impose arbitrary standards that should be decided locally based upon available resources or should be accompanied by adequate Commonwealth funding to meet the demands of the mandates.

Very truly yours,


P.J. Stevens

Milan Gjurich

William G. Harris

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