

Minnesota Attorney General: Administrative Rules Proceedings

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A. Section 1, Minnesota Statutes, Section 241.021, Subdivision 1 (1974), as amended by Laws 1976, Chapter 299, to be effective July 1, 1976, provides that the Commissioner of Corrections promulgate rules establishing minimum standards for all correctional facilities throughout the State whether public or private, established and operated for the detention and confinement of persons detained or confined therein according to law except to the extent that they are inspected or licensed by other State regulating agencies. The rules which follow are intended to fulfill that requirement for holding facilities, lockups, jails and adult corrections facilities.

B. The Commissioner of Corrections has, pursuant to Minnesota Statutes 241.021, Subdivision 1, appointed a citizens' advisory task force to assist in the development of rules contained herein.

C. The purpose of these standards is to facilitate the implementation of rules in accordance with Minnesota Statutes 241.021, Subdivision 1, and to provide a framework for inspection, restriction of usage and condemnation of holding facilities, lockups, jails and adult corrections facilities.

A. For the purpose of these rules:

1. "Department of Corrections" or "Department" shall mean Minnesota State Department of Corrections.
2. "Commissioner" shall mean Commissioner of the Minnesota State Department of Corrections or his designee.
3. "Local Facility" shall mean any city, county, city and county, or multiple county adult or juvenile correctional facility.
4. "Holding Facility" shall mean a secure detention facility used to confine prisoners prior to appearance in court for periods of time not to exceed 72 hours excluding holidays or weekends.
5. "Lockup Facility" shall mean a secure detention facility used to confine prisoners prior to appearance in court and sentenced prisoners for periods of time not to exceed 30 days.
6. "Jail" shall mean a secure detention facility used to confine prisoners prior to appearance in court and sentenced prisoners for periods of time not to exceed one full year.
7. "Adult Corrections Facility" shall mean a secure detention facility used to confine sentenced prisoners for periods of time not to exceed one full year.
8. "Facility Administrator" shall mean sheriff, chief of police, administrator, superintendent, director or other individual who has been assigned, designated or delegated full-time responsibility and authority for the administration and operation of a local facility.
9. "Custodial Personnel" shall mean those staff with titles such as jailer, deputy, counselor, correctional officer, or equivalent, whose primary duties are the day-to-day or ongoing supervision of prisoners of a local facility.

10. "Emergency" shall mean any significant incident or disruption of normal facility procedures, policies, routines or activities such as fire, riot, natural disaster, suicide, escape, assault on staff, medical emergency, etc.
11. "Approved Capacity" shall mean the number of prisoners for which any cell, room, unit, building, facility or combination thereof was planned, designed and approved for in compliance with the standards herein contained.
12. "Average Daily Population" shall mean the average number of prisoners residing daily during the last calendar year.
13. "Disciplinary Isolation" shall mean that status assigned a prisoner as a consequence or means of control resulting from a serious violation of facility rules or statute which consists of confinement in a cell, room or housing unit separate from other prisoners of the facility.
14. "Administrative Segregation" shall mean the physical separation of different types of prisoners from each other, designed to provide that level of control and security necessary for responsible management and to maintain the health, security and protection of the prisoners and staff.
15. "Policy" shall mean a statement declaring mission, purpose, and ideological position.
16. "Procedure" shall mean a statement establishing the action plan to accomplish policy.
17. "Inspection" shall mean an on-site assessment of existing conditions and their relationship to meeting standards.
18. "Existing Facility" shall mean any facility used for the detention and confinement of prisoners prior to the effective date of these standards.

19. "Prisoner" shall mean any individual, adult or juvenile, detained or confined, residing in any local detention or treatment facility governed by these rules.
20. "Variance" shall mean the waiver of a specific standard by the Commissioner of Corrections for a specified period of time.
21. "Holding Cell" shall mean a cell or room used to hold one or more persons temporarily while they are awaiting such things as release, booking, court appearance, transportation, interrogation, etc.
22. "Maximum Security Areas" shall mean areas that provide the greatest degree of physical security for the control and separation of prisoners.
23. "Maximum Security Prisoners" shall mean prisoners who have established themselves as "dangerous to self or others," or behaviorally uncontrollable through previous behavior, or who are so unfamiliar that no reasonable assessment of their character can be made.
24. "Medium Security Areas" shall mean areas that provide moderate, but considerable physical security for the control and separation of prisoners.
25. "Medium Security Prisoners" shall mean prisoners who have not performed bizarre behaviors within the past five years, and who are sufficiently familiar to the staff of a facility to warrant general reliability for their expected responsible behavior.
26. "Minimum Security Areas" shall mean areas that provide functional living accommodations with a nominal reliance on physical security for the control and separation of prisoners.

27. "Minimum Security Prisoners" shall mean prisoners who have established themselves as reliably responsible (with the exception of their offense patterns) under conditions provided by the staff and other resources of the facility and the community.

A. Inspections. Each facility shall be inspected pursuant to Minnesota statutory authority MSA 241.021 (Subd. 1).

1. All inspections of jails, lockups, holding facilities and adult corrections facilities made by the Department of Corrections pursuant to MSA 241.021 (Subd. 1) shall be according to the standards set forth herein.

B. Intended Use. Any facility disapproved for detention or treatment purposes of one or more kinds as indicated by its classification and standards contained herein shall not be used for such disapproved purpose until such time as they are deemed in substantial compliance with the standards contained herein for the proposed reclassification and a reclassification review has been conducted by the department authorizing such reclassification.

C. Nonconformance, Unsafe, Unsanitary or Illegal Conditions. When conditions do not substantially conform to the standards stated herein or where specific conditions are such as to endanger the health, welfare or safety of prisoners and/or staff, the facility's use shall be restricted pursuant to MSA 241.021 (Subd. 1) or legal proceedings to condemn the facility will be initiated pursuant to MSA 641.26 Condemnation of Jails, or MSA 642.10 Condemnation of Lockup.

D. Severability. If any article, section, subsection, sentence, clause or phrase of these standards is for any reason held to be unconstitutional, contrary to statute, exceeding the authority of the Department of Corrections, or otherwise inoperative, such decision shall not affect the validity of the remaining portion of these standards.

A. Variances. A local facility may request in writing a variance of a specific standard.

1. The request for a variance shall cite the standard in question, reasons for requesting the variance, the period of time the governing body wishes to have the standard waived, and the equivalent measures planned for protecting the health and safety of prisoners and staff.
2. The request shall state the justification for the requested exception and document the claim that the exception meets the intent of the standard and will not jeopardize the supervision of prisoners, established programs, security or the safe, healthful or efficient operation of the facility.

B. Emergency Suspensions of Standards. Nothing contained herein shall be construed to deny the power of any facility administrator to temporarily suspend any standard herein prescribed in the event of any emergency which threatens the safety of the local facility, of any of its prisoners or staff, or the public.

1. Only such standards as are directly affected by the emergency may be suspended.
2. The facility administrator shall notify the Department of Corrections in writing within 72 hours of a suspension of any standard.
3. No suspension shall exceed seven days without the approval of the Commissioner of Corrections for a time specified by him.

C. Huber sentences (including educational release sentences) shall be exempt from the 30 day confinement limitation in lockups and may be exempted from the 72 hour confinement limitation in holding facilities by approval of the Commissioner of Corrections.

A. Staff Health.

1. All employees shall, prior to employment and annually thereafter, show freedom from tuberculosis by a report of either a standard Mantoux tuberculin test or a chest X-ray.

   a. If the Mantoux test is positive or contra-indicated, a chest X-ray shall be taken. The results of these tests shall be reported in writing and made a part of the staff member's personnel record.

2. Any staff member with a communicable disease shall not be permitted to work in the facility until such time that a physician certifies that the staff member's condition will permit his return to work without endangering the health of other staff and prisoners.

3. The facility administrator shall require that a staff member have a medical examination when there is reason to believe a communicable disease exists.

B. Recruitment.

1. The selection, appointment and promotion of facility personnel shall be made on the basis of assessed ability.

2. There shall be no discrimination with respect to employment on the grounds of race, color, religion, sex or national origin.

3. All custodial personnel employed after the effective date of these standards shall be at least 18 years of age.

   a. Non-custodial employees or volunteers under 18 years of age shall be under direct supervision.

4. Recruitment standards shall be reasonable and geared to reach the widest possible work force.

   a. Recruitment standards shall set forth the basic requirements as to age, ability, preparatory experience, physical condition and

character. They shall also set forth those qualities which may disqualify, such as drug or alcohol abuse, sexual deviance, criminal record or poor past work record.

C. Employee Evaluation.

1. Every employee shall satisfactorily complete a probationary period on the job before appointment is made permanent.
2. Each employee shall be evaluated at least once during their probationary period - twice is recommended - and annually thereafter.
3. Evaluations shall be in writing and made a part of the employee's personnel record.

D. Extra Duty.

1. No employee shall be assigned to duty for two consecutive work periods except in a documented emergency, or where unusual circumstances require reasonable and prudent exception.

E. Staffing Requirements.

1. Staffing Plan. The facility administrator shall prepare and retain a staffing plan indicating the personnel assigned to the facility and their duties.
2. Minimum Staff Requirements. The following are minimal staff requirements for each facility:
   a. Facility Administrator. There shall be a single administrator or chief executive of each facility. Where the average daily population of prisoners exceeds 50, the administrator shall have an assistant.
      (1) Person in Charge. In the absence of the facility administrator, a staff person shall be designated as person in charge. The facility shall not be left without such on-site supervision.

(2) Persons in charge shall be certified in writing by the facility administrator as physically able, competent, capable and prepared by training to act in an emergency.

b. Staff Presence. No person shall be detained without a staff person on duty, present in the facility, awake and alert at all times, capable of responding to reasonable needs of the prisoner.

c. Sex of Staff. Staff members shall not be placed in positions of responsibility for the supervision and welfare of prisoners of the opposite sex in circumstances that can be described as invasion of privacy, degrading or humiliating to the prisoners.

(1) Where staff of one sex are used as program resource personnel with prisoners of the opposite sex, backup staff of the prisoners' sex must be on duty, awake and alert in the facility to provide assistance as needed without delay.

d. Relief Staff. Personnel shall be provided to perform ancillary functions such as transportation or court escort to the extent necessary to insure that security, supervision of prisoners, the administration of program activities, and the efficient operation of the facility are not reduced or jeopardized by such activities.

(1) Part-time and relief staff shall complete orientation training appropriate to the facility's classification.

e. Maintenance Personnel. Maintenance personnel shall be employed to perform preventive, routine and emergency maintenance functions.

(1) Custodial staff shall not be given physical plant maintenance duties which are incompatible with or detract from their primary responsibility for ongoing supervision of prisoners.

f. Dispatcher/Custodial Person. No staff person shall be assigned as a combination dispatcher/custodial person when such assignment is incompatible with or detracts from the responsibilities of custodial functions as required by these rules.

g. Custodial Staff. The ratio of custodial staff to prisoners shall be not less than one staff person to 25 prisoners at any time of the day or night.

h. Program Staff Requirements. Program staff requirements as applicable to a facility's classification are as follows:

(1) Holding Facility. No on-site program staff required.

(2) Lockups, Program and Resource Coordinator. The facility administrator shall designate a staff person to coordinate community services and volunteers utilized by the facility. Such staff person need not be full-time in this capacity.

(3) Jails.

(a) Less Than 25 Average Daily Population. Jails with an average daily population of 25 or less shall have one staff person designated as program and resource coordinator of educational, vocational, social, volunteer and community services. Such staff person shall in consultation with the facility administrator, develop and implement on-site educational/vocational, social service and volunteer programs consistent with the needs of prisoners and available community resources. Such staff person may serve full or part-time in this capacity at the discretion of the facility administrator and governing body.

(b) Over 25 Average Daily Population. Jails with average daily populations exceeding 25 shall have full-time program and resource coordinators of educational, vocational, social and volunteer services as follows:

Average Daily Population:

25 - 50	One staff person required.
51 - 100	Two staff persons required.
Over 100	To be determined by mutual agreement of the county and Department of Corrections.

(c) Jails with average daily populations exceeding 50 shall have a minimum of one full-time staff person assigned to recreational programming.

(4) Adult Corrections Facilities.

(a) Educational/Vocational and Social Service Staff. One educational/vocational staff person and one social service staff person shall be employed full-time for every 30 prisoners of the facility's average daily population. For the purpose of this standard, the superintendent, director, program director, treatment supervisor, educational/vocational supervisor or other such professional staff shall not be used in computation of this ratio unless there is documented evidence indicating that a substantial portion of their work time is spent in direct service to prisoners.

(b) Recreation Staff. Adult corrections facilities with approved capacities exceeding 50 shall have a minimum of one staff person assigned to recreational programming.

(c) Volunteer Services. All adult corrections facilities shall have a staff person designated to develop, implement and coordinate volunteer services. Facilities having approved capacities of 100 or more shall have a volunteer services coordinator.

A. Training Plan. Each facility administrator shall develop and implement a training plan for the orientation of new employees and volunteers and provisions for continuing in-service training programs for all employees and volunteers.

1. The training plan shall be documented and be descriptive of course curriculum, methods of instruction and objectives of instruction.
2. In-service training plans shall be prepared annually and orientation training plans reviewed and revised as necessary to changing conditions.

B. Orientation Training. All custodial personnel shall complete a minimum of 24 hours of orientation training to their duties and responsibilities.

1. Such training shall be satisfactorily completed as soon as practical, but not more than 90 days from the time of employment.

C. Probationary Period Training. All custodial personnel of holding facilities, lockups, jails and adult corrections centers shall satisfactorily complete a Department of Corrections approved facility operations programmed instruction course or equivalent training prior to completion of a probationary period.

D. In-Service Training. All custodial personnel and all middle management and non-management professional personnel except those employed in holding facilities shall complete a minimum of 24 hours of in-service training per year.

E. Management Training. All management personnel and facility administrators employed in jails and adult corrections facilities who have not completed comparable training or who have not had two or more years administrative experience shall complete at least the orientation training appropriate to the facility's classification.

STAFF DEPLOYMENT, JOB DESCRIPTIONS, WORK ASSIGNMENTS, POST ORDERS, POLICIES AND PROCEDURES

A. Job Descriptions. Each facility administrator shall develop written job descriptions for all position classifications and post assignments which define responsibilities, duties and qualifications.

1. These shall be readily available to all employees with copies on file in the administrator's office.
2. Each employee shall be thoroughly familiar with his duties and responsibilities.

B. Work Assignments. Work assignments shall be consistent with qualifications as stated in job descriptions and the approved staffing plan of the facility.

C. Channels of Communication. The facility administrator shall develop and maintain channels of communication with employees which include:

1. Distribution of written personnel policies to employees.
2. Regularly scheduled meetings of supervisory personnel.
3. Regularly scheduled meetings between supervisors and subordinates.
4. Probationary and annual employee evaluations.

D. Staff Policies and Procedures. The facility administrator shall develop written policies and procedures to cover emergency situations, such as escape, fire, medical emergencies, etc.; procedural statements concerning admission and release of prisoners, schedules for laundry, feeding, canteen, visiting, security checks and other events of significant bearing on the consistency of operations.

E. Policy and Procedure Manuals. All policies and procedures concerning the facility's operation shall be made available to all employees at the time of employment and as revised thereafter in policy and procedure manuals.

1. Such manuals shall also be available at post assignments.

F. Personnel Policies. Written personnel policies shall be developed by the facility administrator and governing body which specify hours of work, vacations, illness, sick leave, holidays, retirement, employee health services, group insurance, evaluation procedures, promotions, personal hygiene practices, attire, conduct, disciplinary actions and other items which will enable employees to perform their duties properly.

G. Availability of Standards. Copies of all standards relating to the facility and its operation shall be made available to all personnel of the facility.

1. All personnel shall be instructed in the requirements of the law and standards pertaining to their respective duties.
2. Such instruction shall be documented and on file.
3. Assistance with respect to developing conditions necessary to comply with standards shall be provided by the Commissioner of Corrections when requested.

H. Public Information Plan. Each facility administrator shall develop a written plan for dissemination of information to the public, to other government agencies, and to the news media.

A. Maintenance of Records and Reports. Each facility shall maintain accurate and complete records, reports and statistics necessary for the conduct of its operation.

1. The following records, reports and statistics shall be maintained:

   a. Admission and release records.

   b. Prisoner personal property records.

   c. Records of reports submitted to the Department.

   d. Clothing, linen and laundry records.

   e. Records of budget requests and work orders.

   f. Unusual occurrence records.

   g. Records of policies and procedures.

   h. Records of correspondence with the Department.

   i. Employee personnel records.

   j. Records of staff training.

   k. Accounting records.

   l. Registers.

   m. Food service records.

   n. Daily logs.

   o. Medical and dental records.

   p. Programming records (holding facilities exempted).

   q. Disciplinary records.

   r. Good time records (holding facilities exempted).

2. The Department of Corrections shall make available sample approved forms upon request on items A. 1. a. - r.

B. Storage and Preservation of Records. Space shall be provided for the safe storage of records at the facility's record keeping or control center and in general storage.

1. Records shall be filed so as to be organized and readily retreivable.
2. All prisoner records shall be preserved as required by law and in accordance with requirements established by the State Records Center.

C. Filing and Disposition of Records. Prisoner records shall be incorporated into individual folders and filed at the facility's record keeping or control center.

1. The records of released prisoners shall be promptly completed and filed in the facility.

D. Confidentiality of Records. Prisoner records shall be kept in conformity with State law.

A. Separation. A combination of separate living spaces, sanitation facilities, activity spaces, cell units and detention rooms shall be provided to properly segregate prisoners pursuant to MSA 641.14, 641.15 and 636.07.

1. Whenever possible within the limitations of the existing facility and staff, witnesses, first offenders, traffic offenders, non-support and contempt cases shall be housed separate from those charged and/or sentenced for criminal offenses.

2. Facility administrators of lockups, jails and adult corrections centers may at their discretion provide supervised activities and programs of a coeducational nature for adult male and adult female prisoners.

   a. Supervision of coeducational activities and programs shall be provided by a staff person at all times, and a staff person of the opposite sex shall be in the immediate area in the event their services are required.

B. Classification.

1. Holding Facilities. Shall comply with the separation standards herein contained.

2. Lockup Facilities. Shall screen all admissions at the time of booking for the purpose of determining prisoner classification by sex, age, category of offense (felon, misdemeanant), degree of escape risk, assaultive/non-assaultive, and other criteria designed to provide for the safety of prisoners, staff and the community.

3. Jail Facilities and Adult Corrections Facilities. In addition to the classification requirements for lockups, these facilities shall develop and implement a written classification plan or system which includes specific criteria by which prisoners are assigned to housing units.

a. The decision on which housing unit a prisoner will be assigned to initially shall be made by the intake staff using the above mentioned criteria.

C. Prisoner Rules and Regulations.

1. Copies of rules and regulations shall be made available to all prisoners throughout their confinement concerning the following:

a. Rules and regulations governing conduct and disciplinary consequences.

b. Procedures for obtaining personal hygiene and canteen items.

c. Policies governing visiting, correspondence, bathing, laundry and clothing and bedding exchange.

d. Legal rights. Prisoners shall be advised of their legal rights with respect to detention or confinement by facility personnel to the extent requested and facility staff feel qualified to advise.

e. Official charge or legal basis for detention and confinement. Every prisoner admitted to any facility shall be advised of the official charge or legal basis for detention and confinement.

2. Each of the above shall be explained to those prisoners who are unable to read rules and regulations or have any questions regarding same.

3. Each prisoner, except those detained in holding facilities, within 24 hours of admission, shall be provided with a copy of the program options and activities provided in the facility as well as the outside resources available.

D. Prisoner Discipline.

1. Discipline Plan. All facilities shall have a prisoner discipline plan, which explains clearly and precisely the consequences or administrative sanctions for specific behaviors, omissions, the administrative process for handling major and minor violations, the right to internal review and the review process.

   a. The facility administrator shall include in the disciplinary plan a system of due process which has the approval of the court and the county attorney.

2. Limitations on Disciplinary Actions.

   a. No prisoner shall be held in disciplinary isolation for a period longer than 24 hours without on-site review by the facility administrator or his assistant.

      (1) If continued isolation is deemed necessary by the facility administrator, this decision shall be documented, as shall each subsequent on-site review every 24 hours.

   b. The disciplinary isolation cell shall have the minimum furnishings and space specified in these standards.

      (1) Prisoners shall be issued clothing and bedding as specified in these standards excepting that those prisoners who persist in the destruction of bedding, clothing or self with same, may be deprived of such articles.

      (2) The decision to deprive prisoners of such articles of clothing and bedding shall be reviewed during each eight hour period.

   c. The delegation of authority to any prisoner or group of prisoners to exercise the right of punishment over any other prisoner or group of prisoners is expressly prohibited.

d. No prisoner shall be deprived of the use of materials necessary to maintain an acceptable level of personal hygiene under supervision.

3. Disciplinary Records. The keeping of a record of all disciplinary infractions and punishment administered therefor is mandatory.

a. This requirement shall be satisfied by retaining copies of rule violation reports and reports of the disposition of each.

4. Segregation. Each facility administrator shall develop and implement policies and procedures for the use of segregation.

a. Such a plan shall include, but need not be limited to the following:

(1) Administrative Segregation. Each facility administrator shall provide for the administrative segregation of prisoners who are determined to be mentally deficient, prone to escape, prone to assault staff or other prisoners or likely to need protection from other prisoners where such administrative segregation is determined to be necessary in order to achieve the objective of protecting the welfare of prisoners and staff.

(a) Administrative segregation shall consist of separate and secure housing, but shall not involve any other deprivation of privileges than are necessary to obtain the objective of protecting the prisoner, staff or public.

(2) Use of Isolation Cell/Room. The disciplinary isolation cell/room shall be used for the housing of only those prisoners who display bizarre behavior which results in the destruction of facility furnishings or reveal an intent to cause physical harm to self or others.

(a) Such prisoner shall be placed in isolation only with the approval of the facility administrator or the designated person in charge - shift supervisor - and continued retention in such a room shall be reviewed a minimum of every 24 hours.

(b) A medical opinion on placement and retention shall be secured within 24 hours of placement with continued retention to be re-evaluated every 24 hours thereafter.

(c) Intermittent visual supervision shall be provided at least every half hour.

5. Instruments of Restraint. Instruments of restraint, such as handcuffs, chains, irons and straightjackets shall never be applied as a punishment.

a. Instruments of restraint shall not be used except in th e following circumstances:

(1) As a precaution against escape during a transfer, provided that they shall be removed when the prisoner appears before a judicial or administrative authority.

(2) On medical grounds by direction of a consulting or attending physician.

(3) By order of the facility administrator or person in charge, if other methods of control fail, in order to prevent a prisoner from injuring himself or others or from damaging property.

b. The facility administrator shall develop written policies and procedures to govern the use of restraints.

c. Such instruments shall not be applied for any longer time than is strictly necessary.

d. Each incident involving the use of restraints consistent with D. 5. a. (2) or D. 5. a. (3) shall be documented and on file.

E. Activities.

1. Activities Plan. Each facility administrator shall develop and implement a plan for the constructive scheduling of prisoner time.

a. The plan shall be consistent with established legal rights of prisoners, the type and status of prisoners detained and the facility's classification.

b. Such a plan shall include consideration of, but not be limited to the following:

(1) The facility's rated capacity.

(2) The security classification of prisoners confined. Activities and amenities shall be consistent with the classification and behavior of prisoners and may be in accordance with established reasonable and necessary facility regulations to protect the facility's security and the prisoners' welfare.

(3) The variety of activities and leisure services shall be proportionate to the prisoner's length of confinement.

2. Provisions for Religious Services and Counseling. Prisoners shall be afforded an opportunity to participate in religious services and counseling on a voluntary basis.

a. The facility administrator shall arrange with the clergy within the area to conduct religious services and provide counseling if requested.

b. Prisoners requesting private interviews and counseling regarding religious, personal or family problems with accredited clergy, nuns, seminarians and lay persons active in community church affairs, shall be afforded this opportunity within such regulations as are reasonable and necessary to protect the facility's security.

c. No prisoner shall be required to attend religious services and religious services shall be held in such a location that the prisoners who do not wish to participate are not exposed to the service.

d. Any prisoner desiring to read the Bible will be provided with a copy of same.

e. Attendance or lack of attendance at religious services shall not be considered as a basis for any right or privilege within the facility.

3. Library Service. The facility administrator of each facility shall develop and implement a plan for library service including provisions for:

a. Access to current leisure reading material such as books, magazines and newspapers.

(1) Such materials shall be subject to the approval of the facility administrator.

b. Textbooks necessary to complete a course of study and legal books and references requested by prisoners shall be provided upon request to the extent resources permit.

(1) The facility's governing body shall not be responsible for purchasing such materials.

4. Work Assignments.

a. Work Assignments -- Juveniles.

(1) Juveniles may be required to perform such duties as making beds, cleaning own rooms, cleaning group living and activity areas.

(2) They shall not be required to perform such duties as personal services to staff, cleaning or maintaining areas away from the facility, replacing employed staff.

(3) Reasonable criteria for eligibility shall be established and any juvenile may be excluded or removed from any type of work assignment for failure to abide by facility rules and regulations.

(4) Care shall be taken not to require any juvenile to do work they cannot perform for physical reasons.

b. Work Assignments -- Adult Prisoners. Applies to lockups, jails and adult corrections facilities.

(1) Adults held in custody awaiting court appearances shall not be compelled to participate in any program of work, treatment or rehabilitation. (Requiring an adult to maintain cleanliness of his person and immediate living area does not violate this principle.)

(2) The facility administrator shall develop and implement an adult work assignment plan. Within the limitations of the number of available work opportunities, such a plan shall provide opportunities for the utilization of both sentenced and unsentenced adults; however, unsentenced adults shall not be compelled to participate in such programs, but shall be given the opportunity to do so. Reasonable criteria for

eligibility shall be established, and any adult may be excluded or removed from any type of work assignment for failure to abide by facility rules and regulations.

(3) No adult under sentence shall be required to work more than 10 hours per day.

(4) Care shall be taken not to require adults to do work they cannot perform for physical reasons.

(5) All adults under sentence may be required to work, subject to their physical and mental fitness as determined by trained medical personnel.

(6) Within the limits compatible with proper vocational selection and the requirements of facility administration and discipline, consideration shall be given to adults with regard for their work preference and previous training.

5. Canteen. See the Food Service section of these standards.

6. Exercise and Recreation. Each facility administrator shall develop and implement a plan providing for opportunities for physical exercise and recreational activities for all prisoners consistent with the facility's classification. Such a plan shall include but is not limited to the following:

   a. Such regulations as are reasonable and necessary to protect the facility's security and the prisoners' welfare.

   b. Lockups and jails shall develop provisions for a minimum of one hour of such activity during each day.

c. Adult corrections facilities shall develop a plan with provisions for a minimum of two hours daily of organized and supervised physical exercise and recreational activities for all prisoners. Organized and supervised means pre-planned exercise or activities supervised by staff qualified to direct same.

d. Lockups, jails and adult corrections facilities shall have provisions for indoor space and equipment for active recreation consistent with the following criteria:

(1) The facility's rated capacity.

(2) Age, type and length of confinement of prisoners.

(3) Amount of space and equipment provided.

e. Adult corrections facilities shall provide suitable outdoor recreational space, equipment and supportive staff for outdoor recreational programming.

7. Leisure Services. Each facility administrator shall develop and implement a plan and provisions for leisure time activities, equipment and materials consistent with the following:

a. Holding facilities need not develop such a plan due to the short period of confinement of prisoners.

b. All facilities except holding facilities shall have provisions for leisure time activities that may include television, radio, table games, hobby craft items and library materials. Provisions shall be provided consistent with:

(1) The facility's rated capacity.

(2) The security classification of prisoners confined. Amenities shall be consistent with the classification of prisoners and

may be in accordance with established reasonable and necessary facility regulations to protect the facility's security and the prisoners' welfare.

(3) The variety of leisure services provided shall be proportionate to the length of confinement.

c. The facility administrator of each lockup, jail and adult corrections facility shall develop and implement in-cell programs for those prisoners who are considered too dangerous to be released from their cells except within the exercise areas provided, as well as those times when it is necessary to confine prisoners to their cells.

F. Visiting.

1. Visiting Plan. Each facility administrator shall develop and implement a prisoner visiting plan. Such plan shall be in writing and shall include, but not be limited to the following:

a. Security provisions consistent with security standards stated herein.

b. Provisions for prisoner consultation with their attorneys at the place of confinement as many times and for such period each time as is reasonable. Attorney visits shall not be monitored.

c. The administrator shall uniformly set the numbers of permissible visits for each prisoner and the number of visitors permitted for each visit.

(1) Although visits must be governed by administrative constraints and space availability, parents' or guardians' visiting policies shall be as unrestrictive as practical with respect to juveniles. The child's parent, guardian or

custodian and attorney shall be permitted to make an initial visit to the facility at any time.

(2) Adult prisoners shall be permitted an initial visit within 24 hours with a member or members of their immediate family.

(3) Holding facilities shall meet requirements of (1) and (2) above.

(4) Lockups shall meet requirements of (1) and (2) above and shall provide for a minimum of 10 regularly scheduled visiting hours weekly.

(5) Jails shall meet requirements of (1) and (2) above and shall provide for a minimum of 14 regularly scheduled visiting hours weekly.

(6) Adult corrections facilities shall meet requirements of (2) above and shall provide for a minimum of 14 regularly scheduled visiting hours weekly.

d. Visits shall be allowed for identified members of a prisoner's immediate family, his counsel, clergyman, and friends as deemed appropriate by the facility administrator or his designee.

e. The administrator may deny a visit to a prisoner when he has reasonable grounds to believe that the visit might endanger the security of the facility.

(1) Reasons for denial of a visit shall be in writing and on file in the facility.

f. Visitors shall register, giving names, addresses, relationship to prisoner and nature of business.

G. Correspondence.

1. Each facility administrator shall develop and implement a plan for the handling of prisoner mail consistent with established legal rights of prisoners and reasonable and necessary facility regulations to protect the facility's security. Such a plan shall include provisions for the following:

a. The volume of written mail to or from a prisoner shall not be restricted.

b. Facility staff shall have the right to inspect incoming and outgoing mail, but neither incoming mail or outgoing mail shall be read or censored without documented justification.

(1) Cash, checks or money orders shall be removed from incoming mail and credited to the prisoners' accounts.

(2) If contraband is discovered in either incoming or outgoing mail, it shall be removed.

c. Prisoners shall receive a postage allowance to maintain community ties.

H. Clothing, Bedding and Laundry Services.

1. Clothing.

a. Each prisoner shall have neat, clean clothing appropriate for the season.

b. The use of facility clothing on an ongoing basis shall be at the discretion of the facility administrator.

c. All prisoners admitted to the facility who are assigned to living units shall be issued a set of facility clothing.

(1) Their personal clothing may be returned after laundering at the discretion of the facility administrator.

(2) The clothing issue shall consist of clean socks, and suitable outer and undergarments.

(3) Prisoners not admitted to living units who are detained in holding rooms or cells utilized solely for the purpose of intake and release processing need not be issued clothing. Such rooms or cells shall be kept in sanitary condition.

d. Clothing shall be exchanged at least twice each week or more often as necessary.

e. The facility shall have available a sufficient quantity and variety of clothing to insure each prisoner has neat, clean clothing appropriate to the season.

f. Prisoners' excess personal clothing shall be either mailed to, picked up by, or transported to designated family members or stored in ventilated lockers or boxes designed for this purpose and properly identified, inventoried and secured.

2. Linens and Bedding.

a. Each prisoner admitted to the facility shall have made available the following:

(1) One bath towel, one hand towel, one washcloth.

(2) One clean, firm, fire-retardant mattress.

(3) Two sheets or one sheet and a clean mattress cover.

(4) Sufficient clean blankets to provide comfort under existing temperature conditions.

(5) One pillow and one pillow case.

b. Clean linens shall be furnished at least once each week, or more frequently to maintain cleanliness.

c. Bedding and linens which are worn out or unfit for further use shall not be used.

3. Removal of Clothing or Bedding.

a. Under extreme circumstances, it may be deemed necessary by the facility administrator or person in charge to remove clothing and/or bedding from a prisoner.

b. As such action implies that all reasonable steps have been taken without success to insure the safety and well-being of the prisoner as well as the security of the facility, an unusual occurrence report shall be completed and filed.

4. Laundry Services.

a. Laundry services shall be managed so that daily clothing, linen and bedding needs are met.

b. The collection, storage and transfer of clean and soiled clothing, bedding and linen shall be accomplished in a manner which will minimize the danger of disease transmission.

(1) Care shall be taken to maintain separation of clean and soiled linens and clothing.

c. Where laundry service is obtained from an outside agency or establishment, such service shall be provided under a written agreement which shall specify that the service meets standards required by the State Department of Health.

d. Prisoners' personal clothing, where allowed, and other non-linen items shall be laundered in accordance with appropriate washing procedures for the various fabrics.

e. Blankets shall not be issued to another prisoner without first being laundered.

I. Emergencies and Unusual Occurrences.

1. Emergency Plan. The facility administrator shall develop a written disaster plan with procedures for the protection and evacuation of all persons in the case of fire, explosion, flood, tornado or other emergencies.

   a. The plan shall be developed for each facility and its type of occupancy with the assistance and advice of at least the local fire and/or rescue authority (Civil Defense).

   b. The plan shall include information and procedures relative to: locations of alarm signals and fire fighting equipment, frequency of drills, assignment of specific tasks and responsibilities of the personnel on each shift, persons and local emergency department to be notified, precuations and safety measures during tornado alerts, procedures for evacuation of prisoners during emergencies when necessary, and arrangements for temporary emergency confinement and care in the community in the event of a total evacuation.

   c. Copies of the disaster plan containing basic emergency procedures shall be posted at all staff stations.

   d. Copies of a detailed disaster plan shall be available to all supervisory personnel.

2. Security Policies and Procedures. Emergency planning shall be sufficient to provide immediate and effective action in the event of any emergency.

   a. All such planning shall be inclusive of policies and procedures designed to protect the public by securely detaining prisoners who present a danger to the community or to themselves.

3. Other Emergency Planning. In addition to development of a disaster plan as outlined in I. 1., emergency planning shall be sufficient to provide immediate and effective action in the event of hostage incidents, escape and escape attempts, suicide and attempted suicide, any illness or accident deemed a medical emergency, power failure, major prisoner disturbances such as riots or rebellions, assaults and outbreaks of contagious disease or epidemic.
4. Auxilliary Source of Power. Each facility shall have an auxilliary source of power which is capable of providing light, heat and communication during a power failure.
5. Emergency Procedures Meeting. There shall be a meeting of all employees on each shift at least once every three months to discuss and review emergency procedures used in the facility. Business of the meeting shall cover:
   a. Assignment of persons to specific tasks and responsibilities in case of emergency situations.
   b. Instructions relating to the use of alarm systems and signals.
   c. Systems for notification of appropriate persons outside the facility.
   d. Information on the location and use of emergency equipment in the facility.
   e. Specification of evacuation routes and procedures.
6. Unusual Occurrences.
   a. All incidents or attempted incidents of an unusual or serious nature which involve, or endanger the lives or physical welfare of facility staff or prisoners shall be reported to the Department within 72 hours in writing.

(1) Such report shall include the name(s) of person(s) involved (staff and prisoners), nature of unusual occurrence, actions taken, and the date and time of occurrence

(2) Unusual occurrences shall include, but need not be limited to the following:

(a) Suicide.

(b) Homicide.

(c) Death (other than suicide or homicide).

(d) Serious injury or illness (accidental, self or other inflicted, incurred subsequent to detention).

(e) Escape, runaway or work release absconders.

(f) Fire.

(g) Riot.

(h) Assaults on staff or prisoners.

(i) Other serious disturbances.

(j) Occurrences of infectious diseases and disposition.

(3) Unusual occurrences shall be reported on Minnesota Department of Corrections Form Corr. 390, "Special Incident Reporting Form for Local Detention Facilities." Copies of the form may be obtained by contacting the Director of Inspection and Enforcement.

(4) In the event of an emergency or unusual occurrence such as hospitalization, serious illness, accident, imminent death or death, the prisoner's family or others who maintain a close relationship with him shall be notified.

7. Prisoner Death. When a prisoner's death occurs:

   a. The date, time and circumstances of the prisoner's death shall be recorded in the prisoner's record.

   b. If the prisoner dies in the facility, the coroner's office shall be notified.

   c. Personal belongings shall be handled in a responsible and legal manner.

   d. Records of a deceased prisoner shall be retained for a period of time in accordance with law and the requirements of the State Records Center.

   e. The facility administrator shall observe all pertinent laws and allow appropriate investigating authorities full access to all facts surrounding the death.

A. General Requirements. The goals of food service in each facility shall be to provide food and beverages to prisoners that are nutritionally adequate, that are palatable, that are produced in a manner to prevent foodborne illness, are of adequate quantity and variety, are served at appropriate temperatures and are prepared by methods which conserve nutritional value.

B. Food Handling Practices.

1. Any food service provided in a correctional facility shall be in accordance with the provisions of the Minnesota State Board of Health Regulations MHD 161-170 governing food service and beverage service establishments.

2. Wherever the food service in a facility is limited to serving ten prisoners or less, then variances from the requirements may be granted by the Department of Corrections after consultation with the State Department of Health.

   a. These variances may include, but not be limited to, substitution of certain domestic type equipment for commercial type.

3. When food is catered into the facility, it shall be obtained from a source acceptable to the Minnesota State Board of Health and transported, handled and served in accordance with provisions of applicable regulations of the Board.

C. Dietary Allowances. The food and nutritional needs of prisoners shall be met in accordance with their needs, physician's orders and shall to the extent medically possible, meet the dietary allowances contained in Corr. 109 C. 1. for all prisoners detained or confined in lockups, jails and adult corrections facilities. Food service requirements for holding facilities are contained in Corr. 109 D.

1. Lockups, Jails and Adult Corrections Facilities.

All lockups, jails and adult corrections facilities shall have menu planning sufficient to provide each prisoner the following specified food servings per day:

a. Meat or Protein Group. Two or more servings per day. A serving of meat or protein is defined as:

2-3 ounces cooked (equivalent to 3-4 ounces raw) of any meat without bone, such as beef, pork, lamb, poultry, or variety meats such as liver, heart and kidney.

2 slices prepared luncheon meat.

2 eggs.

2 ounces of fresh or frozen cooked fish or shellfish, or 1/2 cup canned fish.

1 cup cooked navy beans.

b. Milk Group. Two or more servings per day. A serving is defined as eight (8) ounces (one cup) of milk. A portion of this amount may be served in cooked form, such as cream soups, desserts, etc.

1 ounce of cheese for 3/4 cup milk.

3/4 cup cottage cheese for 1/3 cup milk.

1/2 cup ice cream for 1/4 cup milk.

c. Vegetable Group. Two or more servings per day, one of which is deep green or yellow. A serving is defined as 1/2 cup.

d. Potato or Potato Substitute. One serving white or sweet potatos; macaroni, spaghetti, noodles or rice.

e. Fruit Group. Two or more servings per day, one of which is citrus (i.e., orange, grapefruit) or tomato. A serving of citrus fruit or tomato is defined as:

1 medium orange or 4 ounces of orange juice.

1/2 grapefruit or 4 ounces of grapefruit juice.

1 large tomato or 8 ounces of tomato juice.

f. Cereal and Bread Group. Three to four servings per day of whole grain or enriched products. A serving is defined as:

1 slice bread.

1/2 cup cooked cereal.

3/4 cup dry cereal.

1/2 cup macaroni, rice or noodles.

g. Fats. Use butter, fortified margarine, cream or salad oil in moderate amounts to make food palatable.

h. Supplementing Caloric Needs. Additional servings of the above foods may be used or the following foods added to meet caloric needs: soups, sweets such as desserts, sugar, jellies, or other fats such as bacon, cream and salad dressings.

D. Holding Facilities.

1. Holding facilities with a minimum number of prisoners at any one time, and not normally holding prisoners in excess of 72 hours, shall either contract with a State Department of Health approved local restaurant for catering of food services, or shall purchase food on a "when and as necessary" basis for prisoners being temporarily detained.

2. The following standards shall apply:

a. Food shall be of sufficient nutritional value.

b. Food shall be provided at reasonable and proper intervals, e.g., adhering to breakfast, lunch and dinner schedules.

c. Food shall be served promptly after being cooked.

d. Coffee, tea or milk shall be served with each meal.

e. Utensils shall be cleaned in conformity with State Department of Health standards insuring sanitary cleanliness.

f. A minimum of one hot meal shall be provided for each 24 hours of detention.

E. Frequency of Meals. There shall not be more than 14 hours between a substantial evening meal and breakfast. Where prisoners are not routinely absent from the facility for work or other purposes, at least three meals shall be made available at regular times during each 24 hour period.

F. Therapeutic Diets. Any facility housing prisoners in need of medically prescribed therapeutic diets shall have documentary evidence that such diets are provided for as ordered by the attending physician.

G. Use of Food in Discipline. Food shall not be withheld as a punishment for unacceptable behavior.

H. Supervision of Meal Serving. All meals shall be served under the direct supervision of staff.

I. Menu Records. Records of menus and of foods purchased shall be filed for one year.

J. Hot Meal Minimum. A minimum of one hot meal shall be provided for each 24 hours of confinement.

K. Canteen.

1. All lockup, jail and adult corrections facilities with approved capacities of 50 or less shall provide prisoners with a printed list of approved canteen items to be purchased by a facility staff member at local stores if the facility does not operate a canteen in the facility.
2. All such facilities with approved capacities over 50 shall establish, maintain and operate a canteen in the facility.
3. Each prisoner shall have an opportunity to purchase from the canteen at least twice per week.
4. Holding facilities are not required to provide canteen services.
5. All vending machines used shall meet appropriate State Department of Health requirements.

L. Budgeting, Purchasing and Accounting.

1. Each facility administrator of lockups, jails and adult corrections facilities shall, in cooperation with the local unit of government or governing body and food service supervisor, establish policies and procedures for budgeting, purchasing and accounting.
2. Such policies and procedures shall include, but need not be limited to:
   a. A food expenditure cost accounting system designed to isolate cost per meal per prisoner.
   b. Policies and procedures for estimating food service requirements in advance of their need.
   c. Consideration of prisoner eating habits and food waste.
   d. Consideration of facilities for storage and refrigeration as well as accepted storage periods for dry, canned and perishable foods.

M. Containers and Food Storage.

1. Food Containers. All food or food products, prepared or in bulk shall be stored in approved seamless containers after opening of the original container. Dry milk and milk products after opening shall be stored in seamless, air-tight containers.
2. Storage of Non-Perishable Food. Non-perishable food, and single-service articles shall be stored off the floor on washable shelving in a ventilated room. It shall be protected from dust, flies, rodents, vermin, overhead leakage and other sources of contamination, and shall be placed away from areas with excessive heat.
3. Storage of Perishable Food. All perishable food shall be stored off the floor on washable, corrosion-resistant shelving under sanitary conditions, and at temperatures which will protect against spoilage. Meat and dairy products shall be stored at 40°F. or below, and fruit and vegetables at 50°F. or below. When stored together, the lower temperature shall apply. Temperatures shall be monitored by an accurate thermometer.
4. Prohibited Storage. The storage of detergents, cleaners, pesticides and other non-food items, including employees' personal items, is prohibited in food storage areas.
5. Returned Food. Returned portions of food and beverages from individual servings shall not be reused unless such food or beverage is served in a sealed wrapper or container which has not been unwrapped or opened.
6. Ice. Ice shall be stored and handled in a sanitary manner. Stored ice shall be kept in an enclosed container. If an ice scoop is used, the scoop shall be stored in a separate compartment to prevent the handle from contact with the ice.

N. Transport of Food. Food shall be covered during transport through non-dietary areas, but need not be covered when served in a contiguous dining area. The food service system shall be capable of keeping food hot or cold until served. A dumbwaiter or conveyor, which cab or carrier is used for the transport of soiled linen or soiled dishes, shall not be used for the transport of food.

A. Policies and Procedures. Security policies and procedures shall be developed to cover at least the following. Such policies and procedures shall recognize that the primary objective of each facility is to protect the public by securely detaining persons who present a danger to the community or to themselves.

1. Control and recovery of contraband.
2. Visitor and visit control.
3. Delivery and service procedure.
4. Equipment maintenance and efficiency.
5. Prohibition on firearms in prisoner areas.
6. Search and shakedown schedules and procedures.
7. Escort of prisoners outside security areas.
8. One-half hour interval inspection routines.
   a. One-hour intervals are acceptable if proper auditory and visual supplements are provided.
9. Escape prevention and action plans.
10. Tool, medication, key and weapon control procedures.
11. Count procedure.
12. Classification of prisoners.
13. Lockup and disciplinary procedures.
14. Riot prevention and control procedures.

B. Admissions.

1. The intake procedure conducted by the admitting officer for all admissions, including prisoners on release status from the facility, upon their return, shall provide for a thorough search of the prisoner and belongings; in the event of all new admissions, a shower (delousing if indicated), an assessment of health status and physical needs, security classification, an inventory of

prisoner's property, properly recorded and signified by the owner as correct, fingerprinting, photographing and completion of an admission form to include all information required in Minnesota Statute 241.021.

2. No prisoner shall be received by the staff of a facility until the arresting or escorting officer has produced proper credentials and/or until the proper documents have been completed, identifying the purpose for the apprehension or commitment.
3. All intake procedures shall be conducted in a manner and location that assures the personal privacy of the prisoner and the confidentiality of the transaction from unauthorized personnel.

C. Releases.

1. Upon release of a prisoner, the property of that prisoner, unless held for authorized investigation or litigation, shall be returned with a signed receipt acknowledging same.
2. No prisoner shall be released in intemperate weather without proper clothing to insure health and safekeeping.
3. Whenever possible, prisoners shall be permitted to make arrangements for transportation prior to their release.

D. Search and Shakedowns.

1. Visitors who seek to enter the security area of the facility shall not be permitted admission whenever they refuse to submit to a requested search, either frisk or strip, conducted by a member of the same sex.
2. The facility shall be regularly inspected for contraband; evidence of breeches in security; inoperable security equipment.
3. All materials delivered to or transported from the facility shall be inspected for contraband prior to distribution.

E. Locks and Keys.

1. All keys to security locks shall be properly tagged and stored in a secure cabinet within a secure area, out of reach from the prisoners or the public.

   a. Keys that serve a critical security purpose shall be red-tagged for easy identification and never issued except upon order of the facility administrator or person in charge and in accordance with established procedure.

   b. No security keys shall be made available to prisoners regardless of their status.

2. All locks to security doors or gates shall be inspected regularly to insure their efficient operation.

   a. No lock to a security door or gate shall be permitted to be broken, inoperable, or left in an unsuitable condition for any unnecessary period of time.

   b. No prisoner shall be imprisoned in a cell or area which has inoperable locks.

F. Weapons, Tools, Equipment, Medications, Hazardous Substance.

1. Firearms or other dangerous weapons, regardless of condition, shall not be located within the prisoner areas of the facility.

   a. A secure armory or other such resource shall be provided in an area protected from both the public and the facility's prisoners.

2. Materials which can be deliterious to security, safety and health shall be properly secured, inventoried and dispensed.

3. When not in use, all tools shall be kept in locked storage areas.

a. Each tool shall be numbered and hung on a corresponding numbered hook with a painted silhouette of the tool placed on the back or wall of the storage area for easy identification of tool absence.

b. Maintenance tools brought into the facility shall be inventoried upon entrance into and release from the facility.

4. Hazardous substances such as aerosol containers shall be stored outside the prisoners' living areas.

a. Cleaning substances which can be so described shall be handled only by staff and shall not be issued to prisoners to use regardless of status or trust level.

G. Count Procedure.

1. Each facility shall have a written statement specifying the system to be used for regularly counting the number of prisoners under its jurisdiction.

a. Systems for counting shall include a master count board indicating the total number at all times and immediately report changes as they occur.

b. A separate log book shall be kept to serve as a check and validation to the count board.

c. Formal counts shall be completed with an official entry made in the daily log after each mass movement or change in areas and/or at least once each eight hours.

d. Informal counting shall be completed during each inspection made by staff and shall be conducted at least once within each one-half hour interval. One-hour intervals are acceptable if proper auditory and visual supplements are provided.

A. Availability of Medical and Dental Resources.

1. Each facility shall have a licensed physician(s) or medical resources such as a hospital or clinic designated for the medical supervision, care and treatment of prisoners as deemed necessary and appropriate. Such physician(s) or resources shall insure 24 hour a day availability of consultation, advice and emergency service response and shall be located in the same or a nearby community.
2. Each facility shall have emergency dental care available to prisoners. Such dental care shall be available in the same or a nearby community. Such care need not be available on a 24 hour basis except to the extent an attending physician may deem necessary and appropriate.
3. Ambulance services shall be available on a 24 hour a day basis.
4. A prisoner shall be examined by trained medical personnel if the prisoner is visibly ill, chronically ill, or whenever it is suspected that medical attention is necessary.

B. Posting of Available Resources.

1. A listing of the medical, dental and ambulance resources designated for use by the facility and the telephone numbers of same shall be posted at each staff station in the facility.
   a. Such list shall clearly indicate what resource(s) is/are available at any time of the day or night.

C. Hospitalization of a Prisoner.

1. Each facility shall have an agreement with a hospital in the same or nearby community permitting admission of a prisoner without delay on the recommendation of the attending physician.

2. When a prisoner requires hospitalization, he shall be guarded on a 24 hour per day basis except when the facility administrator and hospital administrator have mutually agreed that a guard is unnecessary.

D. First Aid.

1. All custodial personnel responsible for the supervision, safety and well-being of prisoners shall be trained in emergency first aid procedures.
2. All facilities shall have a minimum of one first aid kit located at the facility's control center or primary staff station.
3. The first aid kit shall be inspected by a designated staff person at least once every three months to assess the need for replenishment of supplies.

E. Medical and Dental Records.

1. Each facility shall record all complaints of illness or injury with actions taken pursuant to same.
2. Medical or dental records shall be maintained on any prisoner under medical or dental supervision, care or treatment while confined.
   a. Minimally, such records shall include appropriate information with respect to prisoner limitations or disabilities, instructions relative to prisoner care, written orders for all medications with stop dates, treatment, therapeutic diets, extent or restriction of activity, and the time, date and medical or dental person involved in any examination, treatment or consultation with respect to the prisoner.

3. Medical and dental records related to prisoner care shall be available to staff on duty for consultation in case of illness and for recording administration of medications.
4. A statement concerning the prisoner's medical or dental condition shall be obtained from the attending physician or dentist on any prisoner under medical or dental care.

F. Preventative Health Services.

1. The facility administrator shall develop and implement a written plan for attainment of personal hygiene practices of all prisoners with special assistance for those prisoners who are unable to care for themselves.
2. All staff and volunteers shall adhere to established policies and procedures relating to personal hygiene practices including clean attire.
3. Delousing materials and procedures shall be approved through consultation with trained medical personnel.
4. Each prisoner shall be required to bathe or shower twice weekly and daily bathing or showering shall be permitted.
5. Haircuts shall be made available to prisoners at least once each month.
6. Prisoners are not responsible for furnishing personal hygiene items and indigent prisoners shall receive provisions for same at facility expense.

G. Administration of Medications.

1. Medications shall be administered only by licensed medical, or nursing personnel or by facility staff members who have successfully completed a Minnesota Department of Health training program on the "Administration of Medications by Unlicensed Personnel."

   a. This program is offered under the auspices of the Health Facilities Division of the State Department of Health.

2. The administration of medications by unlicensed staff shall be under the ultimate supervision of a consulting physician.

3. Every facility administrator, in consultation with a licensed physician, shall develop plans, establish procedures and accessories for the secure storage and the controlled administration of all legally obtained drugs. Such plans, procedures, space and accessories shall include, but need not be limited to the following:

   a. Storage.

      (1) All medications shall be kept in a locked medicine cabinet or locked medicine room. The storage facility shall be kept locked at all times when not in use. Drugs requiring refrigeration shall be stored in an attached, separately locked, compartment within the refrigerator, if said refrigerator is neither locked nor in a locked room.

      (2) Stock supplies of legend (prescription-type) drugs shall not be maintained.

      (3) All prescription medications shall be kept in their original container, bearing the original label with legible information stating the prescription number, name

of drug, strength and quantity of drug, expiration date if applicable, directions for use, prisoner's name, physician's name, date of original issue (or in the case of a refill, the most recent date thereof), and the name and address of the licensed pharmacy issuing the medication.

(4) All poisons and medications intended for external use shall be clearly so marked and shall be stored separately from medications intended for internal use.

b. Administration of Medicine. The following shall be established:

(1) Means for the positive identification of the recipient of the prescribed medication.

(2) Procedures for assuring that the legally obtained medications will be administered by the correct route at the correct time and in the prescribed dose.

(3) Procedures for confirming that orally administered medication has been ingested.

(4) Procedures for recording the fact that the prescribed dose has been administered and by whom.

(5) Procedures whereby adverse reactions to drugs are reported at once to the attending physician and an explanation made in the prisoner's record.

(6) Procedures whereby prisoner refusal of medications is reported to the attending physician and an explanation made in the prisoner's record.

(7) Procedures for insuring that no prisoner is deprived of medication as prescribed because of penalty or staff retaliation.

(8) Procedures which prohibit the administration of drugs by prisoners.

(9) Procedures whereby a physician is contacted prior to the next medication administration time for instructions on all newly admitted prisoners who are either in possession of medications or who indicate a need for such.

c. Recording of Controlled Drugs Entering the Facility. Records of receipt and of the disposition of all controlled drugs shall be maintained in sufficient detail to enable an accurate reconciliation at any time.

4. If authorized by the attending physician, medications belonging to prisoners shall be given to them when released or to appropriate authorities when transferred.

   a. This shall be recorded in the prisoner's record.

5. Unused portions of prescription drugs shall be destroyed by incineration or by flushing into the sewer system.

   a. Such destruction shall be performed by the facility administrator and witnessed by a staff member.

   b. A notation of this destruction shall be made in the prisoner's record and shall include the name and quantity of the drug destroyed and shall be signed by the facility administrator and staff witness.

6. Unused portions of controlled drugs shall be handled by contacting the Minnesota Pharmacy Board.

7. Methadone programs shall not be made available unless in compliance with all existing laws and regulations governing such programs.

H. Reporting Suspected Communicable Disease.

1. When no physician is in attendance, it shall be the duty of the facility administrator, or other person in charge of any institution or any other person having knowledge of any individual believed to have or suspected of having any disease, presumably communicable, to report immediately the name and address of any such person to the local health officer. Until official action on such has been taken, strict isolation shall be maintained.

I. Isolation for Communicable Disease.

1. Prisoners who are suspected of having a communicable disease shall be detained in isolation for only that period of time necessary to obtain advice and consultation from a physician concerning the prisoner's status and recommendations for care.

   a. Continuation of such isolation shall be determined by the attending physician.

2. A prisoner placed in isolation for medical reasons shall not be deprived of any privileges, rights or amenities than consistent with his classification prior to such assignment except to the extent that such privileges, rights or amenities would endanger the health of staff, other prisoners, or the public.

J. Mentally Ill Prisoners.

1. Each facility administrator shall segregate all mentally ill prisoners.

   a. If a physician's opinion is not readily available, a prisoner shall be considered mentally ill for the purpose of this section if he or she appears to be an imminent danger to himself or others.

2. A physician's opinion shall be secured as soon as possible, but not more than eight hours after such segregation.

3. If practical and feasible, such a mentally ill prisoner shall be transferred to a medical facility designated by the county and approved by the State Department of Health for diagnosis, treatment and evaluation of such suspected mental illness, according to Chapter 253 of Minnesota Statutes Hospitalization and Commitment Act.

K. Housekeeping, Sanitation and Plant Maintenance.

1. General Requirement. The entire facility inclusive of every building, structure or enclosure utilized by the facility -- walls, floors, ceilings, registers, fixtures, equipment and furnishings shall be kept in good repair and so maintained as to protect the health, comfort, safety and well-being of prisoners and staff.

2. Established Plan. Each facility administrator shall develop and implement a written plan with identified policies and procedures related to preventive maintenance, housekeeping and sanitation.

   a. Such plan shall identify staff responsibility for same and be inclusive of housekeeping, sanitation and maintenance schedules and clearly indicate that staff, not prisoners, are ultimately responsible for housekeeping, sanitation and plant maintenance.

3. Compliance with Existing Regulations. Housekeeping, sanitation, water supplies, plumbing, sewage disposal, solid waste disposal, and plant maintenance conditions must minimally comply with regulations required by the Uniform Building Code, the State Fire Marshal's Office, the Minnesota Department of Health, the Minnesota Department of Labor and Industry (O.S.H.A.) and whatever other departmental regulations that have the force of law.

4. Inspections.

   a. The facility administrator shall establish a plan for the daily inspection of the facility with respect to housekeeping, sanitation and plant maintenance.

5. Budget. The facility administrator shall submit a list of probable repairs and expenditures for routine housekeeping supplies, repairs, and special requests related to physical plant maintenance, housekeeping and sanitation at the beginning of each month, or as a part of an annual budget request to the facility's governing body.

6. Work Requests.

   a. The facility administrator in cooperation with the facility's governing body shall develop written policies and procedures designed to detect building and equipment deterioration, safety hazards and unsanitary conditions in the early stages of their development and provide for their repair, correction or modification so that such conditions are eliminated to the extent required by regulations contained herein.

   b. Such policies and procedures shall include but are not limited to:

      (1) Requiring facility staff to report unsanitary and unsafe conditions as well as physical plant and equipment repairs and replacement needs as they are observed.

      (2) A process whereby work requests are prioritized and filed with the governing body by the facility administrator in an expedient manner.

      (3) A records system allowing review of budget and work requests, expenditures, dates and actions pursuant to detection of need, submission of work orders and completion of requests.

7. Insect and Rodent Control. Any condition on the site or in the facility conducive to harborage or breeding of insects, rodents, or other vermin shall be eliminated immediately.

   a. Cleaning, renovation, or fumigation by licensed pest control operators for the elimination of such pests shall be used when necessary.

A. Construction Principles.

1. All rules contained herein, except to the extent exceptions are stated, shall apply to each holding facility, lockup, jail and adult corrections center.
2. All construction shall comply with regulations required by the Uniform Building Code, adopted by the State of Minnesota and standards stated herein applicable to the facility's classification and security classification of prisoners confined.
3. Wherever specific mention of a construction condition or specification is not made, the requirements of the Building Code, the Fire Marshal, the Minnesota Health Department, the Minnesota Department of Labor and Industry and any other federal or state regulating agency with lawful authority to define construction requirements shall apply.
4. Where mention is not made of measurements, gauges, quality, volume, intensity, or some other such characteristic with respect to security areas or products, such specifications shall be equal to or exceed those required by security product manufacturers who are recognized as creditable firms in the field of jail and prison hardware and equipment.
5. Where mention is made of measurements, gauges, quality, volume, intensity or some other such characteristic, gauges, quality, volume, intensity or whatever other characteristic equal to or exceeding the specifications presented herein shall be acceptable.
   a. Where such equivalent products are to be used, a letter certifying that such products are equal to or exceed the specifications noted herein shall be provided to the Department of Corrections by an authorized accredited manufacturer of security products or authorized governmental regulating agency prior to Department approval of any new construction.

6. Lockups, jails and adult corrections centers shall be designed to accommodate maximum, medium and minimum security prisoners and shall provide maximum, medium and minimum security living accommodations.
   a. Holding facilities shall minimally provide medium security living accommodations for prisoners. They are not required to provide maximum or minimum security accommodations.
   b. Adult corrections facilities designed and approved by the Department to accept only one classification of prisoner (maximum, medium or minimum) may have the capability of providing security of that classification only.

B. General Conditions.
   1. The design shall not cause conflicts in the necessary functions of activities.
      a. No activity shall be terminated or delayed by cause created because of another necessary activity.
   2. Staff work stations and control rooms shall be situated to provide the greatest degree of observation of traffic flow and supervised internal activities as possible.
      a. A staff work station or control room shall be located on the same floor of the building as prisoner living areas for usage by custodial staff whose primary duties are the day-to-day supervision of prisoners of a local facility.
      b. Where staff are employed as combination jailer/dispatchers, such staff work station or control room shall be located on the same floor of the building as prisoner living areas.
      c, Dispatcher work stations or control rooms need not be located on the same floor as prisoner living areas when such staff are not responsible for the supervision of prisoners.

3. Staff work stations shall be separated from the public and the prisoners by security barriers, and shall be protected from direct observation from the outside of the facility.
4. The design shall provide for separation of prisoners and the public; the prisoners and the staff; prisoners of one classification and another; prisoners and unauthorized areas of the facility.
5. There shall be provisions to conduct all maximum security prisoner functions within the security perimeter of the facility.
6. There shall be provisions for a minimum of two barriers between prisoners in maximum security and freedom during unsupervised activities.
7. Storage areas shall be sufficient to provide adequate space for separation and security of keys, weapons, drugs and medications, tools, evidence, recovered stolen property, mattresses, linens and bedding, housekeeping equipment and supplies, clothing, prisoners' property, canteen and hygiene items and records.
   a. Secure weapon depositories separate and distinct from armories shall be provided outside the security areas for the temporary safekeeping of officers' weapons.
8. The design shall provide for service deliveries to be accomplished without interfering or interacting with the security of the facility.
9. Electrical auditory two-way communications shall be provided between control stations and prisoner areas of the facility.
10. All hardware and fixtures shall be of the type manufactured by accredited manufacturers of jail and prison hardware and equipment.
11. Padlocks shall not be used in place of a security lock on any door, window or cabinet within the security perimeter of the facility.

12. No traffic corridor shall be less than five feet in width.
13. Illumination levels shall provide at least 30 foot candles of illumination in all living areas and 100 foot candles in all work or study areas of the facility.
14. The design of the facility shall provide for communication to be accomplished with the required levels of confidentiality.
15. Visiting provisions shall be designed to provide flexibility in the degree of security required to accommodate both non-contact visiting as well as privileged visiting in the situations that require and justify this level of interaction.
    a. Visiting space shall be provided so that at least 1/10 of the facility's capacity can be accommodated at any time.
    b. At least 25 square feet per prisoner visiting station shall be provided.
16. Each entrance of a facility shall be constructed to permit the control room or secure reception area observation and identification of the person(s) seeking admission prior to their gaining access to a security area.
17. Noise attenuation shall be maximized in materials utilized to separate various classifications of prisoners and prisoner areas of the facility from administrative and public areas of the facility.
    a. Attention shall be given to restrict noise levels in one area of the facility from interfering with activities in another area.
18. All exposed surfaces of the facility's physical plant, equipment or furnishings utilized therein shall be of materials and construction which provide for cleanability of surfaces without unreasonable effort.
19. Each prisoner living area shall be provided with a minimum of six cubic feet of storage space for toiletries, etc.

20. All hot water to prisoner showers and washbasins shall be tempered to 110° to 120° Fahrenheit.
21. All facilities shall be designed and provided with necessary equipment to maintain temperatures in prisoner living areas between 65° and 71° Fahrenheit during winter months and between 66° and 85° Fahrenheit during summer months.
22. Non-skid, non-slip flooring shall be provided in all stairways and shower floors.
23. Smoke and heat detection equipment shall be provided in all facilities.
24. The use of closed-circuit television equipment shall be approved by the Department on an individual case basis upon review of the facility design concept and staffing plan.
    a. Closed-circuit television equipment shall not be approved for usage in situations where the Department has determined that the usage of same is inconsistent with proper security practices, the legal rights of prisoners, or is being used in lieu of adequate staff resources.
25. All cells or detention rooms shall have a minimum ceiling height of eight feet.
26. All dormitories shall have a minimum ceiling height of ten feet.
27. All eating areas outside of cells or detention rooms shall be sufficiently apart from toilet and shower facilities to provide palatable eating conditions.
28. Minimum security areas of the facility shall be adequately separated from other areas of the facility with more stringent security classifications.

29. Isolation areas shall be located so that all prisoners, regardless of classification or sex, may have access without violating privacy and security requirements.

30. Jails and adult corrections facilities shall provide space designed to conduct constructive programmed activities that can include outsiders in areas other than the living areas of the facility without compromising the security and control of the facility's operation.

31. Lockups shall provide at least one multipurpose room that may be used for such purposes as religious services, small group counseling, etc.

32. Maximum security cells are designed with the intended use being only for adult males classified as dangerous. However, justifiable exceptions will be accepted for all prisoners whose use of such a facility is necessary.

C. Administrative and Public Areas.

1. Administrative, clerical, maintenance and service personnel shall be provided with office and storage space to meet established and projected needs which shall be separate and apart from the inner security areas and prisoner-occupied areas of the facility.

2. Public areas of the facility shall provide a controlled access to the building and to all security areas of the building.

3. Public areas shall be situated so as not to interfere with all necessary functions of the facility and shall provide for the comfort and convenience of the public including sufficient seating, toilets, lavatories, drinking faucets and telephones.

D. Receiving Area.

1. Intake and receiving areas shall be located in an area protected from the public, but separate from the areas occupied by the other prisoners of the facility.

2. Each receiving area of a facility shall provide for privacy of searching, showering and processing of an admission as well as a secure holding area properly equipped for the convenience of the detainee for up to six hours of detention. There shall be provisions for storage for clothing issued and property received.

E. Living Area.

1. The design of the facility shall provide for proper segregation of prisoners.
2. Male and female areas shall be so situated as to preclude the need for staff and/or prisoners of the opposite sex from routinely trafficking in each others' areas.
3. Prisoners' rights to privacy from degrading, unauthorized observation shall be protected without compromising the security and control of the facility.
4. No living areas shall be permitted below ground level.
5. All ventilation and heating vents shall be located so as not to create an air flow directly on a bed or eating area.
6. Each living area shall be situated so as to have direct access to natural light.
7. Basic provisions for each cell or detention room shall include a toilet, sink, abuse-resistant mirror, drinking faucet, desk or table, seating bench or chair, wall closet or shelf, bed or bunk and light with abuse-resistant lens covering.
8. Each residential area shall provide a shower facility of a minimum of 36" X 36" for each 15 prisoners, adjacent to the living area. Shower facilities are prohibited in cells and detention rooms.

9. Each room or cell in lockups, jails and adult corrections centers shall be adjacent to an exercise area or connected by corridor having direct access which provides a minimum of 40 square feet per prisoner for numbers under four, an overall average of 36 square feet per prisoner for numbers over four, but in no event, an area less than 75 square feet.

   a. Holding facilities are not required to provide such exercise areas.

10. Each exercise area shall be equipped with a fixed table and benches providing a minimum of three square feet per prisoner for at least 50% of the prisoner capacity of the area served by such exercise area, a telephone jack, an audio sound monitor, at least one controlled electrical outlet, and if separate from direct access to rooms having toilets, a toilet, sink, drinking faucet and modesty panel.

11. Each lockup, jail and adult corrections center shall provide an area for the examination, treatment and convalescent care of prisoners, situated separate and apart from other living areas, but within the security perimeter of the facility.

    a. Holding facilities are not required to provide such an area.

12. All living areas other than dormitories (three or more beds) shall be single occupancy. Dormitory capacity shall be limited to no more than 25% of the total capacity of the facility.

13. Adult corrections centers shall provide outdoor recreational space for prisoners compatible with the security classification of prisoners confined.

F. Construction Standards.

1. Cell, Room, Dormitory Sizes.

a. Each maximum security cell, medium security cell or detention room shall provide for at least 70 square feet of floor space within the cell or detention room.

b. Minimum security rooms shall provide a minimum of 50 square feet of floor space per prisoner when unrestricted access to exercise, dayroom or program areas is permitted. Seventy square feet of floor space is required when such access is not permitted.

c. Dormitories shall provide three or more beds and a minimum of 60 square feet of floor space per prisoner within the dormitory exclusive of toilet and shower areas.

(1) Dormitories shall not be used in maximum security areas.

2. Inspection Corridors.

a. Each maximum security cell shall be located at least 42" away from an outside wall, separated from the wall with an inspection corridor.

b. A 42" inspection corridor providing visibility of medium security living areas shall be provided.

(1) Such corridor need not be between the exterior wall and prisoners.

3. Access to Outside Windows or Doors.

a. No area occupied by a maximum security prisoner which is unsupervised directly by staff shall have direct access to an outside window or door.

b. No area occupied by medium or minimum security prisoners which is unsupervised directly by staff shall have direct access to an outside door.

4. Exterior and Natural Light Orientation.

   a. Maximum security cells or dayrooms and exercise areas shall have access to natural light through the 42" inspection corridor required under F. 2. a. of Construction Standards.

   b. Medium security cells or detention rooms and minimum security rooms shall be located either on an outside wall which provides a window for natural lighting or on a dayroom area which provides this condition.

   c. Medium and minimum security dormitories shall be located on an outside wall which provides windows for natural lighting.

5. Sally Ports.

   a. Each entrance to a maximum or medium security prisoner living area shall be provided with a sally port large enough to accommodate a stretcher with both gates or doors closed.

6. Maintenance Access to Plumbing, Heating and Light Fixtures.

   a. Maximum security cells shall be constructed to permit maintenance of plumbing, heating and light fixtures from outside the prisoner area.

7. Prisoner Access to Plumbing and Heating Fixtures.

   a. Heat registers, thermostats, electrical outlets and plumbing pipes shall be located out of the reach of maximum security prisoners.

   b. Heat registers may be located in medium and minimum security areas but shall be protected by security screen. Electrical outlets may be located in medium and minimum security areas but shall have a shutoff switch outside the prisoner area. Thermostats shall be located outside of medium and minimum security areas with heat sensors provided in prisoner areas as necessary. Plumbing pipes shall not be exposed to medium security prisoners.

8. Sewer Lines.

   a. Each sewer line shall be equipped with a 2" cleanout plug located within 18" of each toilet and a shutoff valve on each water line located outside the prisoner area.

9. Plumbing Fixtures.

   a. Plumbing fixtures used in maximum or medium security areas shall be either aluminum or stainless steel security fixtures.

10. Abuse Resistance.

   a. All materials used in the construction of maximum security shall be certified in writing by the product's manufacturer as providing the capability of withstanding serious damage for a period of two hours, using that which is normally available within that area.

   b. All materials used in the construction of medium security facilities shall be certified in writing by the product manufacturer as providing the capability of withstanding serious damage for a period of one hour, using that which is normally available within that area.

   c. All materials used in the construction of minimum security facilities required of the Uniform Building Code for this type occupancy are acceptable providing they are congruent with the remainder of the building.

   d. The design and furnishings of minimum security areas shall be developed with normalcy in mind, but in keeping with the design, purpose, classification and use of the remainder of the facility.

11. Locking Devices.

   a. Maximum security cell doors shall be equipped with locking devices that provide the capability to lock all doors either collectively or separately from outside the prisoner area.

b. Medium and minimum security cell, detention room or dormitory doors may be equipped with locking devices that provide the capability to lock all doors either collectively or separately from outside the prisoner area.

12. Vent Openings.

a. Vent openings shall be no larger than 7" of the diameter of a circle or 5½" of a side of a rectangular opening.

13. Grillage.

a. Grillage bars shall consist of tool resistant steel, a minimum of 7/8" in diameter, spaced no more than 6" on center vertically with lateral bar supports 3/16" thick at least every 16".

b. Grillage shall not be used in minimum security areas.

14. Glass.

a. All glass shall consist of polycarbonite and tempered glass combination materials, or bullet and heat resistant glass, which in either case shall be no less than ½" thick and greater as proportionately correlated in thickness with the overall size of the opening and the use.

15. All concrete walls, floors, ceilings shall be prepared in accordance with the Uniform Building Code's "Manual of Standard Practice" Concrete Reinforcing Steel Institute.

a. All concrete shall be reinforced with intermediate grade steel meeting requirements of "Deformed Billet-Steel Bars 3/8" in Diameter for Reinforced Concrete" ASTM A 615, Grade 60.

b. All materials shall include welded wire fabric reinforcing ASTM A 185 steel wire of size indicated and spot welded at intersections.

c. All placement of concrete in accordance with ACI 304.

d. All portland cement ASTM C 150 Type I for general concrete work.

e. Fire aggregate ASTM C 33 100% passing of no. 4 sieve course aggregate ASTM C 33 3/4".

f. Concrete mix, general use, 3500 psi., 3" maximum slump.

16. Wall Construction.

a. Maximum security walls shall consist of one of the following:

(1) Steel plate, 3/16" thick; riveted or welded.

(2) Poured concrete 6" thick with vertical and horizontal steel rod reinforcement (vertical rods 6" on center, horizontal rods as per 15. a. and b. above.

(3) Concrete block 8" thick with poured centers; vertical steel rod reinforcement in each block cell; horizontal steel reinforcement between each course; with hardening compound used to treat joint mortar.

b. Medium security walls shall consist of one of the following:

(1) Poured concrete 6" thick with vertical and horizontal steel rod reinforcement (vertical rods 6" on center, horizontal rods as per 15. a. and b. above.

(2) Concrete block 8" thick with poured centers; vertical steel rod reinforcement in each block cell; horizontal steel reinforcement between each course; with hardening compound used to treat joint mortar.

(3) Poured concrete 4" thick with vertical and horizontal steel rod reinforcement (vertical rods 6" on center, horizontal rods as per 15. a. and b. above).

17. Ceiling Construction.

a. Maximum security ceiling construction shall consist of one of the following:

(1) Steel plate, 3/16" thick; riveted or welded.

(2) Prestressed concrete planks laid side by side, minimum of 4" thick.

b. Medium security ceiling construction shall consist of one of the following:

(1) Prestressed concrete planks laid side by side, minimum of 4" thick.

(2) Same as above with secondary ceiling suspended to consist of no less than 9 gauge expanded metal covered with 2" of concrete and plaster treated with hardening compound.

18. Floor Construction.

a. Maximum and medium security floors shall consist of one of the following:

(1) Poured, reinforced concrete, 6" thick, using minimum of 9 gauge expanded metal, or 3/8" steel rod 6" on center.

(2) Prestressed concrete beams laid side by side with minimum of 2½" concrete or terrazzo slab using 9 gauge expanded metal.

19. Door Construction.

a. Maximum and medium security doors shall consist of one of the following:

(1) Grillage type, consisting of tool resistant steel bars, 7/8" diameter, spaced no more than 6" on center vertically with lateral bar supports at least every 16"; equipped with security hinges, food pass (5" X 12" minimum), a dead bolt security lock.

(2) Hollow metal door, 14 gauge steel minimum, equipped with security hinges, a lockable food pass (5" X 12" minimum), view panel and speak-through, a manual or electrical security dead lock.

(3) All doors shall be 6'8" minimum height; 30" minimum width.

20. Window Construction.

a. Maximum and medium security window construction shall consist of one of the following:

(1) Solid frame windows no wider than 5½" (no movable parts) to be used only in conjunction with a mechanical air exchange and temperature control system.

(2) Louvered or awning type windows, encased in security frames not wider than 6" on center and covered on the inside by security screen (no less than 18 gauge or greater than ¼" mesh openings) and mosquito screen on the outside.

21. Hardware.

a. All hardware used in maximum security areas shall be designed for maximum security use.

b. All hardware in maximum and medium security areas shall be attached, using security type or tamper-proof fasteners that face away from the prisoner area.

c. All electrically operated hardware shall provide for manually operated key override in an emergency. Electric hinges shall be equipped with concealed wires so that electric parts are not exposed after hinge is installed.

d. All vent guards shall be constructed of tool resistant steel, or the opening guarded by observable tool resistant steel bars, meeting grillage specifications.

e. Pipe chase doors or access panels shall consist of not less than 1/8" steel plate, locked with a security dead lock or be of construction materials comparable to maximum security hollow metal steel doors.

f. All hardware used in medium security areas shall be designed for medium security use.

22. Medium Security Dormitories.

a. Medium security dormitories shall be equipped with one fixed bed per prisoner; one ceiling or wall light per two beds, covered with an abuse resistant lens; one toilet and modesty panel for each eight prisoners; one sink and stainless steel mirror for each eight prisoners; one shower (minimum 36" X 36") for each 15 prisoners; one stainless steel eating table with seating benches that provide a minimum of three square feet of space per prisoner with capacity for each prisoner up to six, but no less than six in dormitories larger than capacity for six and no less than 60% of the total capacity level, whichever is greater; one fixed dresser or wall locker per prisoner.

23. Minimum Security Rooms.

a. Minimum security rooms shall be equipped with a bed, desk or table, clothes closet, mirror, ceiling or wall light and chair.

b. Minimum security rooms shall be located separate and apart from other areas of the facility requiring higher degrees of security, but within the overall security perimeter of the facility.

c. Dayroom areas of at least 40 square feet per one-half of the total minimum security capacity, but no less than 120 square feet shall be provided adjacent to the sleeping area and shall be equipped for a T.V., and with telephone jack, table, seating facilities, electrical outlets. All power supplies shall be controlled by staff from outside the prisoner area.

d. A toilet, lavatory and shower facility shall be provided for each ten prisoners, when not provided in the individual rooms.

e. Doors shall have an approved 1½ hour fire rating and be equipped with a security type snaplock.

24. Minimum Security Dormitories.

a. Minimum security dormitories shall be equipped with the following items per prisoner: bed or bunk, wall locker or wall shelf and clothes hooks, mirror, dresser, chair, eating tables and chairs shall be provided to accommodate one-half the total capacity of the dormitory. Additional furnishings may be permitted such as divider panels, T.V. set, radio, lounge chair, and any other article which is normally used in residential living, but would not constitute a disproportionate security threat to the remainder of the facility.

b. Minimum security dormitories shall be located separate and apart from other areas of the facility requiring higher degrees of security, but within the overall security perimeter of the facility.

c. A toilet, lavatory and shower facility shall be provided for each ten prisoners. Such facilities may be adjacent to or apart from the dormitory proper, but must be within the immediate vicinity. Facilities may be gang type or individual when more than one is required. All privacy requirements found elsewhere in these standards apply.

d. Visiting shall be provided outside and apart from the dormitory area. When dayrooms are not provided, a room shall be provided for the visiting of minimum security prisoners. Such room may be the same as that provided other prisoners for privileged visiting, i.e., with attorneys, clergy, etc., providing it does not cause serious conflict in the maintenance of security for the remainder of the facility.

e. Doors shall have an approved 1½ hour fire rating and be equipped with a security type snaplock.

STATE OF MINNESOTA

DEPARTMENT OF CORRECTIONS

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF CORRECTIONS GOVERNING THE OPERATION AND MANAGEMENT OF HOLDING FACILITIES, LOCKUPS, JAILS AND ADULT CORRECTIONS FACILITIES.	NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a public hearing in the above-entitled matter will be held in the Veterans' Service Building, Room D, 5th Floor, 20 W. 12th St., St. Paul, on May 10, 1977 commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Mr. Steve Mihalchick, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, either before the hearing or within 20 days after the close of the hearing.

The proposed rules, if adopted, will provide a framework within which holding facilities, lockups, jails and adult corrections facilities will be classified, inspected, evaluated and approved for usage. Copies of the proposed rules are now available and one free copy may be obtained by writing to the Information Officer, Department of Corrections, Suite 430, Metro Square Building, St. Paul, Minnesota 55101. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rules is contained in Minnesota Statute 241.021 (Subd. 1). A "statement of need" explaining why the agency feels the proposed rules are necessary and a "statement of evidence" outlining the testimony they will be introducing will be filed with the Hearing Examiner's Office at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that Minnesota Statutes, Chapter 10A, requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rule making by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, phone (612) 296-5615.

Thomas J. Foley

Thomas J. Foley, Deputy Commissioner
Minnesota Department of Corrections

Date: MAR 7 197

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STATEMENT OF SUBJECT MATTER COVERED BY PROPOSED RULES -- TO ACCOMPANY TABLE OF CONTENTS - CORR. 110 - CORR. 112

Corr. 100 -- INTRODUCTION

Outlines the statutory authority for the rules, the use of a citizens' advisory task force in their development and the purpose for the rules.

Corr. 101 - DEFINITIONS

Defines the four types of facilities to which rules pertain - holding, lockup, jail and adult corrections and 23 other terms used in the rules for clarification and understanding.

Corr. 102 - INSPECTIONS, INTENDED USE AND NON-CONFORMANCE WITH RULES

A. Indicates that inspections of facilities governed by standards will be pursuant to proposed rules.

B. Limits the use of facilities to the definition for which they have been classified, e.g., holding, lockup, jail, adult corrections facility.

C. Establishes the sanctions available to the Commissioner of Corrections when a facility does not conform to rules or has unsafe, unsanitary or illegal conditions. Refers to restricted use and condemnation powers.

D. Indicates that if any rule is found inoperative for whatever reason, such finding shall not affect the validity of the remaining rules.

Corr. 103 - VARIANCES

A. Establishes the process by which a local unit of government may request a variance of a rule.

B. Provides for emergency suspension of standards by facility administrators and sets forth requirements for notification of Commissioner and approval by Commissioner of such suspensions.

C. Allows for offender on work or educational release to be exempt from confinement limitations in lockups (30 days) and holding facilities (72 hours).

Corr. 104 - PERSONNEL STANDARDS

A. Requires freedom from tuberculosis and communicable disease, annual Mantoux tuberculin tests and medical examination when communicable disease is suspected.

B. Requires that qualifying and disqualifying characteristics for employment be set forth in recruitment, that assessed ability be used in selection, appointment and promotion, that custody staff be at least 18 years of age and that employment be non-discriminatory.

C. Requires probationary period and annual employee evaluations and documentation of same.

D. Limits the conditions under which employees may be assigned to two consecutive work periods.

E. Establishes rules concerning development of a facility staffing plan, designation of a chief executive, assignment of a person in charge (at all times prisoners are confined); requires staff presence at all times prisoners are confined, limits the circumstances under which staff of one sex may supervise prisoners of the opposite sex, sets forth requirements for relief staff, e.g., transportation and court escort, maintenance personnel, limits the conditions where staff may be employed as combination jailer/dispatchers, requires a minimum of one jailer for every 25 prisoners and sets forth program staff requirements according to facility classification. Program staff requirements are greater in adult corrections facilities and jails than lockups and holding facilities - correlated with prisoner length of confinement.

Corr. 105 - STAFF TRAINING

A. Requires documentation of a training plan for orientation and in-service training inclusive of course curriculum, methods of instruction and instruction objectives.

B. Requires all custody staff to complete 24 hours of orientation training within 90 days of employment.

C. Requires all custody staff to complete a Department approved programmed instruction course or equivalent during their probation period.

D. Requires completion of 24 hours of in-service training annually by custody, middle management and non-management professional personnel (holding facilities exempted).

E. Sets forth training requirements for management personnel who have not completed comparable training or have less than two years administrative experience.

Corr. 106 - STAFF DEPLOYMENT, JOB DESCRIPTIONS, WORK ASSIGNMENTS, POST ORDERS, POLICIES AND PROCEDURES.

A. Requires development, dissemination and availability of job descriptions for all position classifications and post assignments.

B. Requires that work assignments be consistent with job descriptions and facility staffing plan.

C. Requires dissemination of policies to employees, meetings of supervisory personnel, supervisor and subordinate and probationary and annual employee evaluations.

D. Requires development of policies and procedures governing emergency situations and other events of significant bearing on facility operations.

E. Requires development, dissemination and availability of policy and procedure manuals.

F. Requires development and documentation of personnel policies.

G. Requires availability of adopted rules to all facility personnel. That they have been instructed in their legal responsibilities and rules pertaining to their job.

H. Requires written plan for dissemination of information to the public, government agencies or news media.

Corr. 107 - RECORDS AND REPORTS

A. Specifies 19 types of records and/or reports to be maintained by facilities.

B. Requires secure space for storage and preservation of records, that they be readily retrievable and kept in accordance with law and requirements of State Records Center.

C. Requires individual filing of prisoner records and prompt completion of files when prisoners are released.

D. Requires that records be kept in conformance with State laws governing confidentiality.

Corr. 108 - PRISONER WELFARE

A. Indicates statutory requirements for separation of prisoner types, provides for coeducational programs and sets forth staff coverage requirements for same.

B. Requires lockup, jail and adult corrections facilities to establish criteria by which prisoners can be screened and assigned appropriate living assignments.

C. Requires documentation and posting of prisoner rules and regulations, policies governing visiting, mail, bathing, laundry and clothing and bedding exchange. Requires every prisoner be advised of official charge or legal basis for confinement. Requires that prisoners be advised of program options within 24 hours of admission.

D. Requires the development of a written prisoner discipline plan inclusive of due process provisions, sets limitations on disciplinary actions, requires the maintenance of disciplinary records, policies and procedures governing administrative segregation, limits the use of disciplinary isolation and instruments of restraint.

E. Requires the development of a plan for the constructive scheduling of prisoner time. Sets forth requirements for religious services and counseling, library service, prisoner work assignments, exercise and recreation and leisure services. Emphasis is on distinction between facility types due to length of confinement of prisoners.

F. Sets forth basic visiting requirements including visits within 24 hours for adults, initial visit of juvenile by parent, guardian or custodian at any time and requires ten regularly scheduled visiting hours per week in lockups, 14 in jails and adult corrections facilities.

G. Sets forth requirements on prisoner correspondence inclusive of unrestricted written mail volume, inspection of mail, reading of mail, contraband and postage allowance.

H. Requires that prisoners have neat, clean clothing appropriate to the season, clothing exchange twice a week, linen exchange weekly, limits conditions under which prisoners may be deprived of clothing or bedding, sets requirements concerning laundry services including personal clothing and blankets.

I. Requires development of a written disaster plan in the event of natural disaster, fire, etc. Requires development of policies and procedures to handle other emergencies, e.g., suicide, escape, power failure, etc. Requires an auxilliary source of power, requires regular meetings and training of staff in emergency procedures, requires documentation and notification of the Commissioner of unusual and/or serious incidents and sets forth requirements in the event of a prisoner death in any facility.

Corr. 109 - FOOD SERVICE

A. Requirements include nutritional adequacy, prevention of foodborne illness, quantity and variety, appropriate temperatures and conservation of nutritional value.

B. Adopts by reference Minnesota Health Department food service and beverage regulations, allows for variances when ten or less prisoners are confined, sets requirements for catered food establishments.

C. Sets forth basic dietary allowances for lockups, jail and adult corrections facilities in basic food groups including: meat or protein group, milk group, vegetable group, potato or potato substitute group, fruit group and cereal and bread group and discusses use of fats and supplementing caloric needs.

D. Sets forth food service requirements for holding facilities.

E. Requires there not be more than 14 hours between evening and breakfast meal and that three meals be served daily at regular times.

F. Requires medically prescribed diets be met and documented.

G. Prohibits withholding food for disciplinary reasons.

H. Requires meal serving be supervised by staff.

I. Requires maintaining records for one year.

J. Requires a hot meal for every 24 hours of confinement.

K. Requires lockup, jail and adult corrections facilities to provide canteen services at least twice per week, requires facilities with approved capacities over 50 to operate a canteen in the facility and requires all vending machines meet Department of Health requirements.

L. Requires cost accounting system to isolate cost per meal per prisoner, policies and procedures for estimating food service requirements in advance of their need.

M. Sets forth requirements concerning containers used for food storage, storage of perishable and non-perishable food, prohibits storage of non-food items with food, limits the use of returned foods and sets forth requirements for storage and handling of ice.

N. Requires covering of food in transport through non-dietary areas and that food temperatures be maintained during transport.

Corr. 110 - SECURITY

A. Requires the development of policies and procedures to cover 14 specified security areas of concern.

B. Requires searches, showers, health assessment, photographing and completion of admission form.

C. Requires return of personal property with limited exceptions, proper clothing to insure health of release, and prior arrangements for transportation.

D. Allows for denial of a visit to visitors refusing to submit to an approved search, requires inspections of facility and materials delivered to facility for contraband, breaches in security, inoperable security equipment.

E. Sets forth requirements for identification, handling and storage of keys, prohibits prisoner access to security keys and prohibits inoperable locks and detention of prisoners in areas with inoperable locks.

F. Prohibits storage of such materials in prisoner areas of the facility, requires security and inventory of such materials sets forth requirements for storage and identification of tools, requires inventory of maintenance tools on admission to and release from the facility and outlines prohibitions on storage and use of hazardous substances by prisoners.

G. Requires development of a system for counting prisoners inclusive of a master count board, log book, formal counts at least once each eight hours and informal counts at least once each one-half hour.

Corr. 111 - ENVIRONMENTAL-PERSONAL HEALTH AND SANITATION

A. Requires 24 hour-a-day availability of medical and dental consultation, advice and emergency service response in the same or nearby community, requires ambulance service availability and examination of prisoners when appropriate.

B. Requires posting of medical, dental and ambulance resources, telephone numbers of same and times available at each staff station.

C. Requires access to hospital facilities when deemed appropriate by attending physician. Sets forth requirements for guarding hospitalized prisoners.

D. Requires staff training in emergency first aid procedures, first aid kits and regular inventory and replenishment of first aid supplies.

E. Requires maintenance of medical and dental records, documentation of complaints of illness, availability of records to staff responsible for prisoner care and requires obtainment of physician or dentist statement on any prisoner under medical or dental care.

F. Sets forth requirements concerning prisoner personal hygiene, use of delousing materials, bathing or showering, haircuts and requires personal hygiene items be furnished at facility expense.

G. Sets forth training required for staff to administer medications, storage provisions for medications, requires policy and procedures be developed concerning administration of medications, sets forth procedures for destroying unused portions of prescription drugs and sets forth limitations on methadone programs.

H. Requires reporting of suspected communicable diseases to local health officers by facility chief executive or person in charge.

I. Limits the use of isolation for communicable disease and requires physician consultation.

J. Requires segregation of mentally ill prisoners, defines same, requires physician consultation within eight hours and discusses Hospitalization and Commitment Act of Minnesota Statutes.

K. Sets forth requirements concerning compliance with regulations of other agencies, e.g., Health, Fire Marshal, Building Codes, etc., requires establishment of a plan inclusive of policies and procedures for preventative maintenance, housekeeping and sanitation; sets forth inspection, budget and work request requirements and requirements for insect and rodent control.

Corr. 112 - NEW CONSTRUCTION

A. Sets forth relationship of requirements to other agencies, allows for products equal to or exceeding those specified and requires certification of same by product manufacturer or governmental regulating agency. Requires maximum, medium and minimum security living accommodations in lockups, jails and adult corrections facilities. Sets forth acceptable variances in holding and adult corrections facilities.

B. Sets forth requirements concerning functional arrangements, location of staff work stations, separation of prisoner, staff and public areas, barriers between maximum security prisoners and freedom, requirements for storage, limitations on delivery areas, requirements concerning electrical auditory two-way communication equipment, traffic corridors, illumination levels, visiting arrangements, noise attenuation, cleanability of surfaces, tempered hot water, climate control, floor surfaces, the use of closed-circuit T.V. equipment, ceiling heights, separation of minimum security areas from other areas, location of isolation areas, program space requirements and limitations on use of maximum security cells.

C. Sets forth space requirements, requirements for controlled access, and provisions for seating, toilets, lavatories, drinking faucets and telephones.

D. Requires separation from other prisoner and public areas, provisions for privacy of searching, showering, and processing. Requires secure holding area and storage for clothing and property.

E. Sets forth separation and privacy requirements, prohibits living areas below ground level, places limits on location of ventilation and heating vents, requires provisions for natural light, sets forth basic provisions for cells, shower requirements, exercise space, dayroom provisions, areas for convalescent care of prisoners, limitations on dormitory utilization, prohibits two-bed cells and requires outdoor recreational space in adult corrections facilities.

F. Sets forth requirements concerning cell, detention room and dormitory square footage, inspection corridors, access to outside windows or doors, natural light orientation, sally ports, maintenance access to plumbing, heating and light fixtures, prisoner access to plumbing and heating fixtures; sewer lines, plumbing fixtures, abuse resistance of materials, locking devices, vent openings, grillage, glass, concrete, wall construction, ceiling construction, floor construction, door construction, window construction, hardware, medium security dormitories, minimum security rooms and minimum security dormitories.

RECEIVED
APR 5 1977
OFFICE OF HEARING
EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF CORRECTIONS

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF CORRECTIONS GOVERNING THE OPERATION AND MANAGEMENT OF HOLDING FACILITIES, LOCKUPS, JAILS AND ADULT CORRECTIONS FACILITIES.	ORDER FOR HEARING

IT IS HEREBY ORDERED that a public hearing on the above captioned rules be held in the Veterans' Service Building, Room D, 5th Floor, 20 W. 12th St., St. Paul, on May 10, 1977 commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that a Notice of Hearing be mailed to all persons or representatives of associations or other interested groups who have registered their names with the Secretary of State for that purpose.

IT IS FURTHER ORDERED that the Notice of Hearing be published in the State Register.

Thomas J. Foley

Thomas J. Foley, Deputy Commissioner
Minnesota Department of Corrections

Date: MAR 7 1977

Dept's Exhibit No. 14
File No.
Date

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF CORRECTIONS

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF CORRECTIONS GOVERNING THE OPERATION AND MANAGEMENT OF HOLDING FACILITIES, LOCKUPS, JAILS AND ADULT CORRECTION FACILITIES.	REPORT OF THE CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on May 10, 1977, before Steve M. Mihalchick, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter in compliance with Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. § 15.052, Subd. 3, was issued to the Department of Corrections on September 22, 1977; and

WHEREAS, the Department of Corrections has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Department of Corrections has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, Subd. 4, and Rule HE 107; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearing and that the Department of Corrections has met all requirements of Minn. Stat. § 15.0412, Subd. 4.

NOW, THEREFORE, upon receipt of this Report, the Department of Corrections has the responsibility of submitting the complete hearing record and the rules as adopted by the Department to the Attorney General and to publish in the State Register, all pursuant to Minn. Stat. § 15.0412, Subd. 4.

Dated this 20th day
of January, 1978.

Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINER

FOR THE DEPARTMENT OF CORRECTIONS

In the Matter of the Proposed Adoption of Rules of the Department of Corrections governing the operation and management of holding facilities, lockups, jails and adult correction facilities.

ADDITIONAL FINDING OF HEARING EXAMINER

The Report of the Hearing Examiner in this matter was submitted September 22, 1977. The proposed rules were modified and adopted by the Department of Corrections and submitted to the Chief Hearing Examiner for review. The Chief Hearing Examiner approved the rules on January 2, 1978.

On March 20, 1978, the Department informed the Examiner that the Attorney General had returned the rules because one portion duplicated statutory language and thus required a finding by the Examiner, in accordance with Minn. Stat. § 15.0412, subd. 1 (Supp. 1977), that duplication of the language is crucial to the ability of a person affected by a rule to comprehend its meaning and effect. The Department requested such a finding.

DISCUSSION

Minn. Rule Corr 108 A.1., was adopted in the form recommended by the Examiner in Finding No. 35 of his Report. It requires separation of certain classes of prisoners, and, as the Attorney General indicates, lists the same classes as Minn. Stat. § 641.14. However, as specifically noted in the Report, it is necessary to list the classes in the rule because the statute applies only to jails, while the rule applies to holding facilities, lockups and adult correction facilities, as well as jails. Because of this underinclusiveness, the statutory language is "duplicated" only as to jails, not as to the other types of facilities.

Even as to jails, the duplication is crucial to the ability of jailors and prisoners to comprehend its meaning and

effect. Proper separation was one of the most important principles contained in this large set of rules. The first and primary level of separation is that provided by Corr 108 A.1. Without specifying the requirement, the entire subject of separation becomes confusing. Simple reference to statutes is not sufficient because they are overlapping and underinclusive.

FINDING OF FACT

That Minn. Rule Corr 108 A.1., to the extent it duplicates language contained in Minnesota Statutes, is crucial to the ability of a person affected by the rule to comprehend its meaning and effect.

Dated this 21st day of March, 1978.

STEVE M. MIHALCHICK
Hearing Examiner

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF CORRECTIONS

In the Matter of the Proposed Adoption of Rules of the Department of Corrections governing the operation and management of holding facilities, lockups, jails and adult correction facilities.	)	REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing in Saint Paul on May 10, 1977, before Steve M. Mihalchick, Hearing Examiner, assigned by the Chief Hearing Examiner.

This is a rules hearing pursuant to Minn. Stat. ch. 15, to determine whether proposed new Minn. Rules Corr 100-112 [11 MCAR §§ 2.100-2.112] should be adopted.

The following persons appeared for the Department of Corrections (Department): Thomas Foley, Deputy Commissioner; Donald Cooper, Director of Inspection and Enforcement; Dennis Falenschek, Detention Specialist; and Joseph Marshall, Special Assistant Attorney General.

Thirty-seven persons attending the hearing signed the hearing register. The hearing continued until all interested persons had had an opportunity to participate.

Pursuant to Minn. Stat. § 15.0412, subd. 4, this Report shall be available for review to all affected individuals upon request for at least five days.

The Department shall, if it proposes to adopt the rules as originally proposed or amended, submit the complete hearing record, including its Findings and Order, to the Chief Hearing Examiner no earlier than five days subsequent to the receipt of this Report. This submission shall clearly indicate any changes made to the rules as originally proposed, preferably in the format that will be submitted to the State Register for publication. The Chief Hearing Examiner shall complete his review and submit his report to the Department on the issues of substantial changes in the rule and compliance with Minn. Stat. §15.0412 within ten calendar days. Thereafter, the Department shall be

responsible for filing the rules with the Attorney General.

Based upon all the records and proceedings herein, the Examiner makes the following:

FINDINGS OF FACT

PROCEDURAL REQUIREMENTS

1. On March 10, 1977, the Department filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules;
(b) A proposed Order for Hearing;
(c) A proposed Notice of Hearing; and
(d) A Statement of the estimated length and number of people attending the hearing.

2. On March 16, 1977, the Department filed a proposed summary of the proposed rules. The summary was requested by the Examiner and designed to be attached to the mailed Notices of Hearing.

3. On March 22, 1977, the Department filed the following documents:

(a) A proposed Statement of Evidence, and
(b) A partial proposed Statement of Need.

4. On March 28, 1977, a Notice of Hearing and a copy of the proposed rules were published at 1 State Register 1375.

5. On March 30, 1977, the Department mailed the Notice of Hearing with a Table of Contents and Summary to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice.

6. On April 5, 1977, the Department filed the following documents:

(a) The Order for Hearing;
(b) The Notice of Hearing as mailed;
(c) The Affidavit of Receipt of the Secretary of State's list;
(d) The Affidavit of Mailing;
(e) The Secretary of State's Certificate and list;
(f) The Statement of Need;
(g) The Statement of Evidence, including the names of witnesses to be called and Department personnel who will represent the agency; and
(h) Copies of all materials listed in the Statement of Evidence.

The documents were available for inspection at the Office of Hearing Examiners from the date of filing to the date of the hearing.

7. The record remained open through May 31, 1977, for the receipt of written comments and statements. Six public comments were received following the hearing.

STATUTORY AUTHORITY

8. Minn. Stat. § 241.021, subd. 1, provides in pertinent part:

> (1) The commissioner of corrections shall inspect all correctional facilities throughout the state, whether public or private, established and operated for the detention and confinement of persons detained or confined therein according to law except to the extent that they are inspected or licensed by other state regulating agencies. He shall promulgate, by January 1, 1977, pursuant to chapter 15, rules establishing minimum standards for these facilities with respect to their management, operation, physical condition, and the security, safety, health, treatment and discipline of persons detained or confined therein. Notwithstanding the provisions of sections 15.0412 and 15.0413, these rules shall not take effect until June 15, 1977. To assist in the development of standards for jails and lockups the commissioner shall pursuant to section 15.059, subdivision 6, appoint a citizens advisory task force of nine persons, including five persons who have been elected to the office of county sheriff and four persons who have been elected to the office of county board of commissioners. The commissioner shall have access to the buildings, grounds, books, records, staff and to persons detained or confined in these facilities. He may require the officers in charge of these facilities to furnish all information and statistics he deems necessary, upon forms furnished by him.

This statute provides the authority for Corr 100-111.

9. Minn. Stat. §§ 641.22 and 642.01, require a county board or governing body of any city to obtain approval from the Commissioner of Corrections prior to any construction or repair at a cost of more than $5,000. Minn. Stat. § 642.02, subd. 1, provides that the Commissioner shall not approve any such plans "unless the plan meets the standards established by the commissioner's rules". This statute provides the authority for Corr 112.

PROPOSED MINN. RULE CORR 100 - INTRODUCTION

10. Corr 100 A is a reasonable introductory statement that the rules are intended to fulfill the mandate of Minn. Stat. § 241.021, subd. 1, of specifying minimum standards for all

correction facilities throughout the state.

11. Corr 100 B states that the Commissioner of Corrections has, as required by law, appointed a citizens advisory task force to assist in the development of the rules. Appointments to the task force were completed July 15, 1976, and its first meeting was held July 26, 1976. A summary of the task force's activity is provided in the Statement of Need (Ex. P at 3-4). Copies of all task force correspondence were provided in Exhibit 15. These exhibits and the rules themselves show the high quality of work and reasonable compromises made by members of the task force and Department personnel.

12. Corr 100 C states that the purpose of the rules is to provide a framework for the inspection, restriction of usage and condemnation of holding facilities, lockups, jails and adult corrections facilities. This section, like the foregoing sections of Corr 100, is needed to provide a basic orientation to the following rules and reasonably does so. The Hennepin County Adult corrections facility (hereinafter, Hennepin County) recommended that Corr 100 C be rewritten in a more positive manner (Exhibit P-7). They suggested: "The purpose of these minimum standards is to provide a framework for local facility inspection in order to maximize the health, welfare and safety of inmates, staff and community, and to ensure that inmate programming is provided consistent with the level of operation. Failure to meet minimum standards may result in a restriction of usage and/or the condemnation of holding facilities, lockups, jails and adult correctional facilities." A very similar statement is made in Corr 102 C, where the affect of non-conformance is specified. It is not necessary to be so specific in this introductory rule.

PROPOSED MINN. RULE CORR 101 - DEFINITIONS

13. Corr 101 defines 27 different terms used throughout the rules. Because of the length and complexity of the rules, and because they affect approximately 150 local units of government and facility administrators, it is necessary that all concerned individuals, agencies and unit of government have a clear understanding of the terms used in the proposed rules. There was

little or no comment on most of the definitions, and unless expressly found otherwise below, the Examiner finds all of them to be reasonable.

14. Application of various standards in the rules depends upon distinctions that can be drawn in the type of facility and the type of prisoners housed in those facilities. Four different types of facilities are defined, namely: "holding facility", "lockup facility", "jail" and "adult corrections facility". These distinctions derive primarily from statutory definitions found in Minn. Stat. ch. 641, County Jails; ch. 642, Lockups; and ch. 643, Work Farms. The term "local facility" is defined as a general term encompassing all the various types of facilities. Hennepin County suggested that there should be no definition of "local facility" included, because "the standards should be specific in the applicability to their various levels of operation. . . ." (Ex. P-7) There are, however, some standards that are generally applicable to all levels of operation and, therefore, a general term is needed.

15. "Adult corrections facility" is defined as a security detention facility used to confine sentenced prisoners for a period of time not to exceed one full year. This differs from the definition of "jail" only in the fact that a jail may be used to confine prisoners prior to appearance in court as well as sentenced prisoners for periods of time not to exceed one full year. Hennepin County suggested that the word "only" be inserted in the definition of adult corrections facility, apparently to make it more clear that adult corrections facilities are used only to confine sentenced prisoners. That seems rather clear from the proposed definition but the word might be added to clear up any possible confusion. Corr 112 A.6.b. which deals with construction of new facilities states that adult correction facilities designed and approved to accept only one classification of prisoner may have the capability of providing security of that classification only. Hennepin County suggested that that provision be added to that definition of adult corrections facility (Ex. P-7). The Examiner can see no valid reason for adding that provision to the basic definition.

16. .Another distinction upon which application of various standards depends is the classification of the prisoners. Thus, definitions are given for minimum, medium and maximum security prisoners and minimum, medium and maximum security areas. Prisoners are differentiated according to their expected behavior. Thus, maximum security prisoners are those who have established themselves as dangerous to self or others, or behaviorally uncontrollable, or those who are so unfamiliar that no reasonable assessment of character can be made. Medium security prisoners are those who have not performed bizarre behavior within the past five years and who are sufficiently familiar to the staff of the facility to warrant general reliability for their expected responsible behavior. Minimum security prisoners are those who have established themselves as reliably responsible (with the exception of their offense patterns) under conditions provided by the staff and other resources of the facility and the community. The three types of security areas are defined in very general terms by the degree of physical security provided for the control and separation of prisoners. Thus, maximum security areas provide the "greatest degree", medium security areas provide "moderate but considerable physical security" and minimum security areas "provide functional living accommodations with a nominal reliance on physical security for the control and separation of prisoners". Hennepin County suggested that the definition of minimum security prisoners also contain a provision that prisoners committed by the court under the Huber law be automatically considered as minimum security prisoners (Ex. P-7). Such a provision is not necessary because subsequent rules allow the facilities to classify their prisoners. For example, Corr 108 B.3. states that jails and adult corrections facilities shall develop and implement a written classification plan or system which includes specific criteria by which prisoners are assigned to housing units. Thus, Hennepin County is not precluded from designating all of its Huber prisoners as minimum security prisoners. Hennepin County also stated that the definition of medium security prisoner did not apply to their facility because they consider

all prisoners to be medium security except Huber commitments. Apparently they make no assessment of whether a given prisoner is dangerous to himself or others or behaviorally uncontrollable and are instead relying on the sentencing judges to classify the prisoners. Hennepin County might be justified in doing so if they can show that all the judges who sentence to the facility are aware that Hennepin County provides only medium and minimum security areas and that the judges consider the dangerousness of the prisoners and their reliability in every case before sentencing them to the facility. The cases and articles cited by the Department place the burden for appropriate classification and separation of prisoners upon the facility. In light of those authorities, these definitions are reasonable.

17. Some of the standards in the rule vary their application depending upon the number of prisoners in the facility. Thus, Corr 101 A.12 is needed to define "average daily population" as the average number of prisoners residing daily during the last calendar year. Because this figure has such an impact on staffing requirements, Hennepin County requested that it be clarified to indicate how prisoners on work release or community furlough were to be counted. The concerns Hennepin County raises are legitimate because such things as staffing patterns should depend upon the number of prisoners that are physically present. The effect of prisoners being physically absent from the facility should be clarified, either in this definition or in those standards that set requirements according to population. Without such a clarification, this definition is unreasonable.

18. Throughout the rules, various responsibilities are placed on the "facility administrator". Hennepin County correctly pointed out that "the instructions and responsibilities and the expectations of these standards placed upon the administrator are horrendous and could not possibly be performed by one person." (Ex. P-1) At the hearing (Tr. 41) and in its post-hearing comments (Ex. S), the Department agreed that these concerns were valid, and that they would consider amending the definition of "facility administrator" to include an administrator's "designee or

appointee". Such an amendment would be reasonable, but the Examiner would suggest that it also contain a provision that the facility administrator would nevertheless retain overall responsibility for the performance of any required task or duty.

PROPOSED MINN. RULE CORR 102 - INSPECTIONS, INTENDED USE AND NON-CONFORMANCE WITH RULES.

19. Corr 102 A states that all facilities will be inspected pursuant to the authority contained in Minn. Stat. § 241.021, subd. 1, and that all such inspections "shall be according to the standards set forth herein." This simple statement is needed to advise those subject to inspection as to what standards will be applied.

20. Corr 102 B, Intended Use, prohibits a facility from operating at a classification for which it is not been approved. As will be noted in the next finding, the Department has the authority to restrict the use of a facility for failure to substantially comply with the minimum standards set in these rules. As previously noted, the applicable standards may vary depending upon the classification of the facility. If a facility is used inconsistently with its classification, it would, at best, be difficult to determine which standards apply. At worst, it would be possible to circumvent the proper minimum standards.

21. Corr 102 C provides:

> "Non-conformance, Unsafe, Unsanitary or Illegal Conditions. When conditions do not substantially conform to the standards stated herein or where specific conditions are such as to endanger the health, welfare or safety of prisoners and/or staff, the facility's use shall be restricted pursuant to Minn. Stat. § 241.021, subdivision 1 or legal proceedings to condemn the facility will be initiated pursuant to Minn. Stat. § 641.26 Condemnation of Jails, or Minn. Stat. § 642.10 Condemnation of Lockup."

This section is needed to set forth the sanctions that are legally available to the commissioner of corrections for non-conformance with the rules.

22. Both Hennepin County and the Ramsey County Community Corrections Department expressed concern that the rules in general took too much power from the local facilities and governments and placed them in the hands of the Department. Yet, the statutes

make it clear that that power was indeed placed in the Department by the Legislature. Minn. Stat. § 241.021, subd. 1(4), provides in pertinent part:

> "When the commissioner finds that any facility described in clause (1) of this subdivision. . . does not conform to the minimum standards established by law or by the commissioner, he shall promptly notify the chief executive officer and the governing board of the facility of the deficiencies and order that they be remedied within a reasonable period of time. The commissioner may by written order restrict the use of any facility which does not substantially conform to minimum standards to prohibit the detention of any person therein for more than 72 hours at one time."

Minn. Stat. § 641.26 provides in part:

> ". . . when the commissioner of corrections shall adjudge any county jail insecure or otherwise unfit for use, he may, with consent of the judge of the district court, issue his written order condemning it. After condemnation that jail shall not be used for the detention of any prisoner until the order of condemnation is rescinded."

Minn. Stat. § 642.10 provides:

> "When the commissioner of corrections shall become satisfied, from the report of a local health officer or sheriff or from the report of any agent he may appoint and authorize to examine lockups, or from his inspection that any lockup does not reasonably conform to essential conditions and details of construction, such as are pescribed by law for plans for lockups, and that such lockup is in a condition or of a construction such as to endanger the well-being, health, security or life of any person confined therein, he shall condemn such lockup by his written order and it shall not be further used while such order is in force."

Corr 102 C reasonably and accurately specifies the powers given to the commissioner by the statutes. It is crucial to advise local units of government and facility administrators of the possible consequences of non-compliance with the standards.

23. Corr 102 D is a severability clause that is needed to ensure the efficacy of the remaining portions of the rules should any one part be determined to be invalid. Some courts have held that the absence of such a provision evidences an intent that all rules stand or fall as a whole.

PROPOSED MINN. RULE CORR 103 - VARIANCES

24. This rule allows a local facility to request a variance of any specific standard from the commissioner of corrections and for a facility administrator to temporarily suspend any standard in the event of an emergency. It also provides an automatic exemption from the 30-day confinement limitation in lockups for Huber prisoners and for a permissible exemption from the 72-hour confinement limitation in holding facilities for Huber prisoners if approved by the commissioner of corrections. This rule provides the reasonable flexibility needed to meet the practicalities of different situations that may arise. Two minor questions were raised with regard to the rule. One stated that it was not clear as to whom the request for a variance should be submitted or as to how soon the commissioner would respond to such a request. The Department stated that it would amend the rule to ensure that it is clear that the request should be made to the Commissioner of Corrections and the amount of time the commissioner will take (Tr. 51). Such clarifications should be made to the rules. The Huber provisions are reasonable because they will assist the judicial system and law enforcement personnel in providing approved detention capability for such offenders as close to their work or educational site as possible. Work release and educational release are meaningful programs for prisoners sentenced under the Huber law, and consequently, facility program requirements for these prisoners need not be as great as for prisoners sentenced to straight jail time.

PROPOSED MINN. RULE CORR 104 - PERSONNEL STANDARDS

25. Sections A through E of Corr 104 require employees to show freedom from communicable diseases, to be selected and appointed without discrimination on a basis of assessed ability, to satisfactorily complete a probationary period, to be annually evaluated, and to not be assigned to duty for two consecutive work periods except in unusual circumstances. These requirements are clearly reasonable and no comment was made about them.

26. Corr 104 E, staffing requirements, requires the facility administrator to prepare and maintain a staffing plan that

indicates the personnel assigned to the facility and their duties. This is needed and reasonable to ensure that each facility is staffed with enough employees to perform all duties and discharge all responsibilities. The rule then provides for minimum staff requirements.

27. Corr 104 E.2.a. requires that each facility have a single administrator or chief executive, and that where the average daily population exceeds 50, the administrator have an assistant. It also provides that, in the absence of the facility administrator, a staff person shall be designated as the person in charge, and that such persons in charge shall be certified in writing by the facility administrator as physically able, competent, capable and prepared by training to act in an emergency. Hennepin County agreed that in larger facilities adequate support staff is necessary, but stated that the title or classification of this support staff is best left optional for local officials to decide (Ex. P-7). The Department stated that they did not intend by this section to require the hiring of a person titled assistant administrator; that that would be an organizational type of decision. There may be better words to express that intent, and the Department may wish to modify that section; however, the Examiner is unable to think of any significantly better wording. Hennepin County recommended that the standard requiring the person in charge to be certified as able to act in an emergency not be applied to adult corrections facilities (Ex. P-7). They stated that county personnel standards by which their personnel are promoted are sufficient to enable the administrator to simply designate who will be placed in an acting capacity. The essential requirement of the rule is that the person in charge have the capacity to act in an emergency. There can be no disagreement about that requirement. The requirement that the administrator certify such capacity emphasizes the importance of the requirement. The requirement for certification is necessary and reasonable. The personnel systems of all the different counties may or may not ensure the capacity of the person in charge. If Hennepin County's does, this rule imposes no burden other than requiring the

administrator to sign the piece of paper.

28. As originally proposed, Corr 104 E.2.g. stated: "The ratio of custodial staff to prisoners shall not be less than one staff person to 25 prisoners at any time of the day or night." The authorities cited by the Department at the hearing recommend ratios much lower than that. For example, the Advisory Commission on Criminal Justice Standards and Goals recommends a ratio of 1:6. However, Hennepin County stated that such a ratio would impose a great burden on them. They have an average population of approximately 250. During active hours, they maintain the suggested ratio; however, once their facility is secured for the night and lockup has been made, the shift is reduced to three security officers. They believe that is sufficient. In response to these comments, the Department suggested a modification of the rule (Ex. S). The rule, as now proposed reads:

> "The ratio of custodial staff shall not be less than one staff person to 25 prisoners at any time that prisoners are not secured in their cells, detention rooms or dormitories. At all other times, a combination of staff resources and physical plant resources shall provide the capabilities of reporting incidents as well as providing a response to emergencies."

The modified rule is reasonable, even though it is far below some recommended standards. It will not impose an undue burden on Hennepin County.

29. Corr 104 E.2.h. specifies program staff requirements for the various types of facilities. Program staff are needed to ensure that program opportunities for prisoners are developed in a manner reasonably consistent with the function of the facility. Hennepin County at first objected to the portion of the rule affecting adult corrections facilities in that it would again require them to hire several people at considerable expense (Ex. P-1). The Department agreed to rewrite the rule in a manner that would more clearly authorize the use of community resources in prisoner programming as a substitute for in-house staff responsibility (Ex. S). In its post-hearing comments (Ex. P-7), Hennepin County agreed to the appropriateness of the program staff requirements and offered an amendment which would allow the use of

community resources to meet those requirements. If the rule is amended to allow the use of community resources, it will be reasonable.

PROPOSED MINN. RULE CORR 105 - STAFF TRAINING

30. The need for and reasonableness of training for staff was recognized by every authority cited by the Department and by all persons at the hearing. The proposed rule requires that each facility have a training plan, provide a minimum of 24 hours of orientation training for custodial personnel, requires that all custodial personnel satisfactorily complete a Department approved course during their probationary period and that each facility provide a minimum of 24 hours of in-service training per year. Hennepin County commented that the section on the training program was too detailed and did not constitute minimum standards. They suggested that the rule should require that each facility simply develop and implement a training program for orientation of new employees and volunteers and make provisions for continuing in-service training for all employees and require that these training plans be annually reviewed and updated as needed. The rule proposed by the Department is not unreasonable because it specifies what any reasonable training plan should include: curriculum, methods and objectives.

At the hearing, a question was raised as to the need for 24 hours of orientation training in certain facilities (Tr. 124-127). Some cities, for example, Bloomington, operate what falls within the definition of holding facility but which, in fact, are used only to house prisoners for one or two hours. In Bloomington, each of its 86 sworn officers at one time or another acts as dispatcher/custodian. Thus, it appeared to them that the rule would require Bloomington to provide over 2,000 hours of orientation training to its sworn officers. The Department pointed out that less training is required in holding facilities under the rule. Corr 105 C specifically exempts holding facilities from the in-service training requirement. There is no real question of the need for training for custodial personnel, and the rule is written

to cover facilities that use both certified law enforcement personnel who by statutory requirement have taken certain courses as part of their training and with facilities that do not have certified law enforcement personnel. Thus, in cities like Bloomington using sworn officers, much of the orientation training requirement would have been satisfied, for example, by the BCA training received by their officers.

PROPOSED MINN. RULE CORR 106 - STAFF DEPLOYMENT, JOB DESCRIPTIONS, WORK ASSIGNMENTS, POST ORDERS, POLICIES AND PROCEDURES

31. This rule requires written job descriptions for all positions; work assignments consistent with the qualifications stated in the job descriptions; the development and maintenance of channels of communication between employees and the administrator; the development of written policies and procedures to cover emergency situations; admission and release of prisoners; laundry feeding; canteen visiting; and security check schedules; the availability of policy and procedural manuals to employees at the time of employment and whenever revised; the development of written personnel policies governing terms and conditions of employment; the availability of copies of all standards relating to the facility and its operation to all personnel; and the development of a public information plan. All of the requirements except the public information plan are necessary to ensure that each employee is familiar with what he is required to do, and that he has the qualifications to carry out his assignments. They are also necessary to ensure operational consistency, communications and accountability. The availability of policy and procedure manuals, personnel policies and standards are all needed to ensure that employees who may be unfamiliar with these items or who have not had regular refresher training courses are not forced to rely upon their own recollection or judgment and may quickly refer to the proper source of information. A public information plan is needed to ensure that non-public information as defined in Minnesota Statutes or critical security information is not inadvertently made available to the public. Release of confidential information may violate the law; release of security information may

compromise security at a later point.

32. As was pointed out at the hearing, in some facilities, job descriptions and personnel policies are developed by such bodies as civil service commissions or through collective bargaining negotiations (Tr. 128-130). It might be possible to construe the words in this rule to prohibit such action, and require that they be written by the facility administrator; therefore, the rule is unreasonable. This was not intended by the Department and they suggested that the words "administrator or his designee" discussed above would cover the situation. However, the Examiner would suggest that allowing such action could be made more clear by adding a new section to the rule such as the following:

> "I. Merit System and Collective Bargaining. Nothing in this rule shall be construed so as to prevent the establishment of job descriptions, work assignments, channels of communications, or personnel policies by, through or in cooperation with the appropriate merit system or collective bargaining agreement."

33. Corr 106 E.1. requires that policy and procedures manuals be available at post assignments. Hennepin County recommended that rather than "post assignments", such manuals should be available at "a secure central security station within the facility." They stated that to have such manuals available at all post assignments would increase the possibility of their falling into inmate hands (Ex. P-7). Hennepin County's concerns are legitimate and the rule is unreasonable as proposed. The Department should consider the appropriate modification.

PROPOSED MINN. RULE CORR 107 - RECORDS AND REPORTS

34. This rule lists 18 separate types of records and reports that must be maintained by each facility. Many of the records are already required by statute; others are necessary for the Department's use when carrying out their statutory obligation to inspect corrections facilities. Others are required for the facility's own protection. The authorities cited by the Department at the hearing state that such records can be invaluable as a means of evaluating past performance, making plans for future programs and

procedures, documenting administrative actions for use by the courts or other decision-making bodies, and assessing the causes of all serious incidents which occur in the jail, so that they can be avoided in the future. The evidence offered by the Department also notes litigation resulting from improper record-keeping concerning medical care and improper record-keeping on prisoners' personal property. The Department's evidence on this last point was reinforced by comments received from Edward Clark, an inmate at Stillwater, who submitted extensive comments on these rules. Mr. Clark had been incarcerated in four county jails prior to being lodged in Stillwater. In the last 2-1/2 years he has interviewed approximately 1200 men arriving at Stillwater from county jails. On this particular rule, Mr. Clark stated that several new admittees at the prison stated that their personal property had been confiscated in a jail and either lost or destroyed by the staff (Ex. P-6). Proper record-keeping will help resolve such complaints.

34. Corr 107 D, Confidentiality of Records, states that "prisoner records shall be kept in conformity with state law." T. Williams, Ombudsman for Corrections, suggested that a sentence be added to this rule to read as follows: "A procedure shall be established which allows each inmate the opportunity to read the 'factual' data in his personal file." (Ex. P-2) The Ombudsman cites County of Sherburne v. Schoen, 236 N.W.2d 592 (Minn. 1975) as authority for his suggestion. That case held that Minn. Stat. § 15.165(b) and (c) require that the non-confidential portion of presentence investigation reports must be disclosed to prisoners, parolees and probationers. The Court approved a stipulation for consent decree that provided for new PSI reports to be separated into factual data and confidential data and approved by the judge receiving the PSI. It required existing reports to be separated into confidential and non-confidential parts by the agent who originally prepared the report or by the commissioner of corrections. The Court then directed that prisoners, parolees and probationers shall be advised whether their records contain data which has been deemed confidential, and further advised that they

have a right to apply to the trial court to have such information disclosed to them.

Strictly speaking, the case applies only to PSIs, and it may not apply to local facilities. However, it does point out the importance of the Data Privacy Act. On June 3, 1977, a significant amendment to Minn. Stat. § 15.165 became effective. Under the amendment, a prisoner requesting to see private data on himself or requesting copies of the private data must have his request honored immediately, if possible, or within five working days if immediate compliance is not possible. An additional five days is available if the prisoner is notified (Laws 1977, ch. 375, § 7). If a prisoner's file contains confidential data, it would be difficult or impossible to comply with the statutory time requirements if the facility has not already separated the confidential data from the private and public data. While the rule is not unreasonable as proposed, the Examiner would recommend that the rule be modified both to require the establishment of procedures by which prisoners can be shown and be provided copies of non-confidential data contained in their files and to require separation of non-confidential data from confidential data in prisoner records in order to facilitate compliance with the time requirements of the statute. It should also require that prisoners be given the notices required by the Court.

PROPOSED MINN. RULE CORR 108 - PRISONER WELFARE

35. Corr 108 A requires that a combination of separate living spaces, sanitation facilities, activity spaces, cell units and detention rooms be provided to properly segregate prisoners pursuant to Minn. Stat. §§ 641.14, 641.15 and 636.07. Section 641.14 applies to jails and requires separation of females from males, minors from adults, insane prisoners from all other prisoners and persons awaiting trial from all other prisoners. Section 641.15 does not require any additional separation, and need not be included in the list. Section 636.07 requires any person confining a juvenile to use a separate place of confinement "and under no circumstances place him with grown-up prisoners." The

National Sheriffs Association Handbook on jail security, classification and discipline states: "Every jail should have a system for separating its population into at least three categories of risk, as well as into groups which have a relationship because of common characteristics. Jails contain a variety of inmates who, because of their physical and mental state, sex, age and legal status, should be accorded special treatment in terms of housing, work programs and other jail activities. The classification, segregation and treatment of such inmates must be based on humane considerations, recommended standards and good security practices." In line with this authority, Corr 108 A.1. provides: "Whenever possible within the limitations of the existing facility and staff, witnesses, first offenders, traffic offenders, non-support and contempt cases shall be housed separate from those charged and/or sentenced for criminal offenses." However, the language of the rule does not address the need cited in the Sheriffs Association handbook; it does not address degree of risk, which was so carefully defined in the definition section, and it considers only category of offense. At the hearing, Department representatives stated that the rule was set forth simply to assist people in recognizing what the statute says (Tr. 136). However, the Examiner is unable to find any statute listing the categories stated in Corr 108 A.1. If the intent of the Department was indeed to set forth the requirements of the statutes (which would appear to be necessary because the statutes do not specifically apply to all types of facilities), then Corr 108 A.1. should be modified to read:

> "1. The following prisoners shall be housed separately: Female prisoners from male prisoners, minor prisoners from adult prisoners, insane prisoners from all other prisoners, prisoners awaiting trial from all other prisoners."

If the Department then intends that there should be further separation by risk category, as their cited authorities suggest, then there should be further requirement for separation of prisoners by category of risk (minimum, medium and maximum security prisoners as defined in the definition section). There are clear

implications throughout these rules that prisoners should be classified by risk and assigned to a correspondingly secure area. However, there is no such specific requirement. As proposed, Corr 108 A is unreasonable.

36. Corr 108 A.2. allows facilities to provide supervised coeducational activities and programs for adult prisoners, if they are supervised by a staff person of one sex at all times with a staff person of the opposite sex in the immediate area. Such deviation from the separation requirements is reasonable for such programs as alcohol and drug counselling to ensure the availability of such programs to both male and female prisoners without the unwarranted duplication of such programs.

37. Corr 108 B, Classification, requires lockups to screen all admissions for the purpose of determining prisoner classification by sex, age, category of offense, degree of escape risk, degree of assaultive behavior and such other criteria as necessary to provide for the safety of the prisoner, staff and the community. It requires jails and adult corrections facilities to do the same, and to also develop and implement a written classification plan or system which includes specific criteria by which prisoners are assigned to housing units. Corr 108 B.1. states, "Holding facilities shall comply with the separation standards herein contained."

Since holding facilities are used only for very short periods of confinement and generally not for high risk or dangerous offenders, the Department does not believe that a formal classification system is necessary there. The classification requirements for lockups, jails and adult corrections facilities are needed to ensure that reasonable care is taken to assign prisoners to appropriate living areas within the facility in order to achieve maximum compatibility and safety within each prisoner living area. Hennepin County questioned the need for such involved classification procedures at a facility such as their own since they consider all Huber committments to be automatically minimum security and all others to be medium security (Ex. P-7). However, it remains clear that separation is still required on

the basis of sex, age, mental status and legal status, and therefore classification procedures are necessary.

38. Corr 108 C is entitled, "Prisoner Rules and Regulations." It might more properly be titled, "Information to Prisoners." The National Sheriffs Association Handbook on inmates legal rights states that every jail must have a system for maintaining inmate discipline which is consistent with constitutional requirements for due process. It goes on to say that "the first step towards such a system is to compile a clear and comprehensive set of rules which explain the required standard of conduct, define behavior which would be in violation of the rules and indicate the penalty for proven violations." Due process and fairness require that prisoners be advised of the policies that will be applied to them. Therefore, Corr 108 C.1. provides that "Copies of rules and regulations shall be made available to all prisoners throughout their confinement concerning the following: . . ." The rule then specifies rules and regulations governing conduct and disciplinary consequences, procedures for obtaining hygiene and canteen items, and policies concerning visiting, correspondence, bathing, laundry, clothing and bedding exchange. It also appears to require that these rules and regulations advise prisoners of their legal rights with respect to detention or confinement and advise every prisoner admitted of the official charge or legal basis for his detention or confinement. These last two items are not really rules or regulations, and the Examiner would suggest that they be separately numbered as sections rather than included as subsections of rules and regulations. As originally proposed, Corr 108 C.1.d. requires that prisoners be advised of their legal rights "to the extent requested and facility staff feel qualified to advise." The Ombudsman suggested that the quoted phrase be deleted from the rule (Ex. P-2). The Examiner agrees that the rule is unreasonable. While it may not be possible to define every legal right that a prisoner has, there are certainly some basics of which he should be informed.

Corr 108 C.3. requires every prisoner, except those detained in holding facilities, to be provided with a program options and

activities provided in the facility, as well as outside resources available, within 24 hours of admission. Hennepin County first objected that an all-inclusive list of outside resources would be prohibitive to develop, maintain and distribute (Ex. P-1). In their post-hearing comments, Hennepin County suggested that the 24 hours not include weekends or holidays because the program staff responsible for orientation does not work on weekends or holidays at their institution (Ex. P-7). The Examiner agrees that this provision is unreasonably restrictive, at least as to advising prisoners of program options and outside resources. It may be appropriate to require prisoners to be notified almost immediately of the activities that are available, but advising them of program options and outside resources could more appropriately be done at an interview with the program staff. The rule should be more flexible.

Corr 108 C.2. requires that the required information be explained to prisoners who are unable to read, or who have any questions. Because of its location within the rule, this requirement does not apply to information concerning programs and activities. If the Department is going to require that program and activity information be provided in writing, then this section should apply to that also, and should be placed as the last section within the rule.

39. Corr 108 D, Prisoner Discipline, requires the development of a discipline plan, places limits on disciplinary actions, requires the keeping of disciplinary records, regulates the use of disciplinary isolation and administrative segregation and prohibits the use of instruments of restraint as punishment. Prisoner discipline was the subject of much of the litigation referred to in the evidence submitted by the Department. It is an area in which the facilities must be particularly careful. The rules in this section generally provide reasonable minimum standards regarding discipline while allowing the individual facilities to develop discipline plans appropriate to their own circumstances.

40. Corr 108 D.1. requires the development of a prisoner

discipline plan that clearly explains consequences and sanctions for specific behaviors or omissions of the process of handling violations, and review rights and process. As originally proposed, the rule required that the disciplinary plan have the approval of "the court and the county attorney." The Ombudsman suggested that the rule be modified to delete the county attorney and specify approval of the district court (Ex. P-2). At the hearing, the Department agreed that such a change would be appropriate (Tr. 60). Determining constitutional rights is a task classically reserved to the courts. As modified, the rule is reasonable.

41. Corr 108 D.2. places four limits on disciplinary actions. It first requires review by the facility administrator or his assistant every 24 hours of any prisoner held in disciplinary isolation. Hennepin County suggested that this review could be done by the administrator or his designee. This matter should be clarified. If it is the judgment of the Department that this duty cannot be delegated, then the rule should specify administrator or assistant only. If, however, the Department believes that this duty can be delegated, then Hennepin County's suggestion should be adopted. Either position is reasonable. Hennepin County also states that a 24-hour review should not be necessary in those cases where disciplinary isolation for greater than 24 hours has been imposed in accordance with the due process procedure of the facility. The matter should also be clarified but should, in any event, require a 24-hour review while allowing the administrator to deem continued isolation necessary if longer isolation was imposed through due process procedures.

Corr 108 D.2.b. requires the disciplinary isolation cell to have the minimum furnishings and space specified in these standards, except that prisoners may be deprived of clothing and bedding if they persist in destroying those items or using them to injure themselves. If such a decision is made, it must be reviewed once each eight hours. The only comment on this was that it does not specify who shall make the review. Hennepin County suggested adding the phrase "by the officer in charge, unless specific

orders to the contrary have been issued by the facility administrator or his designee or on the advice of a licensed physician or psychologist." (Ex. P-7) The rule should be clarified and Hennepin County's suggestion is reasonable.

The remainder of Corr 108 D.2. prohibits the delegation of authority to any prisoner or groups of prisoners to exercise their right of punishment over any other prisoner or groups of prisoners, and provides that no prisoner shall be deprived of the use of materials necessary to maintain an acceptable level of personal hygiene under supervision. These are clearly reasonable and no comment was made about them.

42. Corr 108 D.3. requires that a record be kept of all disciplinary infractions and punishment administered. The Ombudsman suggested that this rule require that written notice be provided to an accused inmate 24 hours after the inmate has been charged with a rules violation (Ex. P-2). The suggestion is inappropriate in this section as it actually applies to the discipline plan. However, it is not necessary to specify it in that section either, because no judge would ever approve a disciplinary procedure that did not provide for notice to the accused.

43. Corr 108 D.4. relates to administrative segregation. Again, administrative segregation is isolation of a prisoner, not for discipinary reasons, but because such isolation is necessary to protect the prisoner or others. The rule limits administrative segregation to separate and secure housing without any other deprivation of privileges except as necessary for the protection of the prisoner or others.

Corr 108 D.4.a.(2) states:

> "Use of isolation cell/room. The disciplinary cell/room shall be used for the housing of only those prisoners who display bizarre behavior which results in the destruction of facility furnishings or reveal an intent to cause physical harm to self or others "

The remaining portions of this subsection then require such isolation to be imposed only by the administrator or the designated person in charge and to be reviewed every 24 hours. It further requires a medical opinion on the isolation every 24 hours, and visual supervision at least every half hour. It is unclear to

the Examiner as to whether this subsection is intended to apply to administrative segregation or to both administrative segregation and disciplinary isolation. It apparently applies only to administrative segregation, but there was discussion in some of the comments about the 24-hour medical review being required for disciplinary isolation. The matter should be clarified by changing the words underlined above to "administrative segregation" or "administrative segration or disciplinary isolation" whichever was intended. Without such clarification, the rule is unreasonably vague.

44. Corr 108 D.5. prohibits the use of instruments of restraint except (1) as a precaution against escape during a transfer; (2) on medical grounds by direction of a physician, or (3) by order of the administrator or person in charge if other methods of control fail to prevent a prisoner from injuring himself or others or from damaging property. Hennepin County suggested that medical grounds could also be by direction of a psychologist (Ex. P-7). Their suggestion is reasonable and should be adopted. (See Finding No. 82.)

45. Corr 108 E deals with activities. The need for and reasonableness of constructive scheduling of prisoner time is recognized by every authority cited by the Department at the hearing. The National Sheriffs Assocation Handbook on jail programs states, "Most sheriffs agree that the most serious problem in jail administration and the most difficult to deal with is inmate idleness". The Kansas Jail Standards and Procedures state "Constructive inmate treatment programs should be provided in each jail. All inmates shall be given every reasonable opportunity to participate. The programming may consist of work, education, self-help, vocational training, counseling, hobby craft or recreation." Following these authorities, Corr 108 E.1. requires each administrator to develop and implement a plan for the constructive scheduling of prisoner time consistent with the legal rights of prisoners, classification of prisoners, the facilities' classification, and other criteria.

46. Corr 108 E.2. requires that prisoners shall be afforded

an opportunity to participate in religious services and counselling on a voluntary basis. Most of the subsections in this rule follow directly from litigation cited by the Department at the hearing, and they are reasonable.

Corr 108 E.2.b. states that prisoners requesting private interviews and counselling with clergy and others shall be afforded this opportunity within such regulations as are reasonable and necessary to protect the facility's security. Mr. Clark stated that he has experienced his conversations with clergy being monitored, and that he has also been denied access to clergy, and generally given the reason that it is because of security (Ex. P-6). He suggests that refusing a prisoner's request should be put in writing with a copy given to the prisoner, to the clergyman and placed in the facility records. That is an appropriate suggestion, but is covered by Corr 108 F.1.e. (See Finding No. 55.) The rule should also be clarified as to whether "private" really means "private", or whether such interviews are subject to monitoring.

47. Corr 108 E.3., requiring library service, is needed to ensure that prisoners have access to leisure reading materials and an opportunity to pursue educational pursuits and that the prisoners' rights of access to legal materials are fulfilled.

48. Corr 108 E.4. governs work assignments of juveniles and adults. These standards are needed and reasonable to effect the presumption of innocence of prisoners awaiting trial and to ensure that prisoners are medically capable of performing assigned tasks. The rule provides that no adult under sentence shall be required to work more than ten hours per day. Mr. Clark stated that the wording of this rule gives too much leeway for facility staff to require a prisoner to work "up to" ten hours (Ex. P-6). This particular provision, and some of the other provisions in this section, are based on Minn. Stat. § 641.07. That statute says that every able-bodied prisoner over 16 years of age, confined under judgment, may be required to labor during his sentence but not more than ten hours per day. Therefore, the provision of the rule is reasonable as written, and it is necessary

to repeat the statutory language in order to make this comprehensive set of standards meaningful. The Ombudsman suggested that a provision be added requiring the facilities to provide minimum compensation to juveniles and adults who work (Ex. P-2). The Department has no authority to require such compensation. It might be noted that § 641.07 allows the sentencing court to require the county or city to pay a reasonable compensation for such work in an amount and to such persons as the court directs.

49. Corr 108 E.6. requires each facility administrator to develop a plan for providing opportunities for physical exercise and recreational activities to all prisoners, consistent with the facility's classification. The rule requires lockups and jails to provide an opportunity for a minimum of one hour of such activity each day, and for adult corrections facilities to provide a minimum of two hours per day. It requires lockups, jails and adult corrections facilities to provide indoor space and equipment for active recreation consistent with the facility's size and the type of prisoner confined. Adult corrections facilities are also required to provide suitable outdoor recreation space, equipment and staff. These rules are needed and reasonable to ensure that prisoners are afforded an opportunity to meet basic physical and mental health needs. The National Sheriffs Association Handbook on jail programs states, "If there is no effort to provide organized activities, the boredom of the cellblock is just transferred to another setting." The Association's handbook on inmates' legal rights states that prisoners have a right to a healthful environment, including reasonable opportunities for physical exercise and recreational activities.

50. Corr 108 E.7. requires each administrator to develop and implement a plan for leisure time activities. This requirement does not apply to holding facilities. Constructive use of leisure time is a necessary adjunct to exercise and recreation. The ABA publication Legal Responsibility and Authority of Correctional Officers, cites "enforced idleness" as a factor which has been named by courts as likely to result in a cruel and unusual punishment when combined with other factors. The Sheriffs

Association Handbook on jail programs also states that if an inmate can be taught in an enjoyable and constructive way to use his leisure time, it can be of considerable benefit in helping him make a successful adjustment in the community. Hennepin County comments that separating exercise and recreation from leisure services is splitting hairs. "The point is to ensure that active and passive physical exercise and activities are available." (Ex. P-7) The rule is not unreasonable as it is proposed.

51. Corr 108 F. requires a facility administrator to develop and implement a prisoner visiting plan. This rule is needed to meet recognized constitutional and statutory rights of offenders and reasonably establishes uniformity of basic visiting provisions for prisoners on a state-wide basis. The Department stated that there is great variation in the amount of visiting time regularly scheduled throughout the state. Some jails provide for visiting on a daily basis, while other facilities provide visiting only one or two days per week. Consequently, not all prisoners or visitors are afforded equal opportunity for visiting. Mr. Clark stated that most county jails have erratic visiting hours and that some provide as little as ten to fifteen minutes at a time (Ex. P-6). The rule restates the provisions of Minn. Stat. § 260.171, subd. 4(c) that a juvenile's parent, guardian or custodian and attorney may make an initial visit at any time. Repeating the requirements of the statute is necessary to make this rule complete and meaningful.

52. The rule provides that adult prisoners shall be permitted an initial visit within 24 hours with a member or members of their immediate families. Hennepin County suggested that this provision be rewritten to permit an initial visit at the next regularly scheduled visiting period (Ex. P-7). That appears to be contrary to what the Department intended. Regular visiting periods are covered in other subdivisions of the rule. This particular provision is a specific requirement for an initial visit by the family. It is not unreasonable.

53. In addition to the initial visiting requirements for

juveniles and adults, the rule requires lockups to provide a minimum of ten regularly scheduled visiting hours per week and for jails and adult corrections facilities to provide a minimum of 14 regularly scheduled visiting hours per week. There was discussion at the hearing that these requirements were excessive and would place undue burdens and expense upon the local facilities (Tr. 143-145). Even Mr. Clark stated, "However, I also feel that 14 hours per week places too much of a burden on the facility's staff." (Ex. P-6). At the hearing, it was suggested that six hours should be required for lockups and that jails and adult corrections facilities should be required to provide in the area of eight to ten hours per week. The Department indicated that it was willing to reduce the number of visiting hours required (Ex. S). The figures suggested at the hearing appeared to be reasonable.

54. Corr 108 F.1.b. requires provision for prisoner consultation with attorneys, in addition to the visiting requirements discussed above. As suggested by Sheriff Omodt of Hennepin County at the hearing (Tr. 145-147), some minor modification of language is necessary to clarify this section. This section should be modified to read as follows:

> "b. Provisions for prisoner consultation with their attorneys at the place of confinement at reasonable times and for such periods as are reasonable. Attorney visits shall not be monitored."

55. Corr 108 F.1.e. provides that the administrator may deny a visit to a prisoner when he has reasonable grounds to believe that the visit might endanger the security of the facility. It also requires that the reasons for a denial of a visit shall be in writing and on file in the facility. In accordance with Mr. Clark's comments on clergy consultation, noted in Finding No. 46 above, it would be appropriate to also require that copies of these reasons be given to the prisoner and to the person attempting to visit. This would help ensure that the reasons given are genuine.

56. Corr 108 G requires each facility administrator to develop a plan for handling of prisoner mail consistent with established legal rights of prisoners and reasonable and necessary

facility regulations to protect the facility's security. The rule requires that such a plan include provisions that the volume of mail to or from a prisoner may not be restricted; that the facility may inspect incoming or outgoing mail but may not read or censor the mail without documented justification; and that prisoners shall receive a postage allowance to maintain community ties. These rules are necessary to ensure that prisoners' legal rights with respect to correspondence are met; that money and other valuables received are properly credited to prisoners' accounts, and that contraband control for the maintenance of facility security is exercised.

57. The Ombudsman and Mr. Clark made similar comments with regard to the inspection and censorship of mail. The Ombudsman suggested that a provision should be added to the rule stating, "There shall be no inspection or censorship of incoming or outgoing mail between an inmate and any elected official, the Commissioner of Corrections, inmates' attorneys and judges." (Ex. P-2) Mr. Clark made almost an identical suggestion, except that he listed additional persons, including the Corrections Board, the Pardon Board, the State Claims Commission, the Prisoners' Union, the Civil Liberties Union, clergy and accredited lay clergy, and court officials. (Ex. P-6) At the hearing, the Ombudsman stated that various references to this right are made in statutes and case law, but no where in a composite location. He felt that it should be set forth in this rule (Tr. 58). Mr. Clark cited the case of Procunier v. Martinez, 416 U.S. 396. (Ex. P-6). At the hearing, the Department agreed to adopt the Ombudsman's suggestion with regard to censorship but not inspection. (Tr. 60-61) That is reasonable. Mr. Clark pointed out that once a letter is opened, nothing prevents the contents of the letter from being read. He suggested that the rule should require that mail be inspected in the presence of the prisoner. Facilities are required to set up procedures to insure that mail is not read, but requiring the prisoner's presence would be an unreasonable burden on the facilities. Mr. Clark also suggested that a copy of any order requiring censorship of a particular prisoner's mail be given to the

prisoner involved. That suggestion has some merit and should be considered by the Department. In summary, the Examiner would recommend that Corr 108 G.1.b. be amended to read as follows:

> "Facility staff shall have the right to inspect incoming or outging mail, but neither incoming mail nor outgoing mail shall be read or censored without documented justification. A copy of such documentation shall be provided to the affected prisoner. In no case shall incoming or outgoing mail between a prisoner and any of the following persons be read or censored: Elected officials, officials of the department of corrections, attorneys and judges."

58. The Department modified the provision of postage allowance at the hearing to read, "Indigent prisoners shall receive a postage allowance to maintain privileged communications." By "privileged" the Department meant correspondence with those persons with whom a prisoner might normally be expected to file a grievance or complaint, which are generally the same persons just listed. (Tr. 149-153) There was apparent agreement at the hearing that it would be better to delete the word "privileged" and substitute the list of persons intended to be covered. The Examiner would suggest that Corr 108 G.1.c. be modified to read:

> "Indigent prisoners shall receive a postage allowance sufficient to maintain communications with the persons listed in 108 G.1.b."

59. Mr. Clark noted the absence of any rules dealing with prisoner access to telephones. He cited several examples of prisoners, especially when first incarcerated, being denied access to a phone for a substantial period. He also stated that it is common for prisoner phone calls to be monitored (Ex. P-6). The Department should consider a future amendment to these rules dealing with these concerns.

60. Corr 108 H provides minimum standards for clothing, linens and bedding and laundry services. These rules are needed to ensure that the sanitation of the facility and prisoners are protected. They also are needed to provide a method of detecting contraband in articles of clothing. The rule provides that if prisoners are not admitted to living units, but are detained in holding rooms or cells only for the purpose of processing, they need not be issued clothing. No similar exception is made in the rules for the issuance of linen and bedding, and it was agreed at the hearing that the Department would amend the rule (Tr. 156).

The Department should adopt such an amendment, and it should also apply to laundry services.

61. Corr 108 H.1.f. provides that prisoners' excess clothing should either be given to designated family members or stored at the facility and should be properly identified, inventoried and secured. The Ombudsman suggested that each inmate should be furnished with a signed copy of the inventory (Ex. P-2). The Department promised to review the proposal (Tr. 61). The Examiner would suggest, at a minimum, the prisoner should have the opportunity to note his agreement or disagreement on the inventory and sign it. A similar requirement is made in Corr 110 B.1. (See Finding No. 69).

62. Hennepin County stated that Corr 108 H.2.a.(1), requiring the issuance of a bath towel, hand towel and washcloth, was excessive. If a bath towel is issued, a hand towel is not necessary (Ex. P-7). The proposed rule is not unreasonable as written.

63. Corr 108 I covers emergencies and unusual occurrences. It requires the development of a written disaster plan, plans sufficient to provide immediate and effective action in the event of an emergency to protect the public, and plans sufficient to provide immediate and effective action in the event of hostage incidents, escape, suicide, medical emergency, power failure, major disturbances and outbreaks of contagious disease or epidemic. As the evidence cited by the Department states, "The need for advanced planning is obvious. When the emergency strikes it is too late to make a rational plan which everyone understands." The only comment on this section was Hennepin County's concerning the location of the disaster plan (Ex. P-7). The proposed rule states, "Copies of the disaster plan containing basic emergency procedures shall be posted at all staff stations." Like their comment on procedures manuals, they suggested that the emergency procedures should be posted at a secure central security station. The Examiner questions whether allowing prisoners to learn of basic emergency procedures could compromise facility security, at least as such procedures relate to natural disasters. In fact, it might be preferable to specifically require that prisoners be informed

of disaster procedures. However, the Department should consider Hennepin County's suggestion.

64. Corr 108 I.4., as originally proposed, stated: "Each facility shall have an auxiliary source of power which is capable of providing light, heat and communication during a power failure." The loss of light, heat or communication makes things difficult in a normal community, but in the facilities covered by these rules, their loss may be critical. At the hearing, it was recognized that requiring an auxiliary source of power might be unreasonable for some existing facilities (Tr. 159-161). For example, Hennepin County estimated that it might cost them $70,000 to come into compliance with the rule (Ex. P-7). In proposing this rule, the Department was considering one instance in which a power outage lasted for more than ten days, during blizzard conditions. The Examiner would recommend that this rule be modified to read:

> "Plans shall be developed and maintained sufficient to maintain the health, safety and security of prisoners and facility during brief or extended losses of light, heat or communications."

As suggested at the hearing, (Tr. 110), the originally proposed rule should be moved to the New Construction standards (Corr 112) so that architects designing new facilities are advised of all requirements of the physical plant.

65. Corr 108 I.5. requires a meeting of all employees on each shift at least once every three months to discuss and review emergency procedures, including: assignments and responsibilities, use of alarm systems and signals, notification procedures, location and use of emergency equipment, and evacuation routes and procedures. Regularly scheduled meetings of staff ensures that staff persons are knowledgeable of the procedures and are advised of any changes in procedures or equipment. Hennepin County stated that this rule goes beyond the minimum standards and gets into the operating procedures of the facilities. It stated that quarterly meetings may not be the most effective or efficient manner of carrying out the intent of the sections (Ex. P-7). They recommended that this section be replaced with the following language:

"It shall be the responsibility of the facility administrator to implement procedures to ensure that all appropriate staff are familiar with and understand current emergency procedures as well as how to use any equipment involved."

The problem with Hennepin County's suggestion is that "more efficient manner" often means requiring an employee to read and sign the procedures. This is an important area, and there is nothing equivalent to a face-to-face discussion to ensure that employees have actually read and understood the procedures. The proposed rule is reasonable.

66. Corr 108 I.6. defines unusual occurrences and requires that they be reported to the Department within ten days. This rule is needed to ensure that the Department is aware of such incidents in order that the Department may effectively respond to them and to inquiries about them. The rule requires such reports to be reported on a Department form. At the hearing, the Department indicated its willingness to modify this rule to allow such reports to be submitted as copies of incident reports already maintained by the facilities-if they contain the same information. (Tr. 175-176) This is reasonable because it would reduce the unnecessary burden of paperwork on the facilities. The Department also agreed to amend Corr 108 I.6.a.(4) to eliminate "unusual occurrence" and "hospitalization" from the list of situations in which a prisoner's family must be notified (Tr. 177-178) This, too, is a reasonable change because it still provides for such notice in the event of serious illness, accident, imminent death or death.

PROPOSED MINN.RULE CORR 109 - FOOD SERVICE.

67. This rule specifies food handling practices, dietary requirements, menu and purchasing planning, and food storage and transportation requirements. It is needed to ensure that food service provides adequate nutrition, quantity and variety in a safe, healthy and sanitary manner. The rule was developed in cooperation with dieticians and nutrition experts from the Department of Health. The Department of Health offered several amendments to the proposed rules (Ex. P-3), which were adopted by the

Department of Corrections at the hearing (Ex. Q). The Statement of Need (Ex. P) sets forth the reasons for the individual sections of the rule. There was only one comment on this rule. Hennepin County requested that the requirements of Corr 109 E, that there be not more than 14 hours between a substantial evening meal and breakfast, be changed to 15 hours (Ex. P-7). That would be more consistent with their present schedule. The Department should seek the Department of Health's advice on this item.

PROPOSED MINN.RULE CORR 110 - SECURITY.

68. Corr 110 A requires the development of security policy and procedures covering 14 specified items. It requires that such policies and procedures recognize that the primary objective of each facility is to protect the public by securely detaining persons who presented injury to the community or to themselves. This generally recognized objective is not incompatible with the objectives of providing for prisoner welfare and program needs. Hennepin County stated that Corr 108 A.8., requiring one-half hour interval inspection routines, needed to be clarified. It was unclear to them as to what type of inspection routines were involved. The Department stated that this inspection routine was intended to ensure that prisoners were where they were supposed to be, that they were not in need of any help and that prisoners had not compromised the security of the area in which they were located (Ex. S). It might be helpful to Hennepin County if the rule specified "security" inspections.

69. Corr 110 B specifies admissions procedures. These rules are needed to ensure that prisoners receive prompt medical attention, if needed; that prisoners are properly classified and that the entry of contraband into the facility is precluded. Because there has been a great deal of litigation involving personal property of the prisoners, the rule requires that inventory be made and properly recorded and "signified" by the owner as correct, the quoted word should be "signed". The rule also requires the facility to complete an admission form "to include all information required in Minn. Stat. § 241.021." That section

does not require any information. The Department may have intended to refer to Minn. Stat. § 241.06; at any rate, the matter should be clarified.

70. Corr 110 D, Search and Shakedowns, requires visitors entering the security area of a facility to be refused admission unless they submit to a frisk or strip search conducted by a member of the same sex. Mr. Clark stated that a strip search can be used as a means of harassment and may discourage visitation because it is demoralizing for the visitor. He suggested that if the facility permits body contact during visitation, a strip search of the prisoner following the visit is more practical (Ex. P-6). The authorities cited by the Department at the hearing indicated that the proposed rule is not unreasonable. There does exist the possibility that the prisoner could ingest an item of contraband that would not be revealed by a subsequent strip search. Yet Mr. Clark's suggestion has some merit, and the Department should consider it seriously.

71. Corr 110 G requires each facility to have a written procedure for regularly counting its prisoners. Count procedures are recognized as a necessary part of maintaining security and control. Hennepin County states, however, that the rule is much too specific and is not really a minimum standard (Ex. P-7). The proposed rule requires a master count board and a separate logbook. It requires formal counts to be completed after every mass movement or change in areas and at last once each eight hours, and informal counts to be made during one-half hour intervals. The Examiner finds the rule to be reasonable. The authorities cited by the Department, including the National Sheriffs Association, state that counting is a necessary part of security. The proposed rule requires little more than that the facility know how many prisoners it should have and that it regularly count them to find out how many it does have.

PROPOSED MINN. RULE CORR 111 - ENVIRONMENTAL-PERSONAL HEALTH AND SANITATION.

72. This rule is needed to ensure that the health and medical needs of prisoners are met. As was pointed out at the hearing,

some of the sections require clarification (Tr. 187-194). Corr 111 C.2. requires that a 24-hour guard be placed on a prisoner who is hospitalized unless the facility administrator and hospital administrator mutually agree that a guard is unnecessary. Hennepin County stated that that is just the opposite of their present procedure with Hennepin County Medical Center (Ex. P-7). They suggest that the rule be changed to read "Arrangements must be made with a local hospital to satisfactorily ensure the security and control of inmates requiring hospitalization." The Department stated that four considerations are involved in these situations: The requirement of custody, incapacity of the prisoner due to medical conditions, prisoners already deemed not to be in need of custody supervision (Huber commitments), and approval of the hospital. Any modification made to this rule should be consistent with and carry out that intent.

73. Corr 111 F requires the facility administrator to develop and implement a written plan for personal hygiene practices of all prisoners. These rules are needed to ensure appropriate preventive health practices and reasonably require regular opportunities for bathing, showering, haircuts and personal hygiene items, as well as delousing under medically approved procedures. The rule states that each prisoner shall be required to bathe or shower twice weekly. Hennepin County stated that they did not believe that they could force an inmate to shower. Such a rule could be enforced only by keeping showering and bathing records (Ex. P-1). In their posthearing comments, they stated that disciplinary action could be taken if an inmate does not keep his person clean, but still questioned the forced bathing requirement (Ex. P-7). The Examiner would suggest that the forced bathing requirement be deleted and be replaced by more general requirements of personal hygiene subject to disciplinary action.

74. Corr 111 F.6. states: "Prisoners are not responsible for furnishing personal hygiene items and indigent prisoners shall receive provisions for same at facility expense." This is a confusing sentence and it is therefore unreasonable. Hennepin County suggests, "Indigent prisoners shall receive provisions for

obtaining personal hygiene items at facility expense." (Ex. P-7) That, or something like it, should be adopted.

75. Corr 111 G prescribes standards for the storage and administration of medications. Rules are needed to ensure that prisoners in need of prescription medications receive them in a manner consistent with security needs which minimizes the possibility of drug abuse by the recipient. The rules were developed with the assistance of the Department of Health personnel from the Health Facilities Division and were reviewed by the Board of Pharmacy. The first requirement of the rules is: "Medications shall be administered only by licensed medical, or nursing personnel or by facility staff members who have successfully completed a Minnesota Department of Health approved training program on the 'Administration of Medications for Unlicensed Personnel.'" Hennepin County objected to this standard. They stated, "We believe that facility staff may deliver medications to inmates without having to take a course on the administration of medications by unlicensed personnel, so long as the medication is prepackaged in individual doses and clearly marked with the inmate's name, cell number, type and strength of medication. The prepackaging is done by licensed medical personnel. For that reason, we take exception to this minimum standard and request a review." (Ex. P-7). The Examiner agrees that many of the provisions of this rule go beyond ensuring that prisoners get the medications which are prescribed for them and require the facilities to become nursing homes. The term "administration of medication" is a term of art in the health facility field that differs significantly from "supervision over medications which can be safely self-administered." Administration of medication is a nursing function. See, for example, Minn. Rule MHD 44(a), defining "nursing home". There may be prisoners in facilities who, in fact, need the level of supervision over their medication required of nursing home patients. However, there are many others who can quite safely self-administer their medications where the only reason for taking their medications from them and delivering them in individual doses is the security of the facility. These

rules fail to differentiate between these types of prisoners. Therefore, the Examiner finds Corr 111 G.1. to be unreasonable. It could be reasonable if administration of medication was defined so as to exclude delivery of medication to prisoners who are able to safely self-administer the medication.

76. Corr 111 G.2. states that the administration of medication by unlicensed staff shall be under the ultimate supervision of a consulting physician. This provision is not unreasonable but it should also be clarified as to whether it also applies to the delivery of medication for self-administration. It is also unclear in this section, as well as all of Corr 111 G, as to what the term "medication" means. Does the term include only prescribed medications or does it include non-prescription items such as aspirin and first-aid creams? If non-prescription items are included, these rules effectively prohibit any inmate from obtaining an aspirin when he has a headache, except upon a doctor's prescription. If they are not included, then the rules provide absolutely no control over non-prescription medicines.

77. Corr 111 G.3. requires each facility, in consultation with a licensed physician, to develop plans for the secure storage and controlled administration of legally obtained drugs. It then prescribes certain minimums for storage and administration. It is necessary and reasonable to require each facility to develop plans or procedures for the secure storage of medication (prescription and non-prescription) and the controlled delivery (whether that be administration or distribution) of the medications. However, this rule is unreasonable because it deals only with "administration" and contains still another undefined term, namely, "legally obtained drugs."

78. The requirements of Corr 111 G.3.a., relating to storage, are for the most part reasonable, and are needed to ensure the security of the medication and to prevent contamination of one medicine by another. One reasonable provision, Corr 111 G.3.a.(2), prohibiting the maintenance of stock supplies of prescription-type drugs, received considerable comment at the hearing. Several facilities noted that they were not in compliance with the rule. Hennepin County suggested the addition of the

qualifying phrase "without the approval of the Department of Health or the State Pharmacy Board." (Ex. P-7) However, not even the Department of Health or Board of Pharmacy could approve maintaining stock supplies of legend drugs because the practice is prohibited by Minn. Stat. § 151.37. Only doctors, researchers, drug manufacturers and distributors, hospitals, pharmacies or an individual with a valid prescription may possess legend drugs. Corr 111 G.3.a.(3) requires all prescription medications to be kept in their original containers, bearing the original labels. That portion is reasonable, but the rule also requires that the label bear certain information. The Department of Corrections does not have statutory authority to prescribe what information a prescription label shall bear. Under Minn. Stat. § 151.212, such labels must bear the information prescribed by the Board of Pharmacy. The Board of Pharmacy has done so in Minn. Rule Pharm 40. The rule is also unreasonable because it requires information not required by Pharm 40, namely, the name of the drug, the quantity of the drug and the expiration date.

79. Corr 111 G.3.b. lists nine procedures which must be followed in the administration of medication. If this rule was limited to the administration of prescription medication to persons who are unable to safely self-administer their medication, it would be reasonable. However, the rule is not so limited, and for that reason, the Examiner finds it to be unreasonable.

80. Corr 111 G.3.c. requires "Records of receipt and of the disposition of all controlled drugs shall be maintained in sufficient detail to enable accurate reconciliation at any time." This provision is not unreasonable, but the term "controlled drugs" should be defined. The Examiner assumes that it means "controlled substance" as that term is defined in Minn. Stat. § 152.01, subd. 4.

81. In summary, Corr 111 G needs a great deal of review and rewriting. The term "medication" needs to be defined (See Minn. Stat. § 151.01, subd. 6). The difference between administration of prescription medication and distribution of prescription medication to prisoners who are able to safely self-administer needs

to be addressed. The control of non-prescription medication needs to be addressed. Requiring corrections facilities to handle and administer medicine like a nursing home is not reasonable in all cases.

82. Corr 111 J deals with mentally ill prisoners and requires each facility to segregate such prisoners, obtain a physician's opinion as soon as possible but not more than eight hours after such segregation and, if possible, transfer such prisoner to an appropriate medical facility. This rule is necessary to meet the statutory requirement of separation. The Minnesota Psychological Association suggested that instead of a physician's opinion, the rule should require a "licensed consulting psychologist's or psychiatrist's" opinion (Ex. P-5). The suggestion has a great deal of merit. As the Association points out, physicians as a group are not qualified to deal with the mentally ill. They have neither the education, training or experience to do so; whereas, licensed consulting psychologists and psychiatrists do. On the other hand, a psychologist or psychiatrist's opinion may not always be available, and a general practice physician is the "next best" resource. At a minimum, the rule should be modified to require a "medical opinion", and the Department may wish to further it to restrict it to a licensed consulting psychologist's or a psychatrist's opinion.

83. Corr 111 K requires each facility to be kept in good repair so as to maintain the health, comfort, safety and well-being of prisoners and staff. It also requires each facility administrator to develop and implement a plan with policies and procedures related to preventive maintenance, housekeeping and sanitation. At the hearing, the point was raised that building maintenance may be the responsibility of some other division of the unit of government than the facility administrator (Tr. 187-190). For example, in St. Louis County, plant maintenance and housekeeping is the responsibility of the building superintendent for the entire county and the sheriff has no supervisory authority over that individual. The rule is sufficiently flexible to cover these situations because it merely requires the administrator to have a

plan for identifying maintenance problems and correcting them. If, in certain counties, that requires going through the county board to make a request to a different department, these rules will not prohibit that.

PROPOSED MINN. RULE CORR 112 - NEW CONSTRUCTION.

84. This rule is needed to provide the minimum standards for approval of new construction and repair of existing facilities pursuant to Minn. Stat. §§ 641.21, 641.22 and 642.02. Additionally, the specifications will assist local units of government in planning new construction or repair so that they may better assess their local needs, the financial implications and priorities. The rules were designed in cooperation with officials from the State Building Code Division of the Department of Administration and with various architects familiar with corrections institution construction. The Examiner does not believe it is necessary to repeat all of the reasons given justifying each of the separate sections of the rule at the hearing (Tr. 62-114). There was little comment on the proposed rules except as to minor and technical details, and the Examiner finds that the proposed rules, as modified by the Department at the hearing, are reasonable.

CONCLUSIONS

1. Timely and adequate legal notice of the hearing was properly served and published by the Department. All other substantive and procedural requirements of statute and rule have been fulfilled.

2. The Department of Corrections has demonstrated its statutory authority to adopt the proposed rules.

3. With the exceptions noted in the Findings, the Department has demonstrated that the proposed rules are necessary and reasonable. As noted in the Findings, many of the parts of the rules that are not reasonable may be corrected by suggested non-substantial changes. Deletion of those unreasonable parts for which no change is suggested would not affect the overall purpose of the rules or remaining portions of the rules.

4. Suggestions made by the Examiner in the Findings are not intended to in any way preclude the Department from making its own non-substantial changes or improvements to the proposed rules.

RECOMMENDATION

The Hearing Examiner recommends that the proposed rules be modified as suggested in the Findings and that, so modified, they be adopted.

Dated this 22nd day of September, 1977.

STEVE M. MIHALCHICK
Hearing Examiner

STATEMENT OF NEED

CORR. 100 INTRODUCTION

A. Is needed to clarify the statutory basis for the development of the proposed rules.

Part III #1 evidence is cited as statutory support for promulgation of rules.

B. Is needed to clarify that a Citizens Advisory Task Force was appointed as mandated by statute.

Part I #15 evidence will support the fact that an advisory task force was appointed.

C. Is needed to set out the purpose for the promulgation of proposed rules.

Part III #1, 2 and 3 will be used as evidence in support of purpose of rules.

Part I #2 evidence standard 9.3 "State Inspection of Local Facilities" pages 294-295 is offered in support of rule promulgation of such facilities.

Part I #13 evidence page 17 is cited in support of promulgation of rules (Texas 1975 Legislation).

Neb. Jail Standards

STATEMENT OF NEED

CORR. 101 DEFINITIONS

Definitions are needed to define the terms used in the proposed rules. Adoption of the proposed rules will effect four types of facilities - holding, lockup, jail and adult Corrections - as defined in the proposed rules and an estimated 150 local units of government and facility administrators. Consequently, it is imperative that all concerned individuals, agencies and units of government have a clear understanding of terms used in the proposed rules and are in agreement when the terms defined in the proposed rules are used.

Testimony from Part II Evidence Witnesses may be presented in support of definitions.

Distinctions in facility classifications and rules, expectations, etc. may be supported by reference to Minnesota Statutes Chapter 641 County Jails, Chapter 642 Lockups and Chapter 643 Work Farms.

Part I #3 pages 146-167 are presented in support of distinctions in facility classifications and rules. Part I #9 is presented in support of distinctions in facility classifications and rules.

Part III #1 is offered as evidence of the Commissioner's statutory authority to restrict facility useage.

STATEMENT OF NEED

CORR. 102 INSPECTIONS, INTENDED USE AND NON-CONFORMANCE WITH RULES

A. Is needed to indicate to those affected by proposed rules that all inspections by the Department will be conducted in accordance with proposed rules. It also is needed to clarify the statutory basis for inspections.

B. Is needed to set forth intended use restrictions. The rule is designed to prevent a facility from operating at a classification for which it has not been approved. Proposed rules have been developed for four types of facilities with each type of facility having limits on the time they may confine prisoners and proposed rules designed to reflect such confinement limitations. Consequently, useage of a facility inconsistent with its classification would seriously impair the intent of rules.

C. Is needed to set forth the sanctions legally available to the Commissioner of Corrections and their statutory basis for non-conformance with rules, unsafe, unsanitary or illegal conditions. Local units of government and facility administrators need to be appraised of such possibilities in order that they may take appropriate actions to prevent such sanctions.

D. Is needed to advise local units of government and facility administrators that the validity of remaining rules shall not be jeopardized if one proposed rule is found inoperative. The proposed rule is intended to insure that all proposed rules are not jeopardized by findings related to specific proposed rules.

Part III #1, 2, and 3 evidence are offered in support of the Commissioner's authority to inspect, restrict useage and condemn facilities.

Part I #2 evidence pages 294-295 are offered in support of these rules.

Part I #4 evidence Chapter 3 is offered as support of these rules.

Part I #3 evidence is offered in support of rule development, inspection and enforcement by state agencies.

STATEMENT OF NEED

CORR. 103 VARIANCES

A. Is needed to advise local units of government and facility administrators that rules are not necessarily rigid and that the Department will entertain requests for variances. This proposed rule is intended to insure that strict compliance does not cause unusual practical difficulties, hardships or counter-productive results due to unique circumstances.

B. This proposed rule is needed to provide an approved vehicle by which any rule may be suspended under emergency conditions. The Department is fully aware of the unusual, unique and difficult circumstances that facility operators are on occassion confronted with in the operation of facilities governed by these proposed rules. Notification of the Commissioner in such instances and approval for extended suspension of a rule is needed to insure against arbitrary, capricious and unreasonable rule suspension.

C. This proposed rule is needed to exempt prisoners on work release or educational release status from confinement limitations in lockup and provide a vehicle by which holding facilities may obtain approval for extended confinement of such offenders. The proposed rule is needed to assist the judicial system and law enforcement personnel in providing approved detention capability for such offenders as close to their work or educational site as possible. Work release or educational release are in and of themselves meaningful programs for those prisoners sentenced under such provisions. Consequently, program requirements for such prisoners need not be as great as those expected for prisoners sentenced to straight jail time.

Part II evidence witnesses may be called to testify in support of the need for variance provisions and emergency suspension of standards.

Part I #3 evidence rules #1011 and #1012 page 148 and Part I #10 Section 2 pages 2-3 are cited as recognition of the need and support for variance and emergency suspension of standard rules.

Part I #2 evidence standard 9.9 page 306 #6 is offered in support of Huber variances.

STATEMENT OF NEED

CORR. 104 PERSONNEL STANDARDS

A. Basic requirements for freedom from tuberculosis and other communicable diseases are needed to insure against disease transmission by staff. Requiring physician certification for return to work after a staff member has had a communicable disease is needed to insure that such decision to return to work is medically sound. Similarly, requiring a suspected carrier of a communicable disease to have a medical examination is needed to insure against disease transmission by individuals reluctant to seek medical assistance.

Part I evidence #1E. Chapter 4 is offered in support of the need for and reasonableness of proposed rules Corr. 104 A 1. 2. 3.

Part I evidence #1D pages 13-16 is offered in support of the need to provide a healthful environment.

Part I evidence #2 standard 2.5 pages 34-35 is offered in support of the need to provide healthful surroundings.

Part I evidence #2 standard 9.7 -6 is offered in support of the need to protect prisoners from disease.

B. Recruitment requirements are needed to insure that employees hired are qualified to perform the duties required in a particular job. Such requirements need to be non-discriminatory to meet constitutional and legal requirements and need to set forth basic requirements and disqualifying characteristics in order that all potential applicants are equally advised of same.

Part I evidence #1A. pages 28-33 is offered in support of proposed recruitment rules.

C. The need for and reasonableness of rules concerning employee evaluation is supported by Part I #7 evidence pages 41-50 Book 2 Jail Management Course and Part I #1A evidence pages 20-21 and 35-36.

D. Indiscriminate scheduling of employees for two consequitive work periods- 16 hours - is likely to produce counter productive results in employee performance and morale. Poor morale and tired employees can result in serious consequences in facilitys governed by these rules.

Part I 1A evidence page 18 states that "Unconvential tours of duty, uncertainty regarding days off, inability to schedule vacations, and similar factors can seriously damage employee morale and significantly affect efficiency".

E. A staffing plan is needed to insure that each facility is staffed with enough employees to perform all duties and discharge all responsibilities.

Part I #1. A evidence pages 16-18 and Part I #7 evidence Book 2 Jail Management both support the need for and reasonableness of Corr. 104 E.A.

A single administrator or chief executive is needed to identify primary responsibility for the overall operation of the facility, as well as to determine where decision making authority for the facility rests.

The need for an assistant to the administrator in facilities with average daily population in excess of 50 is directly related to the volume of duties and responsibilities inherent in such facilities as well as other proposed rules indicating that such facilities are likely to be those required to offer program opportunities to prisoners.

Rules concerning persons in charge and staff presence are needed to insure that statutory provisions for staff presence are met, that there is a clearly identified person in charge of the facility at all times and that the facility is never left in the care of a staff person not capable of responding to an emergency.

Sex of staff requirements are necessary to comply with statutory requirements and protect the prisoners right to privacy.

Part I #8 evidence page 26 is cited as support of the need to address the issue of prisoner privacy.

A copy of a letter dated October 27, 1975 from Mr. Dennis Falenschek of the Department to Sheriff Norman Salto of Douglas County is on file with the hearing examiner as further evidence of the need for sex of staff requirements.

Relief staff and maintenance personnel requirements are needed to insure that such services are provided as necessary without jeopardizing the efficiency of operations. The need in this area is documented by the Department of Corrections inspection reports indicating facilities without adequate staff to perform these functions.

While the Department does not object to the use of combination dispatcher/custodial persons there is a need to place limitations on such staff in order that prisoners care and supervision are not neglected due to dispatching duties.

Program staff requirements are needed to insure that program opportunities for prisoners are developed in a manner reasonably consistent with the implied function of the facility. The failure of Minnesota facilities to program for prisoners is supported by Part I #14 Chapter 6 evidence. Pages 155-156 Jail Staff in Programming are noteworthy.

Part I evidence #1.C,#1.D and #8 pages 27-28, are offered in support of the need to program for prisoners.

It is the position of the Department that program opportunities for prisoners are not likely to be available without duties and responsibilities for program functions as a part of job descriptions and assigned to specific staff. For that purpose, the Department believes program staff requirements are a necessary prerequisite to programming for prisoners.

STATEMENT OF NEED

CORR. 105 STAFF TRAINING

Part I #19 evidence page 8 states that "of all the essentials for the operation of a jail, none is more important than personnel. The most securely constructed jails and prisons have not prevented escapes by way of the front door and over a thirty foot guarded wall, because of deficiencies in numbers and the quality of the guard force".

"The climate of the jail can be depressive, detrimental to constructive resocialization programs and contributory to recidivism. It can also be conducive to good morale, good discipline and a desire for self improvement. Either condition is the result of the attitude and efficiency of the jail personnel, all the way down the chain of command".

"The need for a competent staff, dicates the need for personnel management practices that would aid in job satisfaction, more efficient job performance, and the operation of a jail in accordance with acceptable standards".

Part I #19 evidence pages 12-13 identifies objectives of training which are supportive of the need for and reasonableness of proposed training rules.

The need for training of Minnesota custody personnel has been documented by Part I #14 evidence pages 120-121 and is strongly supported by Part #14 evidence recommendations pages 256-283.

A survey of Minnesota Sheriffs conducted in 1975 by Mr. W. B. "Rip" Schroeder, executive secretary of the Minnesota Sheriff's Association strongly indicated an expressed need and support for training.

The need for and support for training is recognized by virtually every major document offered as evidence. The reasonableness of the proposed rules may be supported by recommendation presented in Part I #1A evidence Chapter 2, Part I #2 evidence pages 494-495 and finally, Part I #8 evidence page 2 states that "...proper training is essential for the protection of all concerned. This should include a general understanding of the rights and responsibilities of those confined as well as the rights and responsibilities of correctional staff. Line officers should also understand why correctional administrators adopt rules which limit their power and redefine operating policies. In many instances this is done at the direction of the court or to avoid time-consuming litigation".

STATEMENT OF NEED

CORR. 106 STAFF DEPLOYMENT, JOB DESCRIPTIONS, WORK ASSIGNMENTS, POST ORDERS, POLICIES AND PROCEDURES

Proposed rules Corr. A-H are needed to insure that each employee is familiar with what he is supposed to do and that he has the qualifications to successfully complete assigned responsibilities. Proposed rules are also necessary to insure operational consistency, communications and accountability. The availability of policy and procedure manuals, personnel policies and standards are all needed to insure that employees unfamiliar with same or who have not had regular refresher training courses are not forced to rely on their own recollection or judgement which may prove in error upon review.

A public information plan is needed to insure that confidentiality concerns and legal requirements as well as critical security information is not inadvertently made available to the public.

Part I #1. A. evidence, Chapter 3, Part I #19 evidence, Chapters I-IV and Part I #7 evidence, all support the need for and reasonableness of proposed rules.

STATEMENT OF NEED

CORR. 107 RECORDS AND RIGHTS

The need for the proposed rules is emphasized by Part I #7 Book One Jail Management Course pages 36-38 which in part state "Throughout this course, you will notice the importance of maintaining accurate and uniform records of all jail activities. Such records can be invaluable as a means of evaluating past performance, making plans for future programs and procedures, documenting administrative actions for use by the courts or other decision making bodies, and assessing the causes of all serious incidents which occur in the jail so they can be avoided in the future".

Additionally, Part I #1A evidence page 56 states that "the jail administrator cannot be efficient and effective in managing his jail without information from jail records".

Part I #7 evidence, Book Two, Jail Operations, pages 51-52 cites litigation resulting from improper record keeping on prisoners personal property. Similarly, Part I #7 evidence Book Four-Jail Operations, pages 77-78, cites litigation resulting from improper record keeping concerning medical care.

Finally, Part I #8 evidence page 2 states that "Emergencies arise which require immediate and instinctive action. In such circumstances staff should act, indeed, must act. Deciding close questions of right and wrong can wait for calmer times. In order to assure that correct judgments are made, staff members must make complete and accurate records of what took place as soon as possible after such emergency conditions have subsided".

1. Some already req'd by statute

2. 241.021, ob 1 - need documents to carry out inspections.

STATEMENT OF NEED

CORR. 108 PRISONER WELFARE

A. Separation and B. Classification

Separation and classification requirements are directly related one to another. In addition to Minnesota Statutory requirements mandating separation of certain types of prisoners from others, separation and classification requirements are needed to insure that reasonable care has been taken to assign prisoners to appropriate living areas within the facility in order to achieve maximum compatibility and safety within each prisoner living area.

Each prisoner needs to be classified as maximum, medium or minimum security to correspond with prisoner living areas available.

Part I 1.B evidence page 31 states that "every jail should have a system for separating its population into at least three categories of risk as well as into groups which have a relationship because of common characteristics".

"The jail population usually consists of adult offenders, and the policies and procedures for most jails are designed to handle this group. However, jails also contain a variety of inmates, who because of their physical and mental state, sex, age and legal status, should be accorded special treatment in terms of housing, work, programs and other jail activities. The classification, segregation and treatment of such inmates must be based on humane considerations, recommended standards and good security practices".

Part I #1B Chapter 2 is offered as evidence of support for separation and classification proposed rules.

Due to the short length of stay, approval for limited security in living areas and the Departments advice to holding facility administrators that high risk or dangerous offenders not be confined in holding facilities; a formalized classification system is not deemed necessary in such facilities.

Due to the fact that an increasing number of female adults appear to be confined in such facilities and an increasing number of such females are being sentenced, there appears to be a distinct need to re-examine program opportunities for such prisoners. Provisions for coeducational programs such as A.A. counseling, drug counseling, etc.. are needed to insure the availability of such programs to both male and female prisoners without the unwarranted necessity of duplication of such programs.

C. Prisoner rules and regulations are needed to insure that due process considerations in the event of disciplinary actions have been met.

Part I #1D evidence page 22 states that "every jail must have a system for maintaining inmate discipline which is consistant with constitutional requirements for due process".

"The first step toward such a system is to compile a clear and comprehensive set of rules which explain the required standard of conduct, define behavior which would be in violation of the rules and indicate the penalty for proven violations".

While items such as personal hygiene items, visiting, correspondence, etc. may not appear on the surface to be directly related to due process, they are areas in which prisoners rights have been established and recognized. Consequently, there is a need to provide equal protection of such rights to individuals who are in similar circumstances. The development of rules and regulations which are uniformly distributed and enforced is needed as a basis for protection of due process and prisoner constitutional rights.

D. Prisoner Discipline:

Part I #8 Evidence Chapter 11, Part I #2 Evidence Standard 2.12 pages 51-53, Part I #1B. Evidence pages 59-70, and Part I #1D. Evidence are all offered in support of the need for and reasonableness of Prisoner Discipline rules proposed. Although supportive evidence references may not be recommended proposed prisoner discipline rules in precisely the same language or be as specific with respect to a specific rule, the proposed rules have been developed after thoughtful consideration of overwhelming support for protection of prisoners from abuses under the guise of discipline.

E. Activities:

Part I #1.C evidence page 30 states "Most sheriffs agree that the most serious proplem in jail administration and the most difficult to deal with is inmate idleness". Additionally, Part I #8 evidence page 34, cites "enforced idleness" as a factor which as been named by courts as likely to result in a cruel and unusual punishment when combined with other factors. Part I #8 evidence page 34, goes on to state that such "factors are also related to the amount of time an individual resident is confined under the applicable conditions. Confinement for a few hours under some conditions might not be unconstitutional whereas confinement under the same conditions for several days might well be invalid".

The need and support for the constructive scheduling of prisoner time is recognized by virtually every creditable agency involved in promulgation of standards Part I #7 evidence Book 6 Jail Management Course page 12 states "he (jail administrator) must think beyond the established notion of the jail as a warehouse for storage and guarding of people. He must begin to look towards new programs and new correctional goals....".

The lack of constructive scheduling of prisoner time has been documented by members of the Department's Inspection and Enforcement Unit and can be verified by Part I #14 evidence Chapter 6 pages 128-159.

Finally, Part I #10 evidence page 19 states "Constructive inmate treatment programs should be provided in each jail. All inmates shall be given every reasonable opportunity to participate. The programming may consist of work, education, self-help, vocational training, counseling, hobbycraft or recreation. Closed-circuit television may be used in conjunction with educational and recreation programs. Where security permits, treatment programs should be conducted in

areas other than an inmate's cell or sleeping area. The nature of work or tasks performed by an inmate should be positive and contructive. While recreational activities and constructive leisure time pursuits are an important facet of rehabilitative activities, a purely recreational program is not considered adequate".

Proposed rules concerning religious services and counseling are needed to insure that first amendment rights of the United States Constitution concerning freedom of religion are protected. Proposed rules have been prepared after thorough review of Part I #8 evidence pages 14-16, Part I #2 evidence standard 2.16 pages 63-65, Part I #5 evidence pages 7-8, Part I #1D. evidence pages 40-41 and Part I #6 evidence page 29.

Proposed rules concerning library service are needed to insure that prisoners have access to leisure reading materials, an opportunity to pursue educational pursuits and that prisoners rights of access to legal materials are provided for. Supportive evidence for these rules may be found in Part I #8 evidence page 21 #12, Part I #1.D evidence pages 33-34, Part I #1.D evidence pages 44-45, and Part #1.C evidence pages 28-29.

Proposed rules governing work assignments of juveniles and adults confined in these facilities are needed to insure presumption of innocence of prisoners awaiting trial (See Part I #D evidence pages19-20) and to insure that prisoners are medically capable of performing assigned tasks. Minnesota Statute 641.07 limits the amount of time a prisoner may be required to work to "not more than ten hours per day". Part I #6 evidence pages 43-44 and pages 48-50 are offered in support of proposed rules. Additionally, Part I #3 evidence page 142 is offered in support of proposed rules governing juvenile work. Similarly, Part I #3 evidence page 159 rule #1130 is offered as evidence of support for adult work rules.

Rules concerning exercise and recreation are needed to insure that prisoners are afforded an opportunity to meet basic physical and mental health needs of prisoners. Part I #1.C page 23 states "If there is no effort to provide organized activities, the boredom of the cell block is just transferred to another setting". Furthermore, Part I #1.D evidence page 13 states that "prisoners have a right to a healthful environment, to include: 4. "reasonable opportunities for physical exercise and recreational activities". Part I #1.D. evidence page 16 4. "Reasonable Opportunities For Physical Exercise and Recreational Activities" lends further support to the need for and reasonableness of proposed rules.

Due to the fact that enforced idleness may be considered as a factor in legal determination of cruel and unusual punishment, proposed rules have been designed with the length of confinement of prisoners in such facilities in mind.

In addition to proposed rules for exercise and recreation proposed rules for leisure services are needed because they "can be an important support to effective custody as well as rehabilitation effort. Frequently, lack of proper use of leisure time helps get

a man into trouble while in jail. Subsequent to release, this problem will increase. If an inmate can be taught an enjoyable, constructive way to use leisure, it can be of considerable benefit in helping him make a successful adjustment in the community". Excerpted from Part I 1.C. evidence page 22. Consideration of the length of confinement of those confined is needed to insure that reasonable attention is given to the probability that prisoners confined for extended times will tire of certain leisure time provisions and thus require greater variety than those confined for short periods of confinement. As an example, the need for a variety of leisure services is logically greater in a facility confining prisoners for up to one full year as compared with a facility confining prisoners for not more than 72 hours.

F. Visiting: Proposed rules are needed to meet recognized constitutional and statutory rights of offenders as well as to establish uniformity of basic visiting provision for prisoners on a statewide basis. Presently, there is tremendous variation in the amount of visiting time regularly scheduled throughout the State. While some jails provide for visiting on a daily basis other facilities provide visiting only one or two days per week. Consequently, not all prisoners or visitors are afforded equal opportunities for visiting. Support for the proposed rules may be found in Part I #1.D. evidence pages 42-43, Part I #2 evidence page 302 item #3, Part I #5 evidence page 18 standard 9.7 and Minnesota Statute ~~sec. 11~~ 641.11, 1974, Section 260.171 as amended by Laws 1976, Chapter 318.

G. Correspondence: An established plan for the handling of prisoner correspondence inclusive of those areas covered by rules is needed to insure that prisoners legal rights with respect to correspondence are met, that money and other valuables received are properly credited to prisoners' accounts and that contraband control for the maintenance of security is exercised. Part I #8 evidence Chapter 7 is offered in support of the proposed rules with respect to legal concerns related to correspondence.

Part I #1D evidence page 43 states in part that "a liberal allowance of free postage and stationery is recommended for those inmates who do not have sufficient funds".

Further support for the proposed correspondence rules may be found in Part I #1.D evidence pages 31, 32 and 43; Part I #19 evidence pages 56-59; Part I #2 evidence pages 66-68 and Part I #5 evidence page 9 standard 2.17.

H. Clothing, Bedding and Laundry Services: Proposed rules are needed to insure that the sanitation of the facility and prisoners are protected from the spread of lice or other agents of disease. For this reason, there is a need to insure the cleanliness of prisoners clothing at the time of admission. Rules #H1. a, b, c, 1, 2 and 3 are needed to insure against disease transmission as well as to afford the facility staff with ample time to thoroughly search such clothing for articles of contraband.

Prisoners often are confined with little clothing in their possession and on occassion with limited funds or resources available to provide

clothing. For these reasons, there is a need to insure the availability of facility clothing to such prisoners to insure that their personal clothing is laundered at regular intervals and that they have clothing appropriate to the season when confined for extended periods of time.

Provisions requiring regular exchange of clothing, beddings and linens are needed to insure that such items are laundered at intervals consistent with Department of Health recommendations.

Proper storage, identification, inventory and security for prisoners' excess personal clothing is needed to insure that clothing receipts at the time of release are consistent with those at the time of admission.

Basic provisions outlined under H.2 a, b and c are recognized throughout the field of Corrections as reasonable and necessary provisons for the well being of prisoners.

H.3 provisions are needed to recognize that there are occassions when clothing or bedding should be removed from prisoners for either the safety and welfare of the prisoners or the security of the facility. The filing of an unusual occurrence report is deemed necessary and appropriate to the review of such action and to prevent against arbitrary, capricious or unreasonable removal of clothing or bedding by the facility staff.

Rules concerning laundry services are needed to insure that laundry services meet daily needs concerning linens, bedding and clothing, that such services are consistent with health department recommendations and that disease transmission is minimized.

Support for proposed Clothing, Bedding and Laundry Service Rules may be found in Part I #10 evidence sec. 42-43, Part I #1.D evidence page 15 item 3., Part I #6 evidence pages 19 and 30, part I #3 evidence pages 166-167, Part I #11 evidence page 16 A.53.37 and B 1-6, Part I #1E. evidence Chapter 2, Part I #9 evidence page 26 item I, Page 27 item Q and pages 57-58 V.A. and V. ., Part I #7 evidence Book 2 Jail Operations pages 59-64 is offered in support of the need to thoroughly search clothing. Part I #7 evidence Book I Jail Management page 34 lends support to the proposed rules.

I. Emergencies and Unusual Occurrences: Proposed rules are needed to insure that employees of such facilities,"particularly supervisors, on all shifts are familiar with steps to be taken in such situations. Emergency plans are required by law in most jurisdictions". Exercepted from Part I #1.A evidence page 44.

Part I #1.B. evidence page 71 states in part that "The need for advance planning is obvious. When the emergency strikes, it is too late to make a rational plan which everyone understands. In addition to the danger which emergencies pose to the normal community, there is in the jail the element of risk through escape or violence. Lack of planning can result in unnecessary fatalities and property damage, escapes or harm to the staff. Lack of planning will also reflect adversely on community relations when the news media reveal errors of judgment during an emergency for which no plans have been made".

Similarly, Part I #1.A. evidence page 44 states "Because emergency plans depend so much on local factors such as individual jail design, plans for riot or disturbance control have to be custom tailored". Similarly, facility design, geography and available fire fighting equipment may all require custom designed plans with respect to Fire, Flood, Tornado, etc. For this reason proposed rule #I. 1.A. is deemed necessary and reasonable.

An auxiliary source of power is needed to insure that adequate lighting, heating and communication are maintained during power outages. The loss of such services are difficult at best to cope with in the normal community but are considered critical in the operation of facilities governed by these rules.

Regularly scheduled meetings of staff concerning emergency procedures are needed to insure that staff are knowledgeable of such procedures are advised of any changes in procedures and/or equipment and have not forgotten primary responsibilities should an emergency occur.

Part I #20 evidence pages 14 and 15 are offered in support of emergency procedures meetings. Similarly, Part I #1.B. Chapter 7 is offered in support of the need for and reasonableness of proposed rules. Other evidence of support may be found in Part I #1.A. evidence pages 44 and 45, Part I #7 evidence Book One Jail Management pages 17-25, Part I #3 evidence page 151 item #1025, Part I #10 evidence page 13 Sec. 20 item 2. Finally, excerpts from the "Jail Bulletin" published six times a year by AELE publications on file with the hearing examiner indicates the need for emergency planning to reduce the possibility of litigation.

Rules concerning unusual occurrences are needed to insure that the Department is made aware of such incidents in order that inquirys concerning such incidents can be effectively handled by the Department, that the Department is informed in the event of complaints or litigation, that the Department may assess such situations and assist where appropriate in the prevention of similar such incidents and that where staff has contributed to such incidents such knowledge may be used to the benefit of other facilities. Unusual occurrences listed are generally recognized as being of a serious and unusual nature by practicioners in the field of jail operations. Part I #10 evidence pages 8-9 is offered in support of the proposed rules. Similarly, Part I #20 evidence page 15 Item (h) support proposed rules. Finally, a copy of Corrections Form Corr. 390 is on file with the hearing examiner.

Prisoners Deaths are highly unusual and likely to attract public attention. Additionally, they may result in litigation. For these reasons, special care and attention must be given to compliance with all pertinent laws and scrupulous attention must be given to the documentation of such incidents.

STATEMENT OF NEED

CORR. 109 FOOD SERVICE

A. General Requirements:

Proposed rules are needed to insure that food service concerns inclusive of nutrition, quantity and variety, sanitary preparation and temperature are addressed by facility administrators and food service personnel.

B. Food Handling Practices:

Proposed rules are needed to insure that State of Minnesota Health Department requirements are met. A copy of Minnesota State Board of Health Regulations MHD 161-170 which has been adopted by reference by the Department of Corrections is on file with the hearing examiner.

C. Dietary Allowances:

Proposed rules concerning dietary allowances have been developed in consultation with the Minnesota Department of Health and are needed to insure that prisoners rights to a nutritionally adequate diet are met. The proposed rule has excluded holding facilities due to the fact that they are limited to confinement of prisoners for up to 72 hours excluding weekends and holidays and consequently nutritional requirements are not nearly as critical as they are in a facility confining prisoners for up to one year.

D. Holding Facilities:

Proposed rules are needed to recognize and provide for distinctions in food service operations between holding facilities confining offenders for up to 72 hours and facilities confining offenders for extended periods of time and insure that basic nutrition and sanitation requirements are met.

E. Frequency of Meals:

The proposed rule is needed to insure that meals are scheduled at regular intervals and that the time between an evening meal and a breakfast do not exceed recommendations of the State Department of Health.

F. Therapeutic Diets:

The proposed rule is needed to insure that prisoners under medical care with prescribed diets receive same.

G. Use of Food in Discipline:

This rule is needed to insure against the possibility of litigation resulting from deprivation of food as a punishment. Increasingly, judicial decisions have considered the use of food in discipline with respect to possible findings of cruel and unusual punishment.

H. Supervision of Meal Serving:

Provisions for staff supervision of meal serving are needed for sanitary reasons and to eliminate the possibility of favoritism being exercised by trustees.

I. Menu Records:

Provisions for menu records are needed to document nutritional needs, therapeutic diets and to act as evidence in the event of prisoner complaints or litigation concerning food services.

J. Hot Meal Minimum:

This rule is needed to insure that prisoners are provided with a minimum of one hot meal per day.

K. Canteen:

Proposed rules are needed to provide prisoners with an opportunity to purchase snacks, convenience items and smoking materials which are not normally available or supplied by the facility. The canteen is viewed as an addition to not a substitute for, a good food program.

L. Budgeting, Purchasing and Accounting:

Proposed rules are needed to insure that attention is given to food service needs in advance of their necessity, that food service expenditure can be reviewed, justified and modified due to changing conditions such as inflationary trends and in order that purchases of food are consistent with budget limitations, storage availability and prisoner eating habits.

M. Containers and Food Storage:

Proposed rules are needed to insure that foods are stored in accordance with Department of Health recommendations concerning temperature and storage provisions.

N. Transport of Food:

Proposed rules are needed to insure sanitation of food during transporting and to insure that food temperatures are maintained at desired levels during such transport.

Support of the need for and reasonableness of proposed rules concerning food service may be found in Part I #1.F. evidence, Part I #19 Chapter XIX evidence, Part I #4 pages 55-56 evidence, Part I #20 page 9-10 MHD 395 evidence, Part I #1.D. page 14 #1. evidence, Part I #10 Sections 13, 14, 15 and 37 evidence, Part I #9 pages 34-39 and 49 evidence and Part I #2 evidence item #5 page 303.

STATEMENT OF NEED

CORR. 110 SECURITY

A. Policies and Procedures:

Proposed rules requiring the development of policies and procedures for items numbered 1-14 are needed to insure that reasonable and prudent precautions are taken to insure that the primary objective of the jail to "protect the public by securely detaining persons who present a danger to the community or to themselves" is met. Excerpt from Part I, #1. A. evidence page 9. Items #1-14 are recognized by the National Sheriffs' Association, U. S. Bureau of Prisons and American Correctional Association as major security concerns. Support for the need and reasonableness of these proposed rules may be found in Part I, #1. B. evidence, Part I, #12 evidence, Part I, #19 evidence, Part I, #4 evidence pages 52-55, and Part I, #7 evidence, Book 2, Jail Operations.

B. Admissions:

Proposed rules are needed to insure against contraband entry into the facility, disease transmission by lice, and are needed to insure that prisoners receive prompt medical attention where appropriate. Additionally, personal property inventories are needed to insure against litigation at the time of the prisoner's release. Part I, #7 evidence, Book 2, Jail Operations, pages 3-95 and Part I, #1. B. evidence, pages 8-27 are offered in support of proposed rules.

C. Releases:

The proposed rules are needed to insure that the release of prisoner property is documented, that prisoners are clothed appropriate to the season and have been afforded an opportunity to arrange transportation prior to release. Support for the proposed rules may be found in Part I, #1. B., evidence pages 27-28, Part I #7, evidence, Book 2, Jail Operations, pages 97-111 and Part I, #19, evidence pages 75-81.

D. Search and Shakedowns:

Proposed rules are needed to insure against contraband entry into the facility, that security equipment is in proper working order and that security policies and procedures are not being violated. Part I, #7 evidence pages 113-205 is used as support of these rules and remaining security rules. Part I, #1. B., evidence Chapter 4 is also offered as support for the need and reasonableness of proposed security rules. Part I, #12, evidence Chapter V offered in support of proposed security rules.

E. Locks and Keys and F. Weapons, Tools, Equipment, Medications, Hazardous Substance:

Proposed rules in these two areas are needed to insure the safety of prisoners, the staff and the public. Locks and keys must be in proper working order and secured to prevent against escape or to prevent against an offender being trapped in an area with inoperable locks in the event of fire. Firearms used by law enforcement personnel must be secured in an armory or such resource outside of prisoner living areas to insure against prisoners having the possibility of securing same. Tools are a critical contraband item and can be used as weapons or instruments to effect an escape. Consequently, they must be secured and their use controlled. Hazardous substances must be controlled

to insure that such materials are not used for purposes other than their intended use. As an example, aerosol containers can be highly flammable.

G. Count Procedures:

Proposed rules are needed to insure that all prisoners confined to the facility are present or accounted for and that such prisoners are not in need of medical assistance or involved in breaches of security. Support for proposed count procedure rules may be found in Part I, # 1.B. evidence pages 48-49, Part I, #12, evidence pages 45-48 and Part I, #7, evidence Book 2, Jail Operations, pages 155-162.

STATEMENT OF NEED

CORR. 111 ENVIRONMENTAL-PERSONAL HEALTH AND SANITATION

A. Availability of Medical and Dental Resources:

Proposed rules are needed to insure that in the event emergency medical, dental or ambulance services are needed, they are available. Examination of prisoners in need of medical care is a recognized right of prisoners and cannot be neglected.

B. Posting of Available Resources:

Proposed rules are needed to insure that all employees are informed of such resources and can readily identify which resource is available at a certain time of day and do not have to search a phone book or other source for the telephone numbers of such resources.

C. Hospitalization of a Prisoner:

Proposed rules are needed to insure prisoner access to local hospital facilities when needed and to insure that proper security coverage of hospitalized prisoners is provided as deemed necessary by the facility administrator and hospital administrator.

D. First Aid:

Proposed rules are needed to insure that custodial personnel are trained in emergency first aid procedures and that first aid supplies are available and replenished on a regular basis.

E. Medical and Dental Records:

The maintenance of medical and dental records is necessary to document all complaints of illness, medical attention received and to advise all staff of a prisoner's medical or dental needs and their responsibilities for care with respect to same. Medical and dental records are also needed to insure against litigation.

F. Preventative Health Services:

Proposed rules are needed to insure that prisoners are advised and required to maintain personal hygiene and are provided with regular opportunities for bathing, showering, haircuts and personal hygiene items. Delousing of prisoners is needed on occasion to protect against disease transmission. Medical consultation and approval of delousing procedures is needed to insure that such procedures are used only when appropriate and are effective when used.

G. Administration of Medications:

Proposed rules are needed to insure that prisoners in need of prescription medications receive same in a manner which is consistent with security needs and minimizes the possibility of drug abuse by the recipient. The proposed rules have been developed in consultation with the State Department of Health and are inclusive of recommendations received from the State Pharmacy Board. A copy of a letter dated August 18, 1976 to Mr. Dennis Falenschek from Mr. Robert A. Hamilton of the Minnesota Department of Health is offered as support of proposed rules on Administration of Medications.

H. Reporting Suspected Communicable Disease:

The proposed rule has been developed in accordance with Minnesota Health Department 252 (10795) Reportable Diseases Policies and Procedures as Required in Supervised Living Facilities. The rule is designed to insure prompt medical evaluation and assessment of suspected communicable disease and to protect other prisoners in the event a contagious disease is confirmed.

I. Isolation for Communicable Disease:

Proposed rules are needed to insure that prisoners placed in isolation for suspected communicable disease receive prompt medical attention and are not unreasonably deprived of privileges as a result of placement in isolation. Isolation for communicable disease is not a disciplinary action and consequently the individual's privileges and rights must be maintained to the greatest extent possible under the circumstances.

J. Mentally Ill Prisoners:

Rules are needed to insure that prisoners deemed mentally ill receive prompt medical assessment and that if at all possible such prisoners be placed in a facility more appropriate to the care of the prisoner. Part I #2, evidence page 302 states that, "The mentally ill should not be housed in a detention facility." Similarly, Part I, #1. B. evidence page 32 states, "The jail is not the proper place of detention for the mentally ill. Every effort should be made to contact a local hospital or clinic for the detention of the mentally ill person. But if the hospitals of the community have no facilities for the care of psychotic patients, jail detention, pending commitment to a State mental hospital, may be unavoidable for those mental patients who are violent and may represent hazards to themselves or others.

"Mentally ill persons who must be detained must be closely supervised to guard against suicide attempts or attacks on others. They should be under the care of a physician who can prescribe sedation, if needed, to control the patient. Medication should be carefully dispensed. Preferably, the mentally ill should be housed in individual cells. For violent cases, special restraint rooms should be available."

K. Housekeeping, Sanitation and Plant Maintenance:

Proposed rules are needed to insure that a primary responsibility of the facility to maintain high standards of cleanliness and sanitation is met. Similarly, keeping the jail in a good state of repair is necessary to insure against unnecessary deterioration of buildings and equipment, safety hazards and breaches of security.

Part I, #1. E. evidence page 8 states, "Effective housekeeping requires the development of a definite cleaning schedule with jail personnel and inmates assigned specific duties."

Similarly, Part I, #1. E. evidence page 13 states that, "Jail facilities can be maintained economically and efficiently by establishing simple maintenance schedules as a basic guide."

Part I, #1. E. evidence also states that, "Cutting maintenance costs to the bone is bound to result in deteriorating buildings. So the remodeling or rebuilding that becomes necessary in the end costs more than would have been needed to maintain the jail in good condition from the outset."

To insure that housekeeping, sanitation and plant maintenance needs are met, daily inspections of the facility by staff are needed so that problems can be readily identified and acted upon.

Proposed rules concerning budgets and work requests are needed to insure that local governing bodies such as county boards, city councils or similar such bodies responsible for the facility are fully apprised of housekeeping, sanitation and maintenance needs as they develop and can make decisions concerning such needs after consideration of factual presentation of needs and available finances.

Documentation of budget and work requests is needed to affix responsibility for failure to correct housekeeping, sanitation or maintenance needs. In the event of litigation, it is deemed important and necessary that the facility administrator and governing body clearly show that they have identified needs and acted on same consistent with their knowledge of needs, responsibilities and authority to effect improvements.

Proposed rules concerning insect and rodent control are needed to insure against disease transmission by same. Licensed pest control operators are necessary to insure that selection of equipment and procedures assure the most effective application of poisons, dusts, sprays and traps.

Part I, #1. E. evidence supports the need for and reasonableness of proposed rules concerning housekeeping, sanitation and plant maintenance. Similarly, Part I, #7 evidence Jail Management Book One, pages 33 and 35 support proposed rules. Part I, #7, evidence Jail Management Book Two, page 1, describes the budget process "as a vehicle for evaluating past and present performance and planning to meet new objectives in the future."

Support for proposed rules Corr. 111, A. - J. may be found in Part I, #2 evidence standard 2.6 Medical Care, pages 36-37; Standard 9.7, Internal Policies; Part I #4 evidence Section 9, Medical and Health Services, pages 58-59 and Section 11 "Unusual" prisoners page 62 - The Mentally Ill. Part I #5 evidence standard 2.6 Medical Care, page 2, and Standard 9.7 Internal Policies, page 18. Part I #19 evidence Chapter XX, Health Services, Part I #1. D. evidence pages 14-15. Part I #1. A. evidence page 45, Inmate Medical Emergencies. Part I, #7, evidence Jail Management Book 5, pages 18-19. Part I #1. C. evidence Chapter 3. Part I #1. B. evidence Chapter 3, Medical Care. Part I, #10 evidence sections 38, 39, 40 and 41. Part I #9 evidence items K., L., M., page 26, item B. pages 27-28, items A-I pages 40-46. Part I #11 evidence pages 13-16. Part I #20 evidence MHD 396, 397 and 398.

STATEMENT OF NEED

CORR. 112 NEW CONSTRUCTION

A. Construction Principles

Proposed rules concerning new construction are needed to provide basic minimum standards for the approval of new construction or the repair of existing facilities pursuant to Minnesota Statutes 641.21, 641.22 and 642.02.

Essentially, Minnesota Statutes 641.22 and 642.02 require that a county board or governing body of any city shall obtain approval from the Commissioner of Corrections prior to any construction or repair at a cost of more than $5,000.

Additionally, Minnesota Statute 642.02 states "The Commissioner of Corrections shall not approve any plan..." "unless the plan meets the standards established by the Commissioner's rules."

Considering the above statutory references, proposed rules are needed to insure statutory intent, provide a foundation for consistency in application of Department approval of plans, and are needed to assist those planning new construction or repair in excess of $5,000 in clearly understanding requirements in order that they may better assess local needs, financial implications and priorities.

1. Is needed to insure that those concerned with new construction clearly understand that proposed rules are applicable to all facilities governed by these rules except to the extent exceptions are stated.

Uniform = State

2. Is needed to insure that security requirements are met in addition to requirements of the Uniform Building Code in all new construction. The Uniform Building Code does not address security concerns inherent in the construction of facilities governed by these rules.

3. Is needed to advise those contemplating construction that requirements of other regulating agencies must be met in such construction unless specific mention of a construction condition or specification is made in the proposed rules.

4. Is needed to insure that construction materials, products, etc., utilized in secure areas of the facility are in fact security products recognized by manufacturers of jail and prison hardware and equipment as capable of providing security consistent with the intended use of the area, material product, etc. As an example, it would be inappropriate and unacceptable to use residential lighting fixtures in a maximum security area.

5. Is needed to provide an approved format for the use of materials, products, etc., which are capable of providing the required level of security, but differ in specification from those required in rules. The Department of Corrections staff of the Inspection and Enforcement Unit do not profess to be experts in the technical aspects of security product manufacture. Consquently, we must rely on product manufacturers or governmental regulating agencies to certify that equivalent products are equal to or exceed those specified.

The proposed rule is also needed to allow for new product development and technological advances in the field of security hardware and equipment.

6. Virtually every creditable agency involved in promulgation of standards for facilities similar to those governed by these proposed rules has agreed that maximum, medium and minimum security accommodations are necessary and appropriate to the safe, secure and efficient operation of such facilities. Classification and separation of maximum, medium and minimum security prisoners in holding facilities that confine very few prisoners for periods of time not to exceed 72 hours is not viewed as problematical. For that reason, requirements of maximum, medium and minimum security accommodations in such facilities are deemed discretionary with the local governing body. To require such facilities housing less than one person a day to provide all three levels of security would be unreasonable and impractical.

   Similarly, proposed rule A.6. b. is needed to recognize that adult corrections facilities are on occasion built to house only one security classification of prisoners. As an example, the Northeast Regional Corrections Center is designed to house only minimum security prisoners. Consquently, requiring such facilities to provide maximum, medium and minimum security accommodations would be contrary to the intended use of the facility and unreasonable.

B. General Conditions

1. Proposed rules are needed to insure that necessary activities such as visiting, booking, public reception, programs, etc., can be accomplished without conflicting with one another or jeopardizing the security of the facility.

2. Proposed rules are needed to insure that staff stations of those responsible for the care and supervision of prisoners are located where such primary responsibilities can best be accomplished. Each of the proposed rules 2. a., b., and c. are intended to insure that the location of staff stations for those responsible for prisoner supervision, safety and care are designed in a manner that will afford convenience in the accomplishment of such responsibilities.

3. The proposed rule is needed to insure the security of staff work stations and that the activities and movement of staff can not be observed and used to breach security by parties from outside of the facility.

4. The proposed rule is needed to insure that statutory separation requirements are met and that classification of prisoners can be accomplished by facility design accommodations. Separation of prisoners and the public, prisoners of one classification and another, prisoners and staff, and prisoners and unauthorized areas are all necessary to the safe, secure and efficient operation of the facility.

5. Maximum security implies a high degree of risk with respect to escape, violent behavior, etc. Consequently, maximum security prisoner activities must be accomplished in areas designed to recognize risk factors and minimize the potential for occurrence of escape, violent behavior, etc.

6. The proposed rule is needed to provide maximum security with safeguards deemed necessary and appropriate by representatives of the citizens' advisory task force which assisted in the development of these proposed rules and representatives of the Department's Inspection and Enforcement Unit. Both groups agree that while maximum security is needed in limited cases, it is needed. The rule is designed to recognize the need for maximum security and the potential for compromise of security barriers from outside interference as well as prisoners confined.

7. Proposed rules are needed to insure that provisions for storage are recognized and provided in a manner which is consistent with security needs. Secure weapon depositories are needed to insure safe storage of transporting or visiting law enforcement personnel weapons. Allowing weapons inside security areas presents potential for serious incidents and death.

8. The proposed rule is needed to insure that the delivery of such things as food, supplies, etc., to the facility is accomplished in a manner that does not jeopardize the facility's security. Construction must recognize that security may be breached by prisoners confined and people from outside of the facility.

9. This rule is needed to insure that staff are advised of disturbances, prisoners' needs for help and other unusual occurrences as promptly as possible in order that they may respond without delay to such situations in an appropriate manner. The rule is intended to support, not supercede requirements for regular physical checks of prisoner areas.

10. [Redundant] This rule is needed to insure that hardware and fixtures are capable of meeting intended expectations.

11. This rule is needed to reduce the possibility of lock compromise and to insure reasonable and prudent safety of prisoners in the event of an emergency requiring evacuation of a prisoner or prisoners.

12. This rule is needed to reduce the success of prisoners attempting to restrict their movement from one area to another, to reduce difficulty in movement of equipment through corridors, and to reduce tunnel appearance in long corridors.

13. This rule is needed to insure adequate lighting consistent with area usage.

14. This rule is needed to insure that confidentiality of such things as attorney/client conferences, booking and receiving, dispatching, staff interviews of prisoners, etc., can be accomplished consistent with legal requirements and/or desired privacy of information.

15. These rules are needed to insure that both secure (non-contact) and non-secure (contact) visiting provisions are provided and that visiting provisions are capable of handling at least 1/10 of the facility's capacity of prisoners at any time.

16. This rule is needed to insure that all access to security areas of the facility is under observation and control of facility staff. The rule is intended to minimize the possibility of security being breached by uncontrolled access to security areas.

17. This rule is needed to insure that materials utilized in construction recognize the need for noise attenuation in such facilities. Prisoner knowledge of staff conversations can result in breaches of security. Similarly, unruly prisoners yelling, shouting, etc., can be very disruptive to other activities and other prisoners unless the need for noise controls are recognized in construction materials.

18. This rule is needed to insure that such things as fire retardant paints, concrete blocks, etc., are finished in a manner which allows sanitation to be accomplished without unreasonable effort.

19. This rule is needed to insure that space is provided in prisoner living areas for storage of toiletries, etc. The rule will assist in reducing cluttered prisoner living areas and potential fire hazards.

20. This rule is needed to reduce the possibility of a prisoner being accidentally burned by hot water.

21. This rule is needed to insure that each facility is able to maintain temperature levels within prisoner living areas within specified temperature ranges. Some existing facilities in Minnesota have had considerable difficulty in providing adequate heat in winter months or have not been able to keep temperatures in prisoner living areas in summer months below 85° for extended period of time. Uncontrolled temperatures in prisoner living areas could result in findings of cruel and unusual punishment.

22. This rule is needed to minimize the possibility of accident occurrence in such areas.

23. This rule is needed to accomplish an early warning system in the event of fire in order that the safety of staff and prisoners can be accomplished without unnecessary delay.

24. This rule is needed to insure that limitations of C.C.T.V. equipment are recognized and that such equipment is not used when legal rights of prisoners, security needs of the facility or staff resource needs are not met. The National Clearinghouse on Criminal Justice Planning and Architecture has thoroughly studied the usage of C.C.T.V equipment and has concluded that such equipment has only limited use potential. The Department of Corrections concurs with their conclusions.

25. This rule is needed to insure that a minimum ceiling height is provided. Eight feet is recognized by practitioners in the field and manufacturers of security products.

26. This rule is needed to provide a greater sense of spaciousness in dormitory areas housing ~~three~~ ten or more prisoners. (See #23)

27. This rule is needed to insure reasonable privacy of those using showers and toilet facilities from observation by others at an eating area and to eliminate the possibility that those eating are required to view toilet and shower areas.

28. This rule is needed to insure that minimum security prisoners (especially those on work release) do not have an opportunity for transmission of contraband to prisoners of either medium or maximum security classification.

29. This rule is needed to insure that any prisoner requiring isolation accommodations can be accommodated without jeopardizing the prisoner's rights to privacy or the security needs of the prisoners as determined by the prisoner's security classification.

30. This rule is needed to insure that facilities designed for the confinement of prisoners up to one full year have space designed for prisoner programming outside of prisoner living areas.

31. This rule is needed to insure that facilities confining prisoners for up to 30 days have at least one area that can be used for prisoner programming.

32. This rule is needed to limit the usage of maximum security accommodations to male adults unless the need for exceptions can be justified.

C. Administrative and Public Areas

1. This rule is needed to insure that facility design recognizes the need for such space and that such areas must be separate and apart from inner security areas and prisoner occupied areas of the facility.

2. This rule is needed to insure that public access can be controlled and that security areas are protected.

3. This rule is needed to insure that public areas do not conflict with other necessary functions such as prisoner admission, booking and receiving, dispatching, staff business, etc.

D. Receiving Area

1. This rule is needed to insure that intake and receiving is accomplished in an area secure from the public and other prisoners.

2. This rule is needed to insure that basic functions of the booking and receiving process can be accomplished with privacy and that activities such as searching and showering can be accomplished prior to assignment of prisoners to prisoner living areas for security and sanitation reasons.

   A secure holding area is needed to provide separation of violent prisoners or prisoners under the influence of alcohol or drugs from other prisoners until they are deemed in satisfactory physical or mental condition to warrant admission to prisoner living areas. Additionally, secure holding areas are needed to provide for the detention of persons who will be released in short periods of time and will not require admission to prisoner living areas.

E. Living Area

1. This rule is needed to insure segregation of prisoners pursuant to statutory requirements and to meet classification needs, e.g., maximum, medium, minimum, isolation, holding area, etc.

2. This rule is needed to maximize the privacy of prisoners from observation by prisoners or staff of the opposite sex.

3. The rule is needed to insure that privacy design needs are accomplished in a manner which is consistent with security and control of the facility.

4. The rule is needed to prohibit prisoner living areas from being constructed below ground level. This rule is intended to minimize negative phychological effects of incarceration on prisoners, by insuring that prisoners have access to natural lighting and outside orientation.

5. This rule is needed to insure that eating areas and beds are protected from hot or cold air blasts. Both conditions may cause unnecessary discomfort and potential illness.

6. This rule is needed to reduce the feelings of depression which are likely to result from extended confinement in areas without outside orientation. The need for and reasonableness of this rule is strongly supported by the National Clearinhouse on Criminal Justice Planning and Architecture.

7. This rule is needed to insure consistency in furnishing of cells and/or detention rooms. The basic provisions identified are recognized as standard furnishings throughout the field of corrections and detention.

8. This rule is needed to insure that shower provisions are provided at a ratio consistent with Department of Health recommendations. Prohibition of showers in cells and detention rooms is needed to insure that such facilities are located in areas where prisoner access to same may be controlled if necessary and to insure that prisoners do not traffic through another prisoner's cell or detention room in order to shower.

9. This rule is needed to insure that prisoners confined in excess of 72 hours exclusive of weekends and holidays are provided with space for exercise outside of cells or detention rooms. Square footage requirements have been determined after review of construction documents and Department of Health recommendations.

10. The proposed rule is needed to insure that minimal provisions for tables and benches are met, that staff do not have to remove prisoners from the area to make telephone calls, that staff control stations can monitor activities in the area, and that electrical power is available for discretionary usage of electrical appliances such as radios, shavers, T.V.'s, etc.

11. This rule is needed to insure that medical care of prisoners not requiring hospitalization, but who should for medical reasons be separated from other prisoners can be accomplished. Due to the short length of stay of prisoners in holding facilities and their reliance on lockups or jails as backup resources, it is believed that in those instances where such services are needed, offenders can be transferred.

12. This rule is needed to prohibit two-bed cells or detention rooms and reduce the probability of homosexual and strongarming behavior being exercised by one individual over another. While individual cells or detention rooms and dormitory provisions (three or more beds) will not eliminate the possibility of such behavior, it is believed that the likelihood of such behavior going undetected will be reduced. Additionally, while proponents of two-bed cells or detention rooms may argue that they are effective in the handling of potential suicides, the Department believes that dormitories would be equally effective. If an offender is of such a mental state that he cannot be housed in a dormitory due to fear for other prisoners' safety, then it would seem imprudent to house such a prisoner with one other prisoner in a two-bed cell or detention room. Such a prisoner should be placed in isolation with scrupulous supervision by staff and reviewed by medical authorities as soon as possible to determine the most appropriate course of action, e.g., continued isolation, transfer to a facility more appropriate to the prisoner's need, etc.

    The proposed rule governing limitation of dormitory capacity to not more than 25% of the facility's total capacity is needed to insure that cell and detention room availability for prisoners is ample to accommodate up to 75% of the facility's prisoners in the event of major disturbances. Additionally, cell and detention rooms by the very nature of their design provide considerably greater flexibility and control in their usage than dormitories. While dormitories are acceptable for minimum security and some medium security prisoners, they are contrary to the intent of maximum security. Over-reliance on dormitory living arrangements is generally recognized by facility administrators as contributory to control problems, inefficient operations and potentially dangerous situations.

13. This rule is needed to insure that prisoners confined for extended periods of time are provided with outdoor recreational opportunities, and that such areas are protected by security barriers consistent with the classification of prisoners confined.

    Adult corrections center prisoners have the highest average length of stay of the four types of facilities governed by these rules and consequently, the need for outdoor recreation is greatest in these facilities.

F. Construction Standards

1. Proposed rules a., b. and c. are needed to insure that cells, rooms and dormitories meet minimal square footage requirements. The proposed square footage requirements were arrived at after consideration of Department of Health recommendations, recommendations of the National Clearinghouse on Criminal Justice Planning and Architecture, recommendations of the National Advisory Commission on Criminal Justice Standards and Goals, materials indicating judicial decisions concerning space allocations and economic factors local governing bodies would face. Consequently, the proposed square footage requirements represent a compromise between National Advisory Commission on Criminal Justice Standards and Goals recommendations of no dormitories and 80 square feet per room, National Clearinghouse recommendations of 70 square feet and no dormitories in maximum or medium security areas, and advisory task force recommendations of 50 square feet in individual rooms and dormitories in medium and minimum security. The Department has reviewed the varied and inconsistent recommendations and believes the proposed rules are a reasonable compromise which consider the security of the facility, judicial decisions concerning space, and the realities of financial costs.

2. Proposed rules are needed to insure that staff can make regular supervisory checks of maximum and medium security prisoner areas in a safe and secure manner. Additionally, proposed rule 2. a. is needed to provide two barriers between maximum security prisoners and freedom. The proposed rule is intended to provide facility staff with sufficient reaction time to cope with compromise of one security barrier either by prisoners from inside the facility or individuals outside the facility intent on assisting prisoners in escape, etc.

3. Proposed rules are needed to restrict access to security doors and windows consistent with prisoner classification.

4. Proposed rules are needed to insure that all prisoners have access to natural lighting in their primary living areas.

5. Proposed rules are needed to insure the safety and security of facility staff in their contacts and interactions with maximum and medium security prisoners. The rule is intended to insure against exposure of one staff person to possible assault by a group of prisoners. Sally ports permit controlled release of one prisoner from the area at a time, whereas one door entrances to maximum or medium security areas would permit uncontrolled access to corridors, staff and other areas of the facility by prisoners. The need to maintain one barrier between staff and such prisoners mandates that sally ports be large enough to accommodate a stretcher with both gates or doors closed.

6. The rule is needed to provide maintenance personnel with provisions to work on such equipment without exposing themselves or maintenance tools to maximum security prisoners. The rule is intended to reduce the possibility of assault of maintenance personnel by such prisoners and their access to contraband items.

7. The proposed rules are needed to insure against vandalism of such equipment by prisoners and are designed to be reflective of prisoner classification.

8. The proposed rule is needed to provide easy cleanout of sewer lines in the event prisoners plug same with towels, clothing, etc.

9. The proposed rule is needed to insure that plumbing fixtures provided in maximum and medium security areas are of materials sufficient to withstand the abuse by prisoners they may receive in such areas. To provide fixtures of less abuse resistance is likely to result in greater maintenance needs, increased cost over a period of time, and potential hazards to staff and prisoners.

10. Proposed rules are needed to insure minimum levels of abuse resistance in construction materials consistent with prisoner classification. Proper classification and segregation of maximum, medium and minimum security prisoners should result in less of a need for reliance on physical plant provisions for security in minimum security areas than in maximum security areas. Consequently, construction requirements must recognize such distinctions in order that appropriate security is provided with consideration of economic factors.

    From a cost of construction standpoint, it would be unreasonable to provide maximum security construction in minimum security accommodations.

11. Proposed rules are needed to insure that locking devices used are consistent with the security classification of those confined.

12. The proposed rule is needed to insure that in the event vent openings are compromised by prisoners that prisoners cannot readily gain access to ventilation shaft and other areas of the facility.

13. The proposed rules are needed to insure that grillage used is of a security type and that such bars are spaced in a manner which prevents prisoners from getting through openings without compromising the bars.

    Proposed rule 13. b. is needed to prohibit the use of grillage in minimum security areas. Proper classification of prisoners and sound administrative practices imply that grillage is not needed in minimum security areas and consequently is considered an unwarranted and unnecessary expense.

14. The proposed rule is needed to insure that all glass used in secure areas is constructed of abuse-resistant materials in order that security can be maintained and prisoners cannot easily injure themselves or others with broken glass.

15. Proposed rules are needed to insure that all concrete construction conform to minimum standards developed by the Department in consultation with representatives of the State Department of Administration, Building Code Division.

16 - 21. Proposed rules concerning wall construction, ceiling construction, floor construction, window construction and hardware are needed to insure that such construction meet security needs of prisoners confined, that such construction be consistent with the classification of prisoners to be confined, and that construction be of materials, quality, etc., generally recognized as being adequate to meet the usage requirements of the area constructed.

22. The proposed rule is needed to insure that medium security dormitores be equipped with basic furnishings consistent with the dormitory capacity and basic Department of Health recommendations.

23. The proposed rules are needed to insure that minimum security rooms are equipped with basic furnishings, that minimum security areas are separated from other prisoner areas, and that dayroom/exercise space be provided for such prisoners.

24. Proposed rules are needed to insure basic furnishings in minimum security dormitories, that such facilities are located separate and apart from medium and maximum security areas and that provisions for visiting, showering and toilet facilities are provided.

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Eileen A. Gaiovnik, being first duly sworn, hereby deposes and says:

That at the City of St. Paul, county and state aforementioned, on the 23rd day of September, 1977, she did serve the Report of Hearing Examiner, Corr-77-002-SM

upon the Commissioner of Corrections by personally handing to Dennis Falenschek, a Detention Specialist for the Department of Corrections, said Report of Hearing Examiner.

Eileen A. Gaiovnik

Subscribed and sworn to before me this 23rd day of September, 1977.

Sandra A. Haven

SANDRA A. HAVEN
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires July 28, 1983

STATEMENT OF NEED

FORWARD

RECEIVED
APR 5 1977
OFFICE OF HEARING EXAMINERS

History and Background

In 1959, the Minnesota Department of Corrections was formed, and at that time, the power, duties and responsibility for statewide jail inspection were transferred from the Minnesota Department of Public Welfare to the newly created Department of Corrections. Minnesota Statute 241.021 provided for the transfer of those duties and powers.

In reviewing legislation prior to April, 1976, it was apparent that the statutes failed to provide a framework and direction for developing and implementing comprehensive standards by which existing and new facilities could be evaluated and planned.

The need to develop and implement comprehensive standards has been emphasized by considerable national debate in recent years on the future of local correctional facilities such as jails, lockups, holding facilities and adult corrections facilities. The debate has established a few points that most professionals agree on: 1) Local correctional facilities have been neglected. 2) A large percentage of such facilities are inadequate both physically and functionally. 3) Even though improvements in such facilities, operational policies and administration of local facilities is discretionary with each state, several compelling forces indicate the wisdom of those states who have already amended their legislation and developed contemporary standards for these facilities. Such recent developments as court rulings directed at jails failing to provide constitutional standards of care and treatment for pre-trial detainees and sentenced offenders are becoming common. Those states and counties hardest hit in the majority of cases decided, lacked precise standards or rules and regulations governing prisoner welfare and conduct.

As a result, many court opinions contained minimum standards dictated by the court. Some states were more fortunate and were ordered to develop standards and submit them to the court for approval. The intervention of the judicial branch of government in the development and application of standards has been minimized in those instances where reasonable, prudent and definitive standards for local correctional facilities have been established and are fairly and impartially enforced.

Of equal weight is the fact that in Minnesota, nearly half of the State's counties are involved in some phase of studying or planning for remodeling or new construction. Recent changes in accepted architectural practice as related to correctional facilities has further emphasized the need to develop contemporary uniform guidelines to review these plans, schematics and construction documents.

Each of these factors influenced the development of "rough draft" standards by the Department of Corrections, 1976 amendments to existing legislation, the formation of a citizens' advisory task force to assist in the development of standards and the formal development of rules.

Dept's Exhibit No. 8
File No.
Date

Rough Draft Standards

From mid-1973 to early 1976, the Department of Corrections conducted a comprehensive study of materials generated by standard-setting legislation, agencies and commissions across the Country, materials reviewed were inclusive of the following sources:

- Minnesota Statutes
- Minnesota Health Department
- Occupational Safety and Health Act
- Minnesota Division of Building Codes
- Minnesota Fire Marshal's Office
- Minnesota Department of Corrections
- American Corrections Association
- National Sheriffs' Association
- National Advisory Commission on Criminal Justice Standards and Goals
- National Clearinghouse on Criminal Justice Planning and Architecture
- American Bar Association
- Federal Bureau of Prisons
- Other State Standards
- Security Manufacturers' Specifications

The study resulted in the development of a 121 page "rough draft" of standards for holding, lockup, jail and adult corrections facilities.

1976 Legislation - Promulgation of Rules

On April 13, 1976, Chapter 299, S.F. No. 551 was approved by the Legislature of the State of Minnesota to become effective on July 1, 1976.

Amendments to Section 1, Minnesota Statutes 1974, Section 241.021, Subdivision 1, mandated that the Commissioner of Corrections promulgate by January 1, 1977, pursuant to Chapter 15, rules establishing minimum standards for these facilities (all correctional facilities throughout the State, whether public or private, established and operated for the detention and confinement of persons detained or confined therein according to law except to the extent that they are inspected or licensed by other State regulating agencies) with respect to their management, operation, physical condition and the security, safety, health, treatment and discipline of persons detained or confined therein.

The legislation also mandated that the Commissioner, pursuant to Section 15.059, Subdivision 6, appoint a citizens' advisory task force of nine persons, including five persons who have been elected to the office of county sheriff, and four persons who have been elected to the office of county board of commissioners to assist in the development of standards for jails and lockups.

Selection and Appointment of Advisory Task Force Members

Shortly after the legislation was passed, the Commissioner contacted the Minnesota Sheriffs' Association and Association of Minnesota Counties and requested that each provide a list of ten candidates who were interested and qualified to serve on the advisory task force. Both Associations responded and after a review of those recommended by the Minnesota Sheriffs' Association, Association of Minnesota Counties and Department of Corrections personnel, the Commissioner contacted and obtained the permission of the following individuals to appoint them to the advisory task force:

Charles Von Wald - Sheriff, Olmsted County
Paul Knochenmus - Sheriff, Roseau County
Carlton Mortenson - Sheriff, Otter Tail County
Donald Omodt - Sheriff, Hennepin County
Terry Twomey - Sheriff, Carlton County
George Cavers - Commissioner, Martin County
Virgil Olson - Commissioner, Kandiyohi County
Alfon Hanson - Commissioner, Polk County
Lenore Johnson - Commissioner, Lake County

The final selection and appointment of task force members was accomplished with consideration of the following criteria:

1. That the task force be representative of the geography of the State.
2. That members represent counties which have old, new, large and small facilities.
3. That members represent sparsely and densely populated counties and counties with both large and small prisoner populations.
4. That no county have more than one member on the task force, leaving at least nine counties represented.
5. That economic differences among counties of the State be represented on the task force.
6. That final selection and appointment consider each of the above in light of recommended nominees and their qualifications and willingness to serve on the task force.

Appointments to the task force were completed July 15, 1976.

Task Force Role, Responsibilities and Involvement in Standard Development

The first meeting of the task force was conducted in St. Paul at the Department of Corrections offices on July 26, 1976. The task force's role, responsibility and goals were discussed. A plan of action was agreed upon and although legislation mandated that the task force assist only in the development of standards for jails and lockups, the task force agreed to assist in the development of standards for holding and adult corrections facilities also. Task force members and Department staff agreed that holding facilities, lockups, jails and adult corrections facilities as defined in the proposed rules were so closely related in the criminal justice system that the effective development of standards could best be accomplished by considering each in relation to the others.

Task force members were issued a copy of rough draft standards prepared by the Department and advised that such standards were being offered as a starting point in the development of standards and in an effort to expedite the work of the task force.

Department staff and task force members agreed that the 121 page "rough draft" standards could provide a basis for development of standards. They also agreed that review, modification, addition, deletion, etc., of the rough draft should be completed as soon as possible due to the legislative mandate to promulgate standards by January 1, 1977. With this objective in mind, October 15, 1976 was established as a target date for completion of development of standards by the task force. In order to accomplish this goal, five meetings of the task force and five site locations were tentatively scheduled as follows:

Week of August 9 - 13	Crookston - Polk County
Week of August 23 - 27	Park Rapids - Hubbard County
Week of September 6 - 10	Fairmont - Martin County
Week of September 20 - 24	Carlton - Carlton County
Week of October 4 - 8	Rochester - Olmsted County

The five locations were selected after consideration of traveling distances of task force members and were selected as representative of the broad range of facilities operating in Minnesota. Specifically, Polk and Martin Counties have new facilities that are considered among the best in the State; Hubbard County's facility is among the worst in the State as evidenced by condemnation of the facility through the District Court of the Ninth Judicial District in early 1976; Carlton County's facility has been considered inadequate by the Department of Corrections and the County is actively engaged in planning for its replacement; and the Olmsted County facility, although not consistent with contemporary jail architectural standards, is considered among the best in the State in developing programming for prisoners.

In summary, task force members and Department staff agreed that it would be advantageous to tour "good" and "bad" facilities first hand in an effort to gain a better perspective of statewide conditions.

The task force met at each of the tentative site locations as follows:

1. St. Paul Department of Corrections Offices	July 26, 1976
2. Crookston (Polk County Law Enforcement Center)	August 9, 1976
3. Park Rapids (Hubbard County Jail)	August 20, 1976
4. Rochester (Olmsted County Law Enforcement Center)	September 10, 1976
5. Fairmont (Martin County Law Enforcement Center)	September 24, 1976
6. Carlton (Carlton County Jail)	October 3 and 4, 1976
7. St. Paul Department of Corrections Offices	October 18, 1976

The task force completed their review of "rough draft" standards and recommendations, modifications, additions, deletions, etc., on October 18, 1976 and submitted proposed rules to the Commissioner for review and approval.

On November 5, 1976, copies of the rules as submitted to the Commissioner by the citizens' advisory task force were sent to Mr. W. B. 'Rip' Schroeder, Executive Secretary of the Minnesota Sheriffs' Association and Mr. Larry Granger, Administrative Assistant of the Association of Minnesota Counties.

In early November, 1976, the Commissioner appointed an internal review committee to review proposed rules with respect to their legality, funding implications and clarity. The internal review committee completed its review and modification of proposed rules in January of 1977 and copies of amended rules were sent to citizens' advisory task force members for review and comment.

During the period from January - March, 1977, contacts were established with representatives of the State Register's Office and the Office of the Hearing Examiner and additional communication occurred between members of the Department's Inspection and Enforcement Unit and James Bradford, the Department's representative of the Attorney General's Office. As a result of these contacts and communication, additional changes in the proposed rules were made prior to submission to the Offices of the State Register and Hearing Examiner. As examples, materials deemed informational or guidelines in nature were deleted, definitions deemed standards were revised and unnecessary duplication was deleted.

The proposed rules as submitted to the Offices of the Hearing Examiners and State Register, while not identical to the earlier draft, are believed to have retained the intent of rules as approved by the Commissioner's internal review committee in January of 1977.

Throughout the process of rule promulgation, the Department has actively sought to advise those concerned of the process and solicit opinions. As examples, representatives of the State Department of Health were consulted with respect to all health related areas of standards; Mr. Charles Link of the Federal Bureau of Prisons was consulted for consistency with standards of his office as applied to Minnesota facilities contracting for services to Federal prisoners; Mr. Wayne Stevens of the State Building Code Division was consulted with respect to new construction proposed rules; two security product manufacturer representatives were contacted concerning new construction standards; the National Clearinghouse for Criminal Justice Planning and Architecture was contacted to review proposed rules in their entirety; the Department's Community Corrections Unit was consulted with for compatibility with their rules; and ongoing communication between the Department and representatives of the Minnesota Sheriffs' Association and Association of Minnesota Counties was maintained. Formal presentations before both Associations were made concerning proposed rules in November (Association of Minnesota Counties) and December (Minnesota Sheriffs' Association).

On March 28, 1977, the proposed rules and notice of public hearing were published in the State Register. Copies of the proposed rules were mailed to each county board and county sheriff on March 30, 1977.

It is the sincere hope of the task force and Department that the proposed rules will provide the basis for fair and objective evaluation of Minnesota's holding facilities, lockups, jails and adult corrections facilities. Just as the State of Minnesota has inspected and evaluated hospitals, supervised living facilities, and child care facilities, etc., using standards, rules and regulations developed to provide for the health, safety and care of those who enter such facilities, the proposed rules have been designed to provide for the health, care and safety of those confined to and working in holding, lockup, jail and adult corrections facilities. The proposed rules, if effected and enforced, also will reduce the risk to local units of government and the State against expensive litigation and the possibility of the judiciary imposing standards into which local officials have little, if any, input.

Proposed Rules - Females and Juveniles

Little effort has been made in the proposed rules to distinguish between the sexes whether they serve as staff or prisoners. All proposed rules and principles apply equally to both males and females unless stated otherwise.

Similarly, little mention has been made in the proposed rules concerning juveniles. Minnesota Statutes limit not only the conditions under which juveniles may be confined in such facilities, but also the length of detention or confinement in such facilities. Consequently, any person under 18 years of age detained or confined in any holding facility, lockup, jail or adult corrections facility must be so detained or confined in accordance with all applicable Minnesota Statutes.

In summary, the Department and advisory task force recognize the fact that there will never be unanimous agreement on proposed rules necessary in holding, lockup, jail and adult corrections facilities to make them acceptable for detention or confinement of prisoners. For that very reason, proposed rules as submitted to

the Office of Hearing Examiners and State Register have resulted from extensive research of numerous materials, been through close scrutiny by numerous consultants and are designed to reflect the realities of existing conditions and limited financial resources available in Minnesota. Consequently, the proposed rules are likely to be less demanding in nature than some individuals, groups or agencies would prefer and more demanding than others would prefer. In essence, they are considered as representative of a realistic compromise between what may be ideal and the harsh realities of existing conditions and financial constraints to effect improvement.

The Department and citizens' advisory task force have agreed that rules adopted must address the realities of existing conditions and financial constraints if they are in fact going to be enforceable and effective in insuring improvements.

RECEIVED
APR 5 1977
OFFICE OF HEARING
EXAMINERS

STATEMENT OF EVIDENCE

PART I

Excerpts from the following published materials may be used as evidence of support for individual rules. Statements of need on each major section of rules will be accompanied by reference to such documents that may be used as evidence of support for such rules.

1. The National Sheriffs' Association 1974 handbooks on:
   - A. Jail Administration
   - B. Jail Security, Classification and Discipline
   - C. Jail Programs
   - D. Inmates' Legal Rights
   - E. Sanitation in the Jail
   - F. Food Service in Jails
   - G. Jail Architecture

missing

Handbooks are available through:

Publications Division
National Sheriffs' Association
1250 Connecticut Avenue, Suite 320
Washington, D. C. 20036

2. The National Advisory Commission on Criminal Justice Standards and Goals 1973 publication Corrections.

The publication may be obtained from:

Superintendent of Documents
U. S. Government Printing Office
Washington, D. C. 20402

3. The American Bar Association Commission on Correctional Facilities and Services August, 1974 publication, Survey and Handbook on State Standards and Inspection Legislation for Jails and Juvenile Detention Facilities.

Copies are available through:

Statewide Jail Standards and Inspection Systems Project
ABA Commission on Correctional Facilities and Services
1705 DeSales Street N.W.
Washington, D. C. 20036

4. The American Correctional Association 1969 edition of Manual of Correctional Standards.

Issued by:

The American Correctional Association
Woodbridge Station
P. O. Box 10176
Washington, D. C. 20018

Dept's Exhibit No. O
File No.
Date

5. The National Advisory Commission on Criminal Justice Standards and Goals August, 1975 publication Jointly Recommended Revisions of the Commission's Standards and Goals on Corrections, prepared by Association of State Correctional Administrators and American Association of Wardens and Superintendents. Should be available through same source noted under #2 above.

6. Survey of United States Implementation of the United Nations Standard Minimum Rules for the Treatment of Prisoners, prepared by the ABA Commission on Correctional Facilities and Services, December, 1974.

Should be available through:

ABA Commission on Correctional Facilities and Services
1705 DeSales Street N.W.
Washington, D. C. 20036

7. U. S. Bureau of Prisons Jail Operations and Jail Management Courses.

Available through:

Superintendent of Documents
U. S. Government Printing Office
Public Documents Division
Washington, D. C. 20402

missing

8. American Bar Association Resource Center on Correctional Law and Legal Services and American Correctional Association, January, 1974 publication Legal Responsibility and Authority of Correctional Officers.

Available through:

American Correctional Association
4321 Hartwick Road, Suite L-208
College Park, Maryland 20740

9. Jail Standards and Guidelines for Operation of Local Correctional Facilities, September 1, 1973, State of Oregon.

Available through:

State of Oregon Department of Corrections.

10. Jail Standards and Procedures, effective July 1, 1975, State of Kansas.

Available through:

State of Kansas Department of Corrections.

11. Standards Jails - Lockups - Houses of Correction Rehabilitation Camps, Revised January, 1975.

Available through:

State Department of Health and Social Services
Division of Corrections
Madison, Wisconsin 53702

12. Correction Officers Training Guide, published in 1960's by the American Association Committee on Personnel Standards and Training.

Available through:

American Correctional Association
Woodbridge Station, P. O. Box 10176
Washington, D. C. 20018

13. Report to the Congress by the Comptroller General of the United States, April 5, 1976, Conditions In Local Jails Remain Inadequate Despite Federal Funding for Improvements.

Available through:

U. S. General Accounting Office
Distribution Section
P. O. Box 1020
Washington, D. C. 20013

14. Governor's Commission on Crime Prevention and Control Jail Study Report, January, 1977.

Available through:

Governor's Commission on Crime Prevention and Control
444 Lafayette Road
St. Paul, Minnesota 55101

15. Copies of correspondence between the Department of Corrections, the Minnesota Sheriffs' Association, the Association of Minnesota Counties, Citizens' Advisory Task Force Members, United States Department of Justice, Bureau of Prisons personnel, Department of Health representatives, and the National Clearinghouse for Criminal Justice Planning and Architecture are on file with the Office of Hearing Examiner.

16. Magazine article excerpted from U. S. News and World Report, June 23, 1975, America's Jails: How Bad Are They? What's Being Done.

On file with Office of Hearing Examiner.

17. Newspaper clipping from Minneapolis Tribune, September, 1976.

On file with the Office of Hearing Examiner.

18. Excerpts from newspapers, newsletters, bulletins, digests, etc., that may be used in support of proposed rules are on file with the Office of the Hearing Examiner.

STATEMENT OF NEED

PART I

PART I -- EVIDENCE ADDENDUM

19. The National Sheriffs' Association 1970

Manual on Jail Administration

available through:

Publications Division
National Sheriffs' Association
1250 Connecticut Avenue, Suite 320
Washington, D. C. 20036

STATEMENT OF EVIDENCE

PART I ADDENDUM

20. Regulations of the Minnesota State Board of Health for Construction, Equipment, Maintenance and Operation of Supervised Living Facilities, September 12, 1974.

available through:

Minnesota State Board of Health
Division of Health Facilities
717 Delaware Street S.E.
Minneapolis, Minnesota 55440

STATEMENT OF EVIDENCE PART II

The following witnesses may be called to testify in support of the proposed rules:

1. Citizens Advisory Task Force Members as follows:

   A. Sheriff Donald Omodt - Hennepin County
   B. Sheriff Carlton Mortenson - Ottertail County
   C. Sheriff Paul Knochenmus - Roseau County
   D. Sheriff Terry Twomey - Carlton County
   E. Sheriff Charles Von Wald - Olmsted County

   County Commissioners:

   F. Alfon Hanson - Polk County
   G. George Cavers - Martin County
   H. Lenore Johnson - Lake County
   I. Virgil Olson - Kandiyohi County

2. Sheriff Donald Omodt may be called as chairman of the National Sheriffs' Association 1973-1974 Detention/Corrections Committee responsible for the development of Handbook sited in Part I of Statement of Evidence.

3. Mr. Charles W. Link representative of the United States Department of Justice Bureau of Prisons.

4. Ms. Margaret Sandberg, Health Planner, Minnesota Department of Health

5. Mr. Robert A. Hamilton, Education Coordinator, Technical Consultation and Training Section, Division of Health Facilities, Minnesota Department of Health

6. Mr. Ward McIntire, Environmental Sanitarian - Rochester District

7. Mr. Wayne Stevens, Chief Plans Reviews Section, State of Minnesota Building Code Division, Department of Administration

8. Mr. Don Cooper, Director, Inspection and Enforcement, Minnesota Department of Corrections

9. Mr. Dennis Falenschek, Detention Specialist, Minnesota Department of Corrections

10. Mr. Jerome B. Anderson, Training Director, Minnesota Department of Corrections

STATEMENT OF EVIDENCE PART III

Minnesota Statutes that may be referred to in support of rules:

1. Minnesota Statutes, Section 241.021, Subdivision 1 (1974), as amended by laws 1976, Chapter 299. Corrections, Licensing and Supervision of Institutions and Facilities. Supervision Over Correctional Facilities For Detention and Confinement.

2. Minnesota Statutes, Section 641.26 (1974) as amended by laws 1976 Chapter 299. Condemnation of Jails.

3. Minnesota Statutes, 642.10. Condemnation of Lockup.

4. Minnesota Statutes, 641.14. Jails, How Kept.

5. Minnesota Statutes, 641.15. Prisoners; Feeding and Care.

6. Minnesota Statute 636.07. Care and Custody of Minors.

Addendum To Part I Evidence

Part I # 18 Evidence

A. Article from Grand Rapids Herald Review 12/2/76
Judge Spellacy's comments on Itasca County Jail

B. From October 29, 1975, Corrections Digest
Articles 1. Jail Riot blamed on overcrowding.
2. "Crackerbox" construction blamed for escapes from Fresno County Jail.
3. Beefed up security for Patty Hearst.

C. From October 2, 1974, Corrections Digest.
1. Justice Department involvement in St. Louis, Missouri City Jail.
2. Local Jail survey re-emphasizes familiar statistics on young, poor, unemployed and undereducated.

D. From Jail Bulletin 1975 or 1976
1. Suicide verdict, negligent supervision found.
2. Feature article. Fire Law suit.
3. Liability found - Fires

E. From Health Law Newsletter Issue #54, October 1975
1. Jail Medicine.

F. From February 19, 1975 Corrections Digest
Maryland - County Jail Overcrowding.

Part I #18 Evidence

G. Jackson County escape-July 28, 1974, Incident report and photos.

H. 1. Mille Lacs County photos March 25, 1975 Fire hazards; sanitation problems, etc.
2. Copy of March 27, 1975 inspection report.

I. Wilkin County condemnation records and inspection results.

J. Kittsen county suicide.

K. Newspaper clippings from Minnesota

1.	Renville jail settling, may tumble down	3/25/76
2.	Sheriff cites jail problems (Isanti)	2/27/75
3.	Loose keys, beer blamed in jail escape (Waseca)	7/9/76
4.	Eustice: Beer found in jail	7/10/76
5.	Escapee says gun taken from sheriff	7/9/76
6.	Suicides in jails can be prevented (citizen article)	3/14/76
7.	Grand jury jail report (Itasca)	1/26/76
8.	Prisoners away (Itasca)	1/26/76
9.	Jail boarding Itasca prisoners	3/7/77
10.	Prisoners transferred because of overcrowding	3/1/77
11.	County Board put on Notice(Sherburne)	3/1/77
12.	County Board reviving jail remodeling project (Olmsted)	2/15/77
13.	Jury urges county jail upgrading (Olmsted)	10/21/76

14. Council votes to close jail (Brainerd) 1/4/77
15. Grand jury asks changes at Jail Corrections Unit (St. Louis County) 10/26/74
16. Stearns Jail to crack down on narcotics 5/29/75
17. State Bureau to probe jail's possible drug death 7/12/75
18. Suspect commits suicide despite television watch 9/13/75
19. Olmsted County Jail prisoner hangs himself 4/9/75
20. Articles on Hood and Johnson (Waseca) 12/29/75, 12/30/75, 12/31/75, 1/7/76
21. Jail security concerns Lang 10/11/74
22. Jail talks by MSC are 'working' 2/17/75
23. Two escape jail, one at large after spree 6/1/75

Statement of Evidence Addendum Part I

21. Original rough draft as submitted to Task Force members by Department staff.
22. Rough draft as submitted to Commissioner Schoen by Task Force Members (inclusive of internal review committee changes).

Part II Evidence Addendum

11. Wally Gibis representative of Trussbitt Inc. major manufacturer of jail and prison doors, walls etc.
12. Don Skoog representative of Skoog and Associates local representative of Folger Adam Co. Products-Manufacturers of jail and prison hardware and equipment.
13. Commissioner of Corrections Kenneth Schoen
14. Theatrice (T) Williams-Ombudsman for Corrections.
15. Thomas Foley, Deputy Commissioner,Department of Corrections (Management)
16. Minnesota District Court and/or County Court Judges as yet undetermined.
17. Frank Wood, Warden, Minnesota State Prison-Stillwater. Former Director of Inspection and Enforcement Unit.
18. Representatives of Minnesota Sheriffs Association and Minnesota Association of counties as yet undetermined (in addition to Task Force members noted earlier).
19. Representatives of National Clearinghouse on Criminal Justice Planning and Architecture.
20. James Bradford, Assistant Attorney General, Department of Corrections.
21. Howard L. Johnson, Health Care Administrator, Department of Corrections.

STATE OF MINNESOTA

DEPARTMENT OF CORRECTIONS

RECEIVED
APR 5 1977
OFFICE OF HEARING EXAMINERS

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF CORRECTIONS GOVERNING THE OPERATION AND MANAGEMENT OF HOLDING FACILITIES, LOCKUPS, JAILS AND ADULT CORRECTIONS FACILITIES.

AFFIDAVIT OF MAILING

Dennis L. Falenschek, being first duly sworn, deposes and says:
That on the 30th day of March, 1977, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Hearing by properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the attached Certificate of the Secretary of State.

Dennis L. Falenschek

31st day of March, 1977

Subscribed and sworn to before me this

31st day of March, 1977

Katherine M. Cook, Notary Public

_____ County, Minnesota

My Commission Expires _____

KATHERINE M. COOK
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES OCT. 3, 1982

Dept's Exhibit No. I
File No. _____
Date _____

STATE OF MINNESOTA

DEPARTMENT OF CORRECTIONS

RECEIVED
APR 5 1977
OFFICE OF HEARING EXAMINERS

IN THE MATTER OF THE PROPOSED ADOPTION OF)
RULES OF THE DEPARTMENT OF CORRECTIONS)
GOVERNING THE OPERATION AND MANAGEMENT OF) NOTICE OF HEARING
HOLDING FACILITIES, LOCKUPS, JAILS AND)
ADULT CORRECTIONS FACILITIES.)

NOTICE IS HEREBY GIVEN that a public hearing in the above-entitled matter will be held in the Veterans' Service Building, Room D, 5th Floor, 20 W. 12th St., St. Paul, on May 10, 1977 commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Mr. Steve Mihalchick, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, either before the hearing or within 20 days after the close of the hearing.

The proposed rules, if adopted, will provide a framework within which holding facilities, lockups, jails and adult corrections facilities will be classified, inspected, evaluated and approved for usage. Copies of the proposed rules are now available and one free copy may be obtained by writing to the Information Officer, Department of Corrections, Suite 430, Metro Square Building, St. Paul, Minnesota 55101. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rules is contained in Minnesota Statute 241.021 (Subd. 1). A "statement of need" explaining why the agency feels the proposed rules are necessary and a "statement of evidence" outlining the testimony they will be introducing will be filed with the Hearing Examiner's Office at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that Minnesota Statutes, Chapter 10A, requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rule making by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, phone (612) 296-5615.

Thomas J. Foley

Thomas J. Foley, Deputy Commissioner
Minnesota Department of Corrections

Date: MAR 7 197

Dept's Exhibit No. J
File No.
Date

J

STATE OF MINNESOTA
COUNTY OF RAMSEY

BEFORE STEVE M. MIHALCHICK
HEARING EXAMINER
OFFICE OF HEARING EXAMINER

In the matter of the Proposed
Adoption of Rules of the State
Department of Corrections Governing
The Operation and Management of
Holding Facilities, Lockups, Jails
and Adult Corrections Facilities.

ORDER ADOPTING
RULES

The above-entitled matter came on for hearing before Steve M. Mihalchick, Hearing Examiner of the State of Minnesota on the 10th day of May, 1977, at 9:00 A.M. in the Veterans' Service Building, St. Paul, Minnesota, after proper notice required by Minnesota Statutes, Section 15.0412 was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above captioned rules.

NOW, THEREFORE, IT IS ORDERED that these rules identified as amended DOC 100-112 are adopted the 18th day of January, 1978, pursuant to authority vested in the Commissioner of Corrections by Minnesota Statute 241.021, Subdivision 1.

STATE OF MINNESOTA
STATE DEPARTMENT OF CORRECTIONS

Thomas J. Foley
DEPUTY COMMISSIONER
STATE DEPARTMENT OF CORRECTIONS

STATE OF MINNESOTA
COUNTY OF RAMSEY

BEFORE STEVE M. MIHALCHICK
HEARING EXAMINER
OFFICE OF HEARING EXAMINER

In the matter of the Proposed Adoption of Rules of the State Department of Corrections Governing The Operation and Management of Holding Facilities, Lockups, Jails and Adult Corrections Facilities.

FINDINGS OF FACT

The above entitled matter came on for hearing before Steve M. Mihalchick, Hearing Examiner of the State of Minnesota on the 10th day of May, 1977, at 9:00 A.M. in the Veterans' Service Building, St. Paul, Minnesota, after proper notice required by Minnesota Statutes, Section 15.0412 was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, I find the following:

1. That the findings of fact of the Hearing Examiner accurately reflect the facts in the record.

2. That the deletions, amendments and alterations recommended by the Hearing Examiner with respect to the following rules will result in the proposed rules being more specific and less subject to misinterpretation.

   Corr. 101 A. 12

   Corr. 101 A. 8

   Section Corr. 103

   Corr. 104 E. 2. g.

   Corr. 104 E. 2. h. (4) (a), (b) and (c)

   Corr. 106 E. 1.

   Corr. 106 I. (New Addition)

   Corr. 107 D.

   Corr. 108 A. and A. 1.

   Section Corr. 108 C.

   Section Corr. 108 D.

   Corr. 108 E. 2. b.

   Corr. 108 F. 1. b.

   Corr. 108 F. 1. c. (4), (5) and (6)

Corr. 108 F. 1. e.

Corr. 108 G. 1. b. and c.

Corr. 108 H. 1. f.

Section Corr. 108 H. 2.

Corr. 108 I. 1. c.

Corr. 108 I. 4.

Corr. 108 I. 6. a. (3) and (4).

Corr. 110 A. 8.

Corr. 110 B. 1.

Corr. 111 C. 2.

Corr. 111 F. 6.

Corr. 111 G. 3. a. (3).

Corr. 111 G. 3. c.

3. That the findings of the Hearing Examiner with respect to Corr. 101 A. 7., Corr. 108 F. 1. c. (2), Corr. 111 F. 4., Section Corr. 111 G., Section Corr. 111 J., and Corr. 111 K.2. are not accepted by the Department. The Department's findings of fact concerning such proposed rules are as follows:

Corr. 101 A. 7. Although the Hearing Examiner could see no valid reason for incorporating proposed rule Corr. 112 A. 6. b. into this definition, the Department finds that it is necessary and appropriate to do so in order that the Department's intent of having such statement equally applicable to both new and existing facilities is clearly understood.

Corr. 108 F. 1. c. (2). Although the Hearing Examiner did not believe it necessary to amend the rule as proposed, the Department finds that such amendment is necessary to prevent facility staff from being unnecessarily burdened by the rule. Additionally, the Department finds amendment of the rules necessary to insure against a conflict between the rule as proposed and amended rules Corr. 108 F. 1. c. (4), (5) and (6).

Corr. 111 F. 4. The Department finds the Examiner's suggestion for amendment inconsistent with the Department's intent. The Department's intent is to insure the opportunity for a prisoner to bathe or shower daily. Department intent was not to establish disciplinary procedures for failure of prisoners to meet personal hygiene requirements.

Section Corr. 111 G. This section has been retitled, amended and reorganized in an effort to address the concerns expressed by the Hearing Examiner in his findings and recommendations #75-81. Three definitions were added to the definition section of the rules for clarification of terms used in section Corr. 111 G. The Department finds that the added

definitions, the amendment and reorganization of Section Corr. 111 G. will provide the clarity desired by the Hearing Examiner of terms used and a clearer presentation of the Department's intent. Although the Department is substantially in agreement with the Hearing Examiner that prisoners may self-administer medicine, the Department finds that the self-administration of medicine by prisoners must be closely supervised and controlled for a number of security reasons. Consequently, rules Corr. 111 G. 3. b. (1) through (13) as amended are seen as necessary to insure the safety and welfare of not only the recipient of medicine, but also the welfare and safety of other prisoners confined within the facility.

Additionally, the Department finds that section 111 G. as amended more accurately reflects the level of control the Department desires to be exercised in the handling of non-prescriptive as well as prescriptive medicine. Uncontrolled access by prisoners to non-prescriptive as well as prescriptive medicine can be potentially dangerous and conceivably result in the death of a prisoner. If a death were to occur and it was shown that the facility had not taken reasonable and prudent precautions to control prisoner access to non-prescriptive or prescriptive medicine, it is possible that successful litigation against the facility could result.

Section Corr. 111 J. This section of proposed rules was amended to the extent deemed appropriate upon review of Minnesota Statute 253 A. 04. The Department finds it not possible to adopt all recommendations of the Hearing Examiner with respect to this section due to the fact Minnesota Statute 253 A. 04 requires a licensed physician's opinion to initiate transfer to a medical facility as indicated in proposed rule Corr. 111 J. 3.

Corr. 111 K. 2. Was amended to reflect the concern expressed by representatives of St. Louis County at the public hearing. Although the Hearing Examiner found this amendment unnecessary, the Department finds the amendment necessary to provide the clarity desired by representatives of St. Louis County and others present at the public hearing. The amended rule does not change the intent of the proposed rule.

4. The Department finds all rules as proposed for adoption necessary and reasonable.

State of Minnesota
State Department of Corrections

Thomas J. Foley
Deputy Commissioner
State Department of Corrections

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, Assistant Attorney General James N. Bradford, do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any exceptions are noted below.

Dated MAR 20 1978

Assistant Attorney General

RECEIVED
APR 5 1977
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF CORRECTIONS

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF CORRECTIONS GOVERNING THE OPERATION AND MANAGEMENT OF HOLDING FACILITIES, LOCKUPS, JAILS AND ADULT CORRECTIONS FACILITIES.

CERTIFICATE OF DELIVERY SECRETARY OF STATE LIST

I hereby certify that the attached 503 labels ~~sheet~~ constitutes the complete list of persons, associations, and other interested groups who as of 9:00 o'clock am, this 28th day of March, 1977, have requested pursuant to M.S. 1974, Sec. 15.0412, Subd. 4, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

SECRETARY OF STATE

Joan Anderson Growe

By Ceil Dion

Dept's Exhibit No. 27

File No.

Date

STATE OF MINNESOTA

DEPARTMENT OF CORRECTIONS

RECEIVED
APR 5 1977
OFFICE OF HEARING EXAMINERS

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF CORRECTIONS GOVERNING THE OPERATION AND MANAGEMENT OF HOLDING FACILITIES, LOCKUPS, JAILS AND ADULT CORRECTIONS FACILITIES.

AFFIDAVIT OF RECEIPT OF THE SECRETARY OF STATE'S LIST

Dennis L. Falenschek, being duly sworn on oath deposes and says:

1) That he is an employee of the Corrections Department of the State of Minnesota.

2) That on the 28th day of March, 1977, he went to the Secretary of State's Office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to M.S. 15.0412, Subd. 4 (1974).

3) That on the 28th day of March, 1977, in response to the above request, the Secretary of State provided him with such a list, a copy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

Dennis L. Falenschek

Subscribed and sworn to before me this

28th day of March, 1977

Notary Public,

Katherine M. Cook County, Minnesota

My Commission Expires

KATHERINE M. COOK
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES OCT. 6, 1983

Dept's Exhibit No. L

File No.

Date