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Pennsylvania Sheriffs' Association

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July 24, 2006

via: EMAIL to dfarney@state.pa.us
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David B. Farney, Assistant Counsel
Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011

RE: Proposed Rulemaking
37 Pa. Code Ch. 95
County Correctional Institutions

Dear Mr. Farney:

I am writing in my capacity as the Solicitor to the Pennsylvania Sheriffs' Association regarding the above-referenced proposed rulemaking published in the June 24, 2006 edition of the Pennsylvania Bulletin. The Association joins in the concerns expressed by the County Commissioners Association of Pennsylvania as well as other statewide associations to the proposed regulations.

While the introduction to the regulations states that the new regulations were necessary to change current regulations that do not "afford county administrators sufficient flexibility to address prison management problems that are strictly local in nature," it is the flexibility of management that is paramount to a prison administrator's ability to successfully maintain prisons that is precisely what the proposed regulations would remove. The regulations are replete with mandatory requirements that leave prison administrators with little to no flexibility. For example, Section 95.223 contains extensive, specific requirements for prisoner orientation. Section 95.229 and 95.230 contain specific requirements for bedding and food services respectively. Both of these provisions leave the prison administrator with little or no discretion in managing their prison.

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David B. Farney, Assistant Counsel
Department of Corrections
July 24, 2006
Page 2

The Association further disagrees with the comment that the proposed regulations would have no fiscal impact upon the Commonwealth, its political subdivisions or the general public. Although the Commonwealth may not be impacted financially, the counties and the public will be as a result of the compliance required by the proposed regulations. The regulations require the purchase of new equipment and materials. In many cases additional staff will need to be hired in order to fully comply with the regulations.

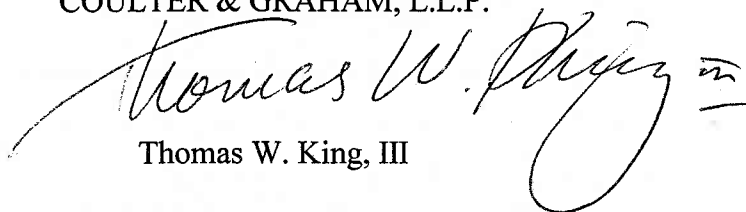
The inspection process proposed by the regulations would have a detrimental fiscal impact upon counties that are "declassified" and therefore ineligible to receive prisoners sentenced to a maximum term of 6 months but less than 5 years. An alternate location would have to be found to house these prisoners.

The Pennsylvania Sheriffs' Association concurs with the specific comments to the regulations raised by Scott Conklin, Centre County Commissioner in its July 18, 2006 correspondence. Of particular concern to the Pennsylvania Sheriffs' Association is the definition of "Force, use of." This definition does not include the use of physical force. The failure to include the use of physical force would make it impossible for prison managers to do their job. As stated previously in this correspondence the declassification process presented by the proposed regulations presents additional concerns. The term is not defined anywhere in the regulations and would result in further detriment to the prison system.

Thank you for your consideration in reviewing these comments. The Pennsylvania Sheriffs' Association would welcome the opportunity to be of assistance in the event the Department revises the regulations as proposed.

Very truly yours,

DILLON McCANDLESS KING
COULTER & GRAHAM, L.L.P.



Thomas W. King, III

TWK:ACP/smk

cc: James B. Hazen, Executive Director, Pennsylvania Sheriffs' Association

David B. Farney, Assistant Counsel
Department of Corrections
July 24, 2006
Page 3

- cc: The Honorable Stewart Greenleaf, Chairman
Senate Judiciary Committee
- cc: The Honorable Jay Costa, Minority Chairman
Senate Judiciary Committee
- cc: The Honorable Dennis O'Brien, Chairman
House Judiciary Committee
- cc: The Honorable Thomas Catagirone, Minority Chairman
House Judiciary Committee
- cc: Alvin C. Bush, Chairman
Independent Regulatory Commission
- cc: Scott Shalles, Regulatory Analyst
Independent Regulatory Review Commission