

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

180 day problem

14.12 MJM 9-2-92

RULE REVIEW CHECKLIST

File No. 1946
DATE RECEIVED 8-31-92
REVIEW DATE 9-9-92
DUE DATE 9-14-92
~~(DIS)~~APPROVED 9-11-92
WITHDRAWN _____

Docket No. 05 0009 0164
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON 9-2-92
REVISOR (~~DIS~~)APPROVED 9-10-92 rec'd
FILED W/SEC. OF STATE 9/11/92
RETURNED TO AGENCY 9/11/92

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)
April 6, 1992 Date published in State Register
_____ Comments

_____ Petition for Adoption of a Rule

_____ Board's Authorizing Resolution
_____ Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

_____ Notice of Intent to Adopt Rule
241.021 subd 1 Statutory Authority
~~no~~ no Small Business Statement no statement
_____ Expenditure of public money statement
~~may 20, 1992~~ Signature

✓ Statement of Need and Reasonableness (if applicable)
no statement Small Business Statement
_____ Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
May 21, 1992 Dated (30)/25 days before adoption
_____ Notice attached indicates it is attached
✓ Copy of rule or summary attached

✓ Publication in State Register
June 8, 1992 Date (30)/25 days before adoption

✓ 180-day deadline from: missed deadline Problem
(14.12) (both rules) Effective date of law requiring rule amendments don't apply
✓ (without hearing) end of comment period (§ 14.26) (rules
_____ (§ 14.29) (emergency rules) effective date of statutory authority

_____ Resolution Adopting
_____ Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
August 11, 1992 Date

✓ Written Requests, Submissions or Comments

✓ Declaration of Attorney
Jacqueline Leyis Name of SAAG representing agency

8-31-92 Notice of Submission to Attorney General (if applicable)

8-31-92 Affidavit of Mailing Notice to Attorney General (if applicable)

STATE OF MINNESOTA

Office of the Attorney General

TO : KENNETH E. MERZ
Minnesota Department of Corrections
300 Bigelow Building
450 North Syndicate Street
St. Paul

DATE : September 11, 1992

FROM : MARY JO MURRAY
Special Assistant
Attorney General

PHONE : 296-3258

SUBJECT : In the Matter of the Adopted Rule Relating to Municipal Jail Facilities

The above-referenced rule has been approved as to its legality by the Attorney General on September 11, 1992.

Enclosed is your copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

Enclosures
cc: M. Jacqueline Regis
William Brown, Chief Judge
MaryAnn Hruby

MJM:jj

Department of Corrections

Adopted Permanent Rules Relating to Municipal Jail Facilities

Rules as Adopted

CHAPTER 2945
DEPARTMENT OF CORRECTIONS
MUNICIPAL JAIL FACILITIES

2945.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of this chapter, the following terms have the meanings given them.

Subp. 2. **Administrative segregation.** "Administrative segregation" means the physical separation of prisoners prone to escape, prone to assault staff or other prisoners, likely to need protection from other prisoners or themselves, or determined to be mentally deficient and in need of special care.

Subp. 3. **Approved capacity.** "Approved capacity" means the maximum number of prisoners that any cell, room, unit, building, facility, or combination of them is approved for in compliance with the standards.

Subp. 4. **Average daily population.** "Average daily population" means the average number of prisoners residing daily during the last calendar year. Prisoners on furlough or hospitalized are excluded.

Subp. 5. **Class I municipal holding facility.** "Class I municipal holding facility" means an adult detention facility operated by a municipal government used to confine prisoners for more than 48 hours.

Subp. 6. **Class II municipal holding facility.** "Class II municipal holding facility" means an adult detention facility operated by a municipal government used to confine prisoners for up to 48 hours excluding weekends and holidays.

Subp. 7. **Class III municipal holding facility.** "Class III municipal holding facility" means an adult detention facility operated by a municipal government used to confine prisoners for

up to 16 hours.

Subp. 8. **Class IV municipal holding facility.** "Class IV municipal holding facility" means an adult detention facility operated by a municipal government used to confine prisoners for up to four hours.

Subp. 9. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Corrections.

Subp. 10. **Communicable disease.** "Communicable disease" means a disease or condition that causes serious illness, serious disability, or death, the infectious agent of which may pass or be carried, directly or indirectly, from the body of one person to the body of another.

Subp. 11. **Contraband.** "Contraband" means those items designated by the municipal jail facility as prohibited on the physical premises of the facility.

Subp. 12. **Controlled substance.** "Controlled substance" means a drug, substance, or immediate precursor in Schedules I to V of Minnesota Statutes, section 152.02. The term does not include distilled spirits, wine, malt beverages, intoxicating liquor, or tobacco.

Subp. 13. **Court holding facilities.** "Court holding facilities" means those areas where persons are held in conjunction with a court appearance. Court holding facilities may be secure but are nonresidential in design, and persons are not normally held there beyond four hours.

Subp. 14. **Custody personnel.** "Custody personnel" means those staff members or employees who are responsible for the custody and supervision of prisoners.

Subp. 15. **Department of Corrections; department.** "Department of Corrections" or "department" means the Minnesota Department of Corrections.

Subp. 16. **Directory.** "Directory" means any provision in this part which is not designated as mandatory according to subpart 25.

Subp. 17. **Emergency.** "Emergency" means a significant incident or disruption of normal facility procedures, policies,

routines, or activities arising from fire, riot, natural disaster, suicide, assault, or medical emergency.

Subp. 18. **Existing facility.** "Existing facility" means a facility used for detention and confinement of prisoners before the effective date of this chapter.

Subp. 19. **Facility administrator.** "Facility administrator" means the individual who has been delegated the responsibility and authority for the administration and operation of a local facility.

Subp. 20. **Holding cell.** "Holding cell" means a cell or room in a holding facility used to hold one or more persons temporarily while awaiting release, booking, court appearance, transportation, or interrogation.

Subp. 21. **Inspection.** "Inspection" means an on-site assessment of existing conditions made to determine the facility's compliance with this chapter.

Subp. 22. **Jail.** "Jail" means a secure adult detention facility used to confine sentenced prisoners for a time not to exceed one full year per conviction, confine adult pretrial and presentenced detainees indefinitely, and confine juveniles up to limits prescribed by Minnesota statute and commissioner approval.

Subp. 23. **Legend drug.** "Legend drug" means a drug required by federal law to bear the following statement: "Caution: Federal law prohibits dispensing without prescription."

Subp. 24. **Local facility.** "Local facility" means any city, county, city and county, or multiple county corrections facility.

Subp. 25. **Mandatory.** "Mandatory" means the standard must be met by the facility in order for the facility to be licensed. Mandatory standards are identified with the designation (mandatory). In the case of entire parts or subparts, the word mandatory appears in the part or subpart headnote. Notwithstanding Minnesota Statutes, section 645.49, the word mandatory is to be construed as part of the law when used in headnotes in this chapter. In the case of items, the

word mandatory appears in the text. When used at the item level, the word mandatory governs all subitems.

Subp. 26. **Maximum security areas.** "Maximum security areas" means areas that provide the greatest degree of physical security for the control and separation of prisoners.

Subp. 27. **Medicine.** "Medicine" means a remedial agent that has the property of curing, preventing, treating, or mitigating diseases, or that is used for that purpose. For the purpose of this chapter, medicine includes legend and nonlegend drugs.

Subp. 28. **Mentally ill person.** "Mentally ill person" means any person who has an organic disorder of the brain or a substantial psychiatric disorder of thought, mood, perception, orientation, or memory which grossly impairs judgment, behavior, capacity to recognize reality, or to reason or understand, which:

A. is manifested by instances of grossly disturbed behavior of faulty perceptions; and

B. poses a substantial likelihood of physical harm to self or others as demonstrated by:

(1) failure to obtain necessary food, clothing, shelter, or medical care as a result of the impairment; or

(2) a recent attempt or threat to physically harm self or others.

Mentally ill person does not include persons with epilepsy, persons with mental retardation, persons subject to brief periods of intoxication caused by alcohol or drugs, or persons dependent on or addicted to alcohol or drugs.

Subp. 29. **Minimum security areas.** "Minimum security areas" means areas that provide functional living accommodations with a nominal reliance on physical security for the control and management of prisoners.

Subp. 30. **Municipal police facilities.** "Municipal police facilities" means police facilities including an administrative processing area used to temporarily detain persons for up to six hours. Municipal police facilities are specifically designed to be nonresidential in nature, have either audio or visual

capability, would normally not be locked except for routine security reasons, and would be used only long enough for identification, investigation, transfer arrangements, or release to a responsible person.

Subp. 31. **Nonresidential.** "Nonresidential" means that the holding area or room is not designed to be lived in. Nonresidential space would not typically include a bed, toilet, and wash basin.

Subp. 32. **Policy.** "Policy" means a statement declaring mission, purpose, and ideological position.

Subp. 33. **Prisoner.** "Prisoner" means an individual, adult or juvenile, detained or confined in a local facility.

Subp. 34. **Procedure.** "Procedure" means a written statement establishing the action plan to implement policy.

Subp. 35. **Rule.** "Rule" means that which is defined by Minnesota Statutes, section 14.02, subdivision 4.

Subp. 36. **Substantially conform.** "Substantially conform" means comply with 100 percent of the items in this chapter identified as mandatory and with 70 percent of all items identified as directory in this chapter which are applicable to the facility's classification. To calculate compliance one point will be assigned to each standard and/or each subpart of a standard.

Subp. 37. **Undue hardship.** "Undue hardship" means the financial costs are not warranted when weighed against the benefits derived.

Subp. 38. **Variance.** "Variance" means the waiver of a specific rule for a specified period of time.

2945.0110 INTRODUCTION.

Minnesota Statutes, section 642.09, provides that the sheriff of a county in which a municipality maintains a lockup shall inspect the lockup once a year, with reference to its security and administration, and make a written report to the commissioner on forms furnished by the commissioner and deliver a copy of the report to the governing body of the municipality

maintaining the lockup.

Minnesota Statutes, section 241.021, subdivision 1, provides that the commissioner shall adopt 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 in them, according to law except to the extent that they are inspected or licensed by other state regulating agencies. The rules that follow are minimum standards for municipal lockup facilities.

2945.0120 INTENDED USE; NONCONFORMANCE; LIMITATIONS OF RULES.

Subpart 1. **Intended use.** A facility should be used only for classifications for which it is intended. This chapter does not regulate municipal police facilities or court holding rooms.

A. Class I municipal holding facilities must meet the standards of chapter 2910.

B. Class II municipal holding facilities must meet all parts, subparts, items, and subitems which are designated as mandatory standards in this chapter and 70 percent of all parts, subparts, items, and subitems in this chapter which are directory standards.

C. Class III municipal holding facilities must meet all parts, subparts, items, and subitems which are designated as mandatory standards in this chapter and 70 percent of all parts, subparts, items, and subitems in this chapter which are directory standards and which are applicable to Class III municipal holding facilities.

D. Class IV municipal holding facilities must meet all parts, subparts, items, and subitems which are designated as mandatory standards in this chapter and 70 percent of all parts, subparts, items, and subitems in this chapter which are directory standards and which are applicable to Class IV municipal holding facilities.

E. When "shall" or "must" are used in conjunction with a directory standard, the mandatory implications of those

terms are limited to the extent part 2945.0100, subpart 36, defines the requirement of 70 percent directory standard compliance as a prerequisite for facility licensing.

Subp. 2. **Nonconformance, unsafe, unsanitary, or illegal conditions.** When conditions do not substantially conform to this chapter or where specific conditions endanger the health, welfare, or safety of prisoners or staff, the commissioner shall find the facility in nonconformance and condemn it by written order that it shall not be further used while the order is in force according to Minnesota Statutes, section 642.10.

2945.0130 VARIANCES.

Subpart 1. **Variances; general.** The granting of a variance under this part does not constitute a precedent for any other adult detention facility. The granting and denial of all variances shall be in writing and made within 30 days of the request for a variance. The variance will be granted by the commissioner if, in the licensing procedure or enforcement of the standards in this chapter:

A. requirements for an adult detention facility to strictly comply with one or more of the provisions will result in undue hardship or jeopardize the health, safety, security, detention, or well-being of the residents or facility staff;

B. the adult detention facility is otherwise in substantial conformity with the standards contained in this chapter or making satisfactory progress toward substantial conformity;

C. granting of the variance will not preclude the facility from making satisfactory progress toward substantial conformity with this chapter;

D. the granting of the variance will not leave the interests and well-being of the residents unprotected; and

E. the facility will take action to comply with the general purpose of the standards to the fullest extent possible.

Subp. 2. **Emergencies.** The facility administration may declare a state of emergency suspending those rules affected by

the emergency if to not suspend the rules would adversely affect the health, security, safety, or well-being of the persons confined or the facility staff.

Subp. 3. **Notification of emergencies (mandatory).** The facility administrator shall immediately notify the sheriff of the county and the Department of Corrections of an emergency that results in the suspension of a rule. A formal written report must follow within 72 hours.

Subp. 4. **Extension of emergency.** No suspension of rules because of an emergency declared by a facility administrator may exceed seven days unless the administrator obtains the approval of the commissioner for a variance to the rules and the variance is necessary for the protection of the health, security, safety, or well-being of the staff or the persons detained or confined in the institution where the emergency exists.

PERSONNEL STANDARDS

2945.0500 MEDICAL EXAMINATIONS.

Employees who work in a facility must have a medical examination on record.

2945.0510 STAFF RECRUITMENT.

Subpart 1. **Discrimination prohibited (mandatory).** There must not be discrimination on the grounds of race, color, religion, sex, or national origin.

Subp. 2. **Staff selection.** The selection, appointment, and promotion of facility personnel must be based on assessed ability. Custody personnel must be a minimum of 18 years old. Recruitment standards must set forth the basic requirements of ability, preparatory experience, physical condition, and character, as well as those qualities that may disqualify.

2945.0520 EXTRA DUTY.

No employee may be scheduled for duty for two consecutive work periods except where unusual circumstances require reasonable and prudent exception.

2945.0530 STAFFING REQUIREMENTS.

Subpart 1. **Staffing plan.** The facility administrator shall prepare and retain a staffing plan indicating the personnel assigned to the facility and their duties. For the purposes of this part, a work day is considered an eight-hour shift.

Subp. 2. **Staff person in charge (mandatory).** There must be a designated staff person in charge of the facility. In the absence of the regular facility supervisor, a staff person must be designated in charge.

Subp. 3. **Condition of staff person on duty (mandatory).** No person may be detained without a staff person on duty, present in the facility, awake and alert at all times, and capable of responding to the reasonable needs of the prisoner.

Subp. 4. **Opposite sex policy (mandatory).** There must be a policy consistent with state statute that provides procedures to be followed by staff with regards to the types of supervision provided to prisoners of the opposite sex.

Subp. 5. **Assistance for dispatcher/custody staff person (mandatory).** In facilities that use the dispatcher/custody position as sole supervision, the dispatcher/custody staff person must be assisted on duty by another custody staff person when the jail population exceeds 15. This requirement applies only during shifts when prisoners are not in lockup status.

Subp. 6. **Reporting incidents and responding to emergencies. (mandatory).** A combination of staff and physical plant resources shall provide the capability of responding to emergencies and the completion of incident reports on all special occurrences.

Subp. 7. **Ancillary functions.** Personnel must be provided to perform ancillary functions such as transportation or court functions such as transportation or court escort to the extent necessary to ensure security and supervision of prisoners.

STAFF TRAINING

2945.1000 STAFF TRAINING PLAN.

Subpart 1. **Orientation and in-service training plan.** Each

facility administrator shall develop and implement a training plan for the orientation of new employees and volunteers and provide for continuing in-service training programs for all employees and volunteers. The training plans must be documented and describe curriculum, methods of instruction, and objectives. In-service training plans should be prepared annually, and orientation training plans must be reviewed and revised to changing conditions.

Subp. 2. **First aid and CPR training (mandatory).** Each facility shall establish, in cooperation with a responsible health authority, a training program to provide instruction on the administration of first aid and cardiopulmonary resuscitation (CPR).

Subp. 3. **Other health and safety training (mandatory).** Each facility shall develop, in cooperation with a responsible health authority, a training program which provides instruction in the following areas:

A. procedures for responding to health-threatening situations within four minutes;

B. recognition of signs and symptoms, and knowledge of action required in potential emergency situations;

C. methods of obtaining assistance;

D. recognition of signs and symptoms of mental illness, retardation, emotional disturbance, and chemical dependency;

E. procedures for patient transfers to appropriate medical facilities or health care providers; and

F. prevention of communicable diseases.

2945.1010 PART-TIME AND RELIEF STAFF.

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

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

2945.1600 GUIDELINES AND RESPONSIBILITIES.

Each facility supervisor shall develop written guidelines

that define responsibilities, duties, and qualifications of the persons working in the detention facility.

2945.1610 POLICY AND PROCEDURE MANUALS.

Policies and procedures concerning the facility's operation must be made available to employees at the time of employment and as revised after that time.

RECORDS AND REPORTS

2945.2100 MAINTENANCE OF RECORDS AND REPORTS.

Subpart 1. **Mandatory records.** The following records, reports, and statistics must be maintained (mandatory):

A. admission and release records;

B. special occurrence records; and

C. registers.

Subp. 2. **Directory records.** The following records, reports, and statistics must be maintained:

A. prisoner personal property records;

B. clothing, linen, and laundry records (not applicable to Class III and IV municipal holding facilities);

C. records of budget requests and work orders (not applicable to Class III and IV municipal holding facilities);

D. records of policies and procedures;

E. employee personnel records;

F. records of staff training;

G. accounting records (not applicable to Class III and IV municipal holding facilities);

H. food service records;

I. daily logs;

J. medical and dental records; and

K. disciplinary records.

The department shall make available on request sample approved forms of items A to K.

2945.2110 STORAGE AND PRESERVATION OF RECORDS (MANDATORY).

Space must be provided for the safe storage of records.

2945.2120 FILING AND DISPOSITION OF PRISONER RECORDS.

Prisoner booking records must be maintained.

2945.2130 ACCESS TO PRISONER RECORDS (MANDATORY).

Access to prisoner records shall be provided in conformity with state data privacy law.

PRISONER WELFARE

2945.2500 SEPARATION OF PRISONERS (MANDATORY).

Subpart 1. **General.** A combination of separate living spaces, sanitation facilities, activity spaces, cell units, and detention rooms shall be provided to properly segregate prisoners under Minnesota Statutes, section 641.14.

Subp. 2. **Prisoners to be housed separately.** The following prisoners must be housed separately:

A. female prisoners from male prisoners;

B. juvenile prisoners from adult prisoners; and

C. mentally ill prisoners from all other prisoners.

Subp. 3. **Separation by sight and sound.** Juvenile prisoners must be separated from adult prisoners by sight and sound.

2945.2510 INFORMATION TO PRISONERS.

Subpart 1. **Information to prisoners.** Minimal rules for prisoner behavior must be posted in a conspicuous place or provided to the prisoner.

Subp. 2. **Official charge, legal basis for detention (mandatory).** Every prisoner admitted to a facility must be advised of the official charge or legal basis for detention and confinement, information gathered, and to whom disseminated.

Subp. 3. **Limitations on disciplinary actions.** The decision to deprive a prisoner of articles of clothing and bedding as a result of the prisoner's destruction of those items must be reviewed by the officer in charge during each eight-hour period, and the review must be documented.

The delegation of authority to a prisoner or group of prisoners to exercise the right of punishment over another prisoner or group of prisoners shall be prohibited.

No prisoner may be deprived of the use of materials necessary to maintain an acceptable level of personal hygiene. Items such as toilet paper and soap and water must be made available and provided upon request.

Subp. 4. **Instruments of restraint.** Instruments of restraint, such as handcuffs, chains, irons, and straitjackets must not be used as punishment.

A. Instruments of restraint must not be used except in the following circumstances:

(1) as a precaution against escape during a transfer;

(2) on medical grounds by direction of a consulting or attending physician or licensed psychologist; or

(3) by order of the facility administrator or person in charge in order to prevent a prisoner from injuring himself or herself, others, or from damaging property.

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

C. Instruments of restraint must not be applied for any longer time than is strictly necessary.

D. Each incident involving the use of restraints consistent with item A, subitem (2) or (3), must be documented and on file.

Subp. 5. **Disciplinary records.** Disciplinary records must be maintained on all documented disciplinary infractions and punishment administered.

2945.2520 PRISONER VISITATION.

Subpart 1. **Initial visits for juveniles (mandatory).** The initial visit for parents, guardians, and attorneys must be permitted at any time.

Subp. 2. **Visiting plan.** Each facility administrator shall develop and implement a prisoner visiting policy. The policy shall be in writing and shall provide at a minimum:

A. That prisoners be allowed nonmonitored visits with the prisoner's attorney.

B. A schedule that specifies days and times for visits (not applicable to Class III and IV municipal holding facilities.)

C. A uniform number of permissible visits and the number of visitors permitted per visit (not applicable to Class III and IV municipal holding facilities).

D. For adult prisoners, an initial visit with a member or members of their immediate family at the next regularly scheduled visiting period (not applicable to Class III and IV municipal holding facilities).

E. That when a visit to a prisoner is denied on the belief that the visit might endanger the security of the facility, the action and reasons for denial be documented.

F. That visitors must register, giving name, address, relationship to prisoner, and nature of business.

G. That visiting must not be audio monitored.

H. That visits by parents, guardians, and attorneys with juvenile prisoners be as unrestricted as is administratively possible.

I. That prisoners be allowed private meetings for family problems with clergy, nuns, seminarians, and laypersons active in community church affairs, who provide appropriate credentials, to the extent that such visits do not compromise the facility's security (not applicable to Class IV).

2945.2530 CORRESPONDENCE.

Subpart 1. **Plan for prisoner mail.** A facility administrator shall develop a plan for prisoner mail consistent with established legal rights of prisoners and facility rules which are reasonable and necessary to protect the facility's security (not applicable to Class III and Class IV municipal holding facilities).

Subp. 2. **Unrestricted volume of mail.** The volume of written mail to or from a prisoner must not be restricted (not applicable to Class III and Class IV municipal holding facilities).

Subp. 3. **Inspection and censorship (mandatory).** Mail must not be read or censored if it is between a prisoner and an elected official, officials of the department, the ombudsman for corrections, attorneys, or other officers of the court. Inspection of incoming mail from this group is permitted in the presence of the prisoner. This subpart is not applicable to Class III and Class IV municipal holding facilities.

Subp. 4. **Money.** Cash, checks, or money orders should be removed from incoming mail and credited to a prisoner's account (not applicable to Class III and Class IV municipal holding facilities).

Subp. 5. **Contraband.** If contraband is discovered in either incoming or outgoing mail, it must be removed (not applicable to Class III and Class IV municipal holding facilities).

Subp. 6. **Sacred books (mandatory).** A prisoner must be provided a copy of the Bible or sacred book of another religion at the expense of the appointing authority.

2945.2540 BEDDING, LAUNDRY, AND CLOTHING REMOVAL.

Subpart 1. **Bedding.** Upon request, or after eight hours, each prisoner shall be issued clean, sanitary, and fire-retardant bedding (not applicable to Class IV municipal facilities).

Subp. 2. **Laundry (mandatory).** Sheets must be laundered and blankets cleaned before reissuing them to another prisoner.

Subp. 3. **Removing clothing and bedding.** The facility administrator shall develop a policy and procedure for dealing with incidents in which prisoners misuse clothing or bedding. Clothing and bedding should be removed from a prisoner only when the prisoner's behavior threatens the health, safety, or security of self, others, or property. Clothing and bedding must be returned to the prisoner as soon as it is reasonable to believe that the behavior that caused the action will not continue.

2945.2550 EMERGENCIES AND SPECIAL OCCURRENCES.

Subpart 1. **Emergency plan (mandatory).** The facility administrator shall develop a written emergency plan. The plan must include:

A. location of alarms and fire fighting equipment;

B. emergency drill policy;

C. specific assignments and tasks for personnel;

D. persons and emergency departments to be notified;

E. a procedure for evacuation of prisoners; and

F. arrangements for temporary confinement of prisoners.

Subp. 2. **Review of emergency procedures.** There must be a documented quarterly review of emergency procedures by the person in charge of the facility that includes:

A. assignment of persons to specific tasks in case of emergency situations;

B. instructions in 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; and

E. specification of evacuation routes and procedures.

Subp. 3. **Reporting of special incidents.** Incidents or special occurrences which endanger the lives or safety of staff or prisoners or the physical plant of the facility must be reported. Reports must include the names of staff members and prisoners involved, the nature of the special occurrence, actions taken, and the date and time of the occurrence. Special occurrences include, but are not limited to:

A. attempted suicide;

B. suicide;

C. homicide;

D. death other than suicide or homicide;

E. serious injury or illness incurred after detention;

F. escape or runaway;

G. fire causing serious damage;

H. riot;

I. assaults requiring medical care;

J. other serious disturbances; or

K. occurrences of infectious diseases and disposition of the occurrences.

Special occurrences must be reported on forms provided by the department or comparable forms used by the facility.

In the event of an emergency such as serious illness, accident, imminent death, or death, the prisoner's family or others who maintain a close relationship must be notified.

Subp. 4. **Prisoner death (mandatory).** When a prisoner's death occurs:

A. the date, time, and circumstances of the prisoner's death must be recorded in the prisoner's record;

B. if the prisoner dies in the facility, the coroner, medical examiner, or sheriff must be notified immediately;

C. personal belongings must be handled in a responsible and legal manner;

D. records of a deceased prisoner must be retained for a period of time in accordance with law; and

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

FOOD SERVICE

2945.3400 FOOD HANDLING PRACTICES (MANDATORY).

Food service shall be provided according to parts 4625.2401 to 4625.4701.

2945.3410 FREQUENCY OF MEALS.

There must be no 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 must be made available at regular times during each 24-hour period (not applicable to Class IV municipal holding facilities).

2945.3420 THERAPEUTIC DIETS (MANDATORY).

A facility housing prisoners in need of medically prescribed therapeutic diets must document that the diets are provided as ordered by the attending physician (not applicable to Class IV municipal holding facilities).

2945.3430 USE OF FOOD IN DISCIPLINE (MANDATORY).

Food must not be withheld as punishment (not applicable to Class IV municipal holding facilities).

2945.3440 SUPERVISION OF MEAL SERVING.

All meals must be served under the direct supervision of staff (not applicable for Class IV municipal holding facilities).

2945.3450 HOT MEAL MINIMUM.

A minimum of one hot meal must be provided for each 24 hours of confinement (not applicable to Class III and Class IV municipal holding facilities).

SECURITY

2945.4700 SECURITY POLICIES AND PROCEDURES, GENERAL.

Subpart 1. **Security policies and procedures (mandatory).** Each facility must have and adhere to written security policies and procedures which provide for at a minimum the following:

A. the control and recovery of contraband;

B. the prohibition on firearms in prisoner areas; and

C. that all prisoners are personally observed by an employee at least every 30 minutes, but on an irregular schedule; more frequent observation is required for those prisoners who are violent, suicidal, mentally disordered, or who demonstrate unusual or bizarre behavior.

Subp. 2. **Additional security policies and procedures.** Written security policies and procedures must also include the following:

A. visitor and visit control;

B. search and shakedown schedules and procedures;

C. escort of prisoners outside security areas;

D. escape prevention and action plans;

E. tool, medication, key, and weapon control procedures;

F. count procedure;

G. classification of prisoners; and

H. riot prevention and control procedures.

This subpart is not applicable to Class III and IV municipal holding facilities.

2945.4710 ADMISSIONS.

Subpart 1. **Admission policies.** Admission policies and procedures must include the following:

A. a thorough search of all admissions and prisoners on release status returning to the facility;

B. showering and delousing facilities (Class III and IV municipal holding facilities must have some type of facilities for prisoners to wash up if showers are not available);

C. an assessment of health status;

D. security classification (not applicable to Class III and IV municipal holding facilities);

E. inventory of prisoner's property;

F. fingerprinting and photographing, if appropriate; and

G. completion of admission form.

Subp. 2. **Identification (mandatory).** No prisoners may be received or released by the staff of a facility until the arresting or escorting officer has produced proper credentials or until the proper documents have been completed, identifying the purpose for detention or release.

Subp. 3. **Privacy.** All intake procedures must be conducted in a manner and location that assures the personal privacy of the prisoner and the confidentiality of the transaction.

2945.4720 RELEASES.

Subpart 1. **Return of prisoner property.** Upon release of a prisoner, the property of that prisoner, unless held for

authorized investigation or litigation, must be returned with a receipt for the prisoner to sign or for the transporting officer to sign.

Subp. 2. **Transportation.** Prisoners must be permitted to make arrangements for transportation before release.

Subp. 3. **No release in intemperate weather.** No prisoner may be released in intemperate weather without proper clothing to ensure the prisoner's health and comfort.

2945.4730 SEARCHES AND SHAKEDOWNS.

Subpart 1. **Visitor searches.** Searches of visitors and their personal belongings brought into the facility must be done in accordance with the facility's written policy and legal procedures.

Subp. 2. **Regular inspection of facility.** The facility must be regularly inspected for contraband, evidence of breaches in security, and inoperable security equipment. Facility inspections must be documented.

Subp. 3. **Inspection of materials.** All materials delivered to or transported from the facility must be inspected for contraband before distribution and the inspection shall be documented.

2945.4740 LOCKS AND KEYS.

Subpart 1. **General (mandatory).** All keys to security locks must be properly tagged and stored in a secure cabinet within a secure area, and out of reach of the prisoners or the public. At least one complete set of facility keys must be kept on hand for replacement purposes. Keys that serve a critical security purpose must be easily identifiable and never issued to facility staff except upon order of the facility administrator or person in charge, and in accordance with established procedure. No security keys may be made available to prisoners regardless of status. All electronic locking systems must have a manual override.

Subp. 2. **Regular inspection.** Locks to security doors or gates must be inspected regularly by facility staff to ensure

efficient operation.

Subp. 3. **Inoperable locks (mandatory).** No lock to a security door or gate may be permitted to be inoperable or left in an unsuitable condition. No prisoner shall be placed in a cell or area that has inoperable locks.

2945.4750 DANGEROUS MATERIALS (MANDATORY).

Materials dangerous to either security or safety shall be properly secured.

2945.4760 COUNT PROCEDURE.

Each facility must have a written policy describing the system of counting prisoners. Formal counts must be completed with an official entry made in the daily log after each mass movement and at least once each eight hours.

ENVIRONMENTAL-PERSONAL HEALTH AND SANITATION

2945.5400 AVAILABILITY OF MEDICAL AND DENTAL RESOURCES (MANDATORY).

Subpart 1. **Availability of resources.** Each facility must have a licensed physician or medical resource such as a hospital or clinic designated for the medical supervision and treatment of prisoners. Resources must insure service 24 hours a day.

Subp. 2. **Emergency dental care.** Each facility must have emergency dental care available to prisoners.

Subp. 3. **Ambulance service.** Ambulance services must be available 24 hours a day.

Subp. 4. **Examination of prisoner where medical attention is necessary.** A prisoner must be examined by trained medical personnel if the prisoner is visibly ill, chronically ill, or when it is suspected that medical attention is necessary.

2945.5410 POSTING OF AVAILABLE RESOURCES (MANDATORY).

A listing of telephone numbers of the medical, dental, and ambulance services available must be posted at each staff station along with the schedule of availability.

2945.5420 HOSPITALIZATION OF A PRISONER.

Subpart 1. **Agreement between facility and hospital.** Each facility must have an agreement with a hospital in the same or nearby community permitting admission of a prisoner on the recommendation of the attending physician.

Subp. 2. **Guarding of prisoner.** When a prisoner requires hospitalization, the prisoner must be guarded 24 hours a day unless the prisoner is not in need of supervision or the prisoner is medically incapacitated in the opinion of the attending physician.

2945.5430 FIRST AID.

Subpart 1. **Training of personnel (mandatory).** Custody personnel responsible for the supervision, safety, and well-being of prisoners must be trained in emergency first aid.

Subp. 2. **First aid kit.** Facilities must have a minimum of one first aid kit located at the facility's control center or primary staff station.

Subp. 3. **Records of illness and injury.** A facility must record all complaints of illness or injury and actions taken.

Subp. 4. **Medical or dental records (mandatory).** Records must be maintained on prisoners under medical or dental care. The records must include at a minimum:

A. the limitations and disabilities of the prisoner;

B. instructions for prisoner care;

C. orders for medication, including stop date;

D. any special treatment or diet;

E. activity restriction; and

F. times and dates when the prisoner was seen by medical personnel.

2945.5440 PREVENTIVE HEALTH SERVICES.

Subpart 1. **Written plan for personal hygiene.** The facility administrator shall develop and implement a written plan for personal hygiene practices of all prisoners with special assistance for those prisoners who are unable to care for themselves (not applicable for Class III and Class IV municipal holding facilities).

Subp. 2. **Delousing materials.** Delousing materials and procedures must be approved through consultation with trained medical personnel.

Subp. 3. **Bathing.** A prisoner must be permitted daily washing (not applicable to Class IV municipal holding facilities).

Subp. 4. **Indigent prisoners (mandatory).** Indigent prisoners shall receive reasonable personal hygiene items upon request.

2945.5450 DELIVERY, SUPERVISION, AND CONTROL OF MEDICINE.

Subpart 1. **Legend drugs (mandatory).** Facility policy shall prohibit stock supplies of legend drugs.

Subp. 2. **Delivery by unlicensed staff.** The delivery of legend drugs by unlicensed staff must be under the direction of a consulting physician.

Subp. 3. **Policy for storage, delivery, and control of medicine.** A facility administrator, in consultation with a licensed physician or physician trained paramedic, shall develop procedures for the secure storage of medicine. The policy must include at a minimum the following storage requirements:

A. medicine be stored in a locked area;

B. the storage area be kept locked at all times;

C. medicine requiring refrigeration be refrigerated and secured;

D. prisoners not be permitted in the medicine storage area;

E. only staff authorized to deliver medicine may have access to keys for the medicine storage area;

F. prescribed medicine be kept in its original container, bearing the original label; and

G. poisons and medicine intended for external use be clearly marked and stored separately from medicine intended for internal use.

Subp. 4. **Procedures for delivery of medicine.** Each facility must adopt procedures for the delivery of medicine.

A. The procedures must include the following (mandatory):

(1) Requirements that medicine administered by injection must be administered by a physician, registered nurse, or licensed practical nurse. Diabetics under physician order and direct staff supervision must be permitted to self-administer insulin.

(2) Requirements that no prisoner while receiving legend drugs may receive any nonlegend drug without the approval of the attending physician.

(3) Procedures for reporting to the physician any adverse reactions to drugs. Any reports shall be included in the prisoner's file.

(4) Procedures for reporting the attending physician a prisoner's refusal of prescribed medicine, and an explanation made in the prisoner's record.

(5) Procedures for ensuring that no prisoner is deprived of medicine as prescribed because of penalty or staff retaliation.

(6) Procedures that prohibit the delivery of medicine by prisoners.

(7) Procedures requiring that a physician be contacted for instructions before the next prescribed medicine dosage time for all newly admitted prisoners who are either in possession of prescribed medicine or indicate a need for prescribed medicine.

B. Procedures must also include at a minimum the following:

(1) medicine delivered to a prisoner is to be self-administered under staff supervision;

(2) there is to be a means for the positive identification of the recipient of medicine;

(3) procedures and records to assure that medicine is delivered in accordance with physician instructions, and by whom; and

(4) procedures for confirming that medicine

delivered for oral ingestion has been ingested.

Subp. 5. **Records of receipt; disposition of drugs.** Records of receipt, the quantity of the drugs, and the disposition of legend drugs must be maintained in sufficient detail to enable an accurate accounting.

Subp. 6. **Medicine given to prisoner upon release.** Prescription medicine belonging to a prisoner must be given to the prisoner or to the appropriate authority upon transfer or release and shall be recorded in the prisoner's file.

Subp. 7. **Destruction of unused prescribed medicine.** Unused prescribed medicine should be destroyed by incineration or by flushing into the sewer system. A notation of the destruction made in the prisoner's record and a statement of what was destroyed, who destroyed it, and how it was destroyed.

2945.5460 REPORTING SUSPECTED COMMUNICABLE DISEASE (MANDATORY).

It is the responsibility of the facility administrator or person in charge in consultation with the attending physician to report to the Minnesota Department of Health any known or suspected communicable disease.

2945.5470 SEPARATION OF PRISONERS SUSPECTED OF HAVING A COMMUNICABLE DISEASE (MANDATORY).

Prisoners suspected of having a communicable disease must be separated from other prisoners.

2945.5480 MENTALLY ILL PRISONERS.

A policy must be developed for the management of mentally ill prisoners and include a procedure for managing prisoners who are suspected of being mentally ill and considered to be a danger to self or others.

2945.5490 HOUSEKEEPING, SANITATION, AND PLANT MAINTENANCE.

Subpart 1. **General.** The facility must be kept in good repair to protect the health, comfort, safety, and well-being of prisoners and staff.

Subp. 2. **Maintenance plan.** The person responsible for plant maintenance, housekeeping, and sanitation must develop a

written maintenance plan.

Subp. 3. **Compliance with rules (mandatory).** Housekeeping, sanitation, water supplies, plumbing, sewage disposal, solid waste disposal, and plant maintenance conditions must comply with rules required by the Minnesota State Building Code, the Minnesota Fire Marshal's Office, the Minnesota Department of Health, the Minnesota Department of Labor and Industry (O.S.H.A.), and other departmental rules having the force of law.

Subp. 4. **Plan for daily inspection.** The facility administrator must establish a plan for the daily inspection of housekeeping, sanitation, and plant maintenance when the facility is occupied.

Subp. 5. **Policies and procedures to detect deterioration of building and equipment.** The facility administrator must develop policies and procedures designed to detect building and equipment deterioration, safety hazards, and unsanitary conditions.

Subp. 6. **Reporting of unsanitary and unsafe conditions (mandatory).** Facility staff must report to the facility administrator any unsanitary and unsafe conditions as well as physical plant and equipment repairs or replacement needs.

Subp. 7. **Priority of work requests.** The facility must have a process for prioritizing work requests and reporting to the governing body in an expedient manner.

Subp. 8. **Records of repair.** The facility must have a records system for review of budget and work requests, expenditures, dates and actions pursuant to detection of need, submission of work orders, and completion of requests.

Subp. 9. **Elimination of conditions conducive to vermin (mandatory).** A condition in the facility conducive to harborage or breeding of insects, rodents, or other vermin must be eliminated immediately.

Subp. 10. **Fire inspection (mandatory).** Fire inspections of the facility must be conducted on an annual basis by a state fire marshal or local fire official. Documentation of the inspection and any resulting orders must be maintained and

available for inspection by the regulatory authority. Failure to comply with fire safety requirements will result in a denial of approval to continue facility operations.

APPROVED AS TO FORM AND LEGALITY
9/4 19 92
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
SEP 11 1992
Joan Anderson Growe
Secretary of State

2:00 PM
PB

BEFORE THE MINNESOTA

DEPARTMENT OF CORRECTIONS

In the Matter of the Adoption
of the Rule of the State of Minnesota
Governing Municipal Jail Facilities

DECLARATION
OF COUNSEL

I, M. JACQUELINE REGIS, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0164.

Dated: 8/31/, 1992

M. Jacqueline Regis
M. JACQUELINE REGIS
Special Assistant
Attorney General

STATE OF MINNESOTA
DEPARTMENT OF CORRECTIONS

In the Matter of Proposed Adoption
of the Rule of the State of Minnesota
Governing Municipal Jail Facilities

NOTICE OF
SUBMISSION OF
RULE ADOPTED
WITHOUT PUBLIC
HEARING TO THE
ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, section 14.26:

PLEASE TAKE NOTICE that the above-captioned rule as adopted has been submitted to the Office of the Attorney General on the date of this notice, August 31, 1992, for review as to legality and form to the extent form relates to legality. The proposed rule, the rule as adopted, all the notices, the Statement of Need and Reasonableness, all written comments and requests for a hearing received, and other required documents also have been submitted to the Attorney General.

The rule must be approved or disapproved by the Attorney General within 14 calendar days of the date of submission to the attorney general. You may submit written comments to the attorney general on the legality of the rule. Any written comments must be submitted within eight calendar days of the date of submission of the rule to the Attorney General. Your comments must address only the issue of legality of the rule or the legality of the specific parts or subparts of the rule. The attorney general standards for review are set forth in Minnesota Rules, part 2010.1000. You may receive a copy of the attorney general decision upon written request to the attorney general. Your comments or requests for the decision must be directed to:

The Office of the Attorney General
Public Finance Division
500 Capitol Office Building
525 Park Street
St. Paul, MN 55103
Telephone Number: (612) 297-2040

Any written comments submitted to the Attorney General must be submitted simultaneously to:

Kenneth E. Merz
Minnesota Department of Corrections
300 Bigelow Building
450 N. Syndicate St.
St. Paul, MN 55104

Orville B. Pung
Commissioner of Corrections

Dated: 8/31/92

14.12 - 180 day deadline

9-3-92 - Told Ken Merry that I believed they missed the 30 day deadline.
- authority states must and all new material

9-3-92 Talked to Gene Whitney she said she agreed with me they would write and send the letters - must do it within 14 days

Falenschick

2nd Time Around

Stat. Authority 241.021

The commissioner shall promulgate pursuant to chapter 14, rules establishing minimum standards for these facilities with respect to their management operation, physical condition and all the security, safety, health, treatment, and discipline of persons detained or confined therein.

Rules - page 6 lines 4-8

2945.0120 - hard to understand exactly what you have to do.

2945.0130 subpart 1B - what is substantial conformity

180 deadline

14.12 - mandatory shall rules all new material - chapter 2945

@ 9-2-92 left a message for Merry

no response to comments from St Peter or explan. in findings; What is a comm. disease?

Department of Corrections

Proposed Permanent Rules Relating to Municipal Jail Facilities

Rules as Proposed (all new material)

CHAPTER 2945

DEPARTMENT OF CORRECTIONS

MUNICIPAL JAIL FACILITIES

2945.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of this chapter, the following terms have the meanings given them.

Subp. 2. **Administrative segregation.** "Administrative segregation" means the physical separation of prisoners prone to escape, prone to assault staff or other prisoners, likely to need protection from other prisoners or themselves, or determined to be mentally deficient and in need of special care.

Subp. 3. **Approved capacity.** "Approved capacity" means the maximum number of prisoners that any cell, room, unit, building, facility, or combination of them is approved for in compliance with the standards.

Subp. 4. **Average daily population.** "Average daily population" means the average number of prisoners residing daily during the last calendar year. Prisoners on furlough or hospitalized are excluded.

Subp. 5. **Class I municipal holding facility.** "Class I municipal holding facility" means an adult detention facility operated by a municipal government used to confine prisoners for more than 48 hours.

Subp. 6. **Class II municipal holding facility.** "Class II municipal holding facility" means an adult detention facility operated by a municipal government used to confine prisoners for up to 48 hours excluding weekends and holidays.

Subp. 7. **Class III municipal holding facility.** "Class III municipal holding facility" means an adult detention facility operated by a municipal government used to confine prisoners for

Approved by Revisor RPK

up to 16 hours.

Subp. 8. **Class IV municipal holding facility.** "Class IV municipal holding facility" means an adult detention facility operated by a municipal government used to confine prisoners for up to four hours.

Subp. 9. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Corrections.

Subp. 10. **Communicable disease.** "Communicable disease" means a disease or condition that causes serious illness, serious disability, or death, the infectious agent of which may pass or be carried, directly or indirectly, from the body of one person to the body of another.

Subp. 11. **Contraband.** "Contraband" means those items designated by the municipal jail facility as prohibited on the physical premises of the facility.

Subp. 12. **Controlled substance.** "Controlled substance" means a drug, substance, or immediate precursor in Schedules I to V of Minnesota Statutes, section 152.02. The term does not include distilled spirits, wine, malt beverages, intoxicating liquor, or tobacco.

Subp. 13. **Court holding facilities.** "Court holding facilities" means those areas where persons are held in conjunction with a court appearance. Court holding facilities may be secure but are nonresidential in design, and persons are not normally held there beyond four hours.

Subp. 14. **Custody personnel.** "Custody personnel" means those staff members or employees who are responsible for the custody and supervision of prisoners.

Subp. 15. **Department of Corrections; department.** "Department of Corrections" or "department" means the Minnesota Department of Corrections.

Subp. 16. **Directory.** "Directory" means any provision in this part which is not designated as mandatory according to subpart 25.

Subp. 17. **Emergency.** "Emergency" means a significant incident or disruption of normal facility procedures, policies,

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routines, or activities arising from fire, riot, natural disaster, suicide, assault, or medical emergency.

Subp. 18. **Existing facility.** "Existing facility" means a facility used for detention and confinement of prisoners before the effective date of this chapter.

Subp. 19. **Facility administrator.** "Facility administrator" means the individual who has been delegated the responsibility and authority for the administration and operation of a local facility.

Subp. 20. **Holding cell.** "Holding cell" means a cell or room in a holding facility used to hold one or more persons temporarily while awaiting release, booking, court appearance, transportation, or interrogation.

Subp. 21. **Inspection.** "Inspection" means an on-site assessment of existing conditions made to determine the facility's compliance with this chapter.

Subp. 22. **Jail.** "Jail" means a secure adult detention facility used to confine sentenced prisoners for a time not to exceed one full year per conviction, confine adult pretrial and presentenced detainees indefinitely, and confine juveniles up to limits prescribed by Minnesota statute and commissioner approval.

Subp. 23. **Legend drug.** "Legend drug" means a drug required by federal law to bear the following statement: "Caution: Federal law prohibits dispensing without prescription."

Subp. 24. **Local facility.** "Local facility" means any city, county, city and county, or multiple county corrections facility.

Subp. 25. **Mandatory.** "Mandatory" means the standard must be met by the facility in order for the facility to be licensed. Mandatory standards are identified with the designation (mandatory). In the case of entire parts or subparts, the word mandatory appears in the part or subpart headnote. Notwithstanding Minnesota Statutes, section 645.49, the word mandatory is to be construed as part of the law when used in headnotes in this chapter. In the case of items, the

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word mandatory appears in the text. When used at the item level, the word mandatory governs all subitems.

Subp. 26. **Maximum security areas.** "Maximum security areas" means areas that provide the greatest degree of physical security for the control and separation of prisoners.

Subp. 27. **Medicine.** "Medicine" means a remedial agent that has the property of curing, preventing, treating, or mitigating diseases, or that is used for that purpose. For the purpose of this chapter, medicine includes legend and nonlegend drugs.

Subp. 28. **Mentally ill person.** "Mentally ill person" means any person who has an organic disorder of the brain or a substantial psychiatric disorder of thought, mood, perception, orientation, or memory which grossly impairs judgment, behavior, capacity to recognize reality, or to reason or understand, which:

A. is manifested by instances of grossly disturbed behavior of faulty perceptions; and

B. poses a substantial likelihood of physical harm to self or others as demonstrated by:

(1) failure to obtain necessary food, clothing, shelter, or medical care as a result of the impairment; or

(2) a recent attempt or threat to physically harm self or others.

Mentally ill person does not include persons with epilepsy, persons with mental retardation, persons subject to brief periods of intoxication caused by alcohol or drugs, or persons dependent on or addicted to alcohol or drugs.

Subp. 29. **Minimum security areas.** "Minimum security areas" means areas that provide functional living accommodations with a nominal reliance on physical security for the control and management of prisoners.

Subp. 30. **Municipal police facilities.** "Municipal police facilities" means police facilities including an administrative processing area used to temporarily detain persons for up to six hours. Municipal police facilities are specifically designed to be nonresidential in nature, have either audio or visual

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capability, would normally not be locked except for routine security reasons, and would be used only long enough for identification, investigation, transfer arrangements, or release to a responsible person.

Subp. 31. **Nonresidential.** "Nonresidential" means that the holding area or room is not designed to be lived in. Nonresidential space would not typically include a bed, toilet, and wash basin.

Subp. 32. **Policy.** "Policy" means a statement declaring mission, purpose, and ideological position.

Subp. 33. **Prisoner.** "Prisoner" means an individual, adult or juvenile, detained or confined in a local facility.

Subp. 34. **Procedure.** "Procedure" means a written statement establishing the action plan to implement policy.

Subp. 35. **Rule.** "Rule" means that which is defined by Minnesota Statutes, section 14.02, subdivision 4.

Subp. 36. **Substantially conform.** "Substantially conform" means comply with 100 percent of the items in this chapter identified as mandatory and with 70 percent of all items identified as directory in this chapter which are applicable to the facility's classification. To calculate compliance one point will be assigned to each standard and/or each subpart of a standard.

Subp. 37. **Undue hardship.** "Undue hardship" means the financial costs are not warranted when weighed against the benefits derived.

Subp. 38. **Variance.** "Variance" means the waiver of a specific rule for a specified period of time.

2945.0110 INTRODUCTION.

Minnesota Statutes, section 642.09, provides that the sheriff of a county in which a municipality maintains a lockup shall inspect the lockup once a year, with reference to its security and administration, and make a written report to the commissioner on forms furnished by the commissioner and deliver a copy of the report to the governing body of the municipality

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maintaining the lockup.

Minnesota Statutes, section 241.021, subdivision 1, provides that the commissioner shall adopt 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 in them, according to law except to the extent that they are inspected or licensed by other state regulating agencies. The rules that follow are minimum standards for municipal lockup facilities.

2945.0120 INTENDED USE; NONCONFORMANCE; LIMITATIONS OF RULES.

Subpart 1. **Intended use.** A facility should be used only for classifications for which it is intended. This chapter does not regulate municipal police facilities or court holding rooms.

A. Class I municipal holding facilities must meet the standards of chapter 2910.

B. Class II municipal holding facilities must meet all parts, subparts, items, and subitems which are designated as mandatory standards in this chapter and 70 percent of all parts, subparts, items, and subitems in this chapter which are directory standards.

C. Class III municipal holding facilities must meet all parts, subparts, items, and subitems which are designated as mandatory standards in this chapter and 70 percent of all parts, subparts, items, and subitems in this chapter which are directory standards and which are applicable to Class III municipal holding facilities.

D. Class IV municipal holding facilities must meet all parts, subparts, items, and subitems which are designated as mandatory standards in this chapter and 70 percent of all parts, subparts, items, and subitems in this chapter which are directory standards and which are applicable to Class IV municipal holding facilities.

E. When "shall" or "must" are used in conjunction with a directory standard, the mandatory implications of those

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terms are limited to the extent part 2945.0100, subpart 36, defines the requirement of 70 percent directory standard compliance as a prerequisite for facility licensing.

Subp. 2. **Nonconformance, unsafe, unsanitary, or illegal conditions.** When conditions do not substantially conform to this chapter or where specific conditions endanger the health, welfare, or safety of prisoners or staff, the commissioner shall find the facility in nonconformance and condemn it by written order that it shall not be further used while the order is in force according to Minnesota Statutes, section 642.10.

2945.0130 VARIANCES.

Subpart 1. **Variances; general.** The granting of a variance under this part does not constitute a precedent for any other adult detention facility. The granting and denial of all variances shall be in writing and made within 30 days of the request for a variance. The variance will be granted by the commissioner if, in the licensing procedure or enforcement of the standards in this chapter:

A. requirements for an adult detention facility to strictly comply with one or more of the provisions will result in undue hardship or jeopardize the health, safety, security, detention, or well-being of the residents or facility staff;

B. the adult detention facility is otherwise in substantial conformity with the standards contained in this chapter or making satisfactory progress toward substantial conformity;

C. granting of the variance will not preclude the facility from making satisfactory progress toward substantial conformity with this chapter;

D. the granting of the variance will not leave the interests and well-being of the residents unprotected; and

E. the facility will take action to comply with the general purpose of the standards to the fullest extent possible.

Subp. 2. **Emergencies.** The facility administration may declare a state of emergency suspending those rules affected by

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the emergency if to not suspend the rules would adversely affect the health, security, safety, or well-being of the persons confined or the facility staff.

Subp. 3. **Notification of emergencies (mandatory).** The facility administrator shall immediately notify the sheriff of the county and the Department of Corrections of an emergency that results in the suspension of a rule. A formal written report must follow within 72 hours.

Subp. 4. **Extension of emergency.** No suspension of rules because of an emergency declared by a facility administrator may exceed seven days unless the administrator obtains the approval of the commissioner for a variance to the rules and the variance is necessary for the protection of the health, security, safety, or well-being of the staff or the persons detained or confined in the institution where the emergency exists.

PERSONNEL STANDARDS

2945.0500 MEDICAL EXAMINATIONS.

Employees who work in a facility must have a medical examination on record.

2945.0510 STAFF RECRUITMENT.

Subpart 1. **Discrimination prohibited (mandatory).** There must not be discrimination on the grounds of race, color, religion, sex, or national origin.

Subp. 2. **Staff selection.** The selection, appointment, and promotion of facility personnel must be based on assessed ability. Custody personnel must be a minimum of 18 years old. Recruitment standards must set forth the basic requirements of ability, preparatory experience, physical condition, and character, as well as those qualities that may disqualify.

2945.0520 EXTRA DUTY.

No employee may be scheduled for duty for two consecutive work periods except where unusual circumstances require reasonable and prudent exception.

2945.0530 STAFFING REQUIREMENTS.

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Subpart 1. **Staffing plan.** The facility administrator shall prepare and retain a staffing plan indicating the personnel assigned to the facility and their duties. For the purposes of this part, a work day is considered an eight-hour shift.

Subp. 2. **Staff person in charge (mandatory).** There must be a designated staff person in charge of the facility. In the absence of the regular facility supervisor, a staff person must be designated in charge.

Subp. 3. **Condition of staff person on duty (mandatory).** No person may be detained without a staff person on duty, present in the facility, awake and alert at all times, and capable of responding to the reasonable needs of the prisoner.

Subp. 4. **Opposite sex policy (mandatory).** There must be a policy consistent with state statute that provides procedures to be followed by staff with regards to the types of supervision provided to prisoners of the opposite sex.

Subp. 5. **Assistance for dispatcher/custody staff person (mandatory).** In facilities that use the dispatcher/custody position as sole supervision, the dispatcher/custody staff person must be assisted on duty by another custody staff person when the jail population exceeds 15. This requirement applies only during shifts when prisoners are not in lockup status.

Subp. 6. **Reporting incidents and responding to emergencies. (mandatory).** A combination of staff and physical plant resources shall provide the capability of responding to emergencies and the completion of incident reports on all special occurrences.

Subp. 7. **Ancillary functions.** Personnel must be provided to perform ancillary functions such as transportation or court functions such as transportation or court escort to the extent necessary to ensure security and supervision of prisoners.

STAFF TRAINING

2945.1000 STAFF TRAINING PLAN.

Subpart 1. **Orientation and in-service training plan.** Each

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facility administrator shall develop and implement a training plan for the orientation of new employees and volunteers and provide for continuing in-service training programs for all employees and volunteers. The training plans must be documented and describe curriculum, methods of instruction, and objectives. In-service training plans should be prepared annually, and orientation training plans must be reviewed and revised to changing conditions.

Subp. 2. **First aid and CPR training (mandatory).** Each facility shall establish, in cooperation with a responsible health authority, a training program to provide instruction on the administration of first aid and cardiopulmonary resuscitation (CPR).

Subp. 3. **Other health and safety training (mandatory).** Each facility shall develop, in cooperation with a responsible health authority, a training program which provides instruction in the following areas:

A. procedures for responding to health-threatening situations within four minutes;

B. recognition of signs and symptoms, and knowledge of action required in potential emergency situations;

C. methods of obtaining assistance;

D. recognition of signs and symptoms of mental illness, retardation, emotional disturbance, and chemical dependency;

E. procedures for patient transfers to appropriate medical facilities or health care providers; and

F. prevention of communicable diseases.

2945.1010 PART-TIME AND RELIEF STAFF.

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

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

2945.1600 GUIDELINES AND RESPONSIBILITIES.

Each facility supervisor shall develop written guidelines

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that define responsibilities, duties, and qualifications of the persons working in the detention facility.

2945.1610 POLICY AND PROCEDURE MANUALS.

Policies and procedures concerning the facility's operation must be made available to employees at the time of employment and as revised after that time.

RECORDS AND REPORTS

2945.2100 MAINTENANCE OF RECORDS AND REPORTS.

Subpart 1. **Mandatory records.** The following records, reports, and statistics must be maintained (mandatory):

A. admission and release records;

B. special occurrence records; and

C. registers.

Subp. 2. **Directory records.** The following records, reports, and statistics must be maintained:

A. prisoner personal property records;

B. clothing, linen, and laundry records (not applicable to Class III and IV municipal holding facilities);

C. records of budget requests and work orders (not applicable to Class III and IV municipal holding facilities);

D. records of policies and procedures;

E. employee personnel records;

F. records of staff training;

G. accounting records (not applicable to Class III and IV municipal holding facilities);

H. food service records;

I. daily logs;

J. medical and dental records; and

K. disciplinary records.

The department shall make available on request sample approved forms of items A to K.

2945.2110 STORAGE AND PRESERVATION OF RECORDS (MANDATORY).

Space must be provided for the safe storage of records.

2945.2120 FILING AND DISPOSITION OF PRISONER RECORDS.

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Prisoner booking records must be maintained.

2945.2130 ACCESS TO PRISONER RECORDS (MANDATORY).

Access to prisoner records shall be provided in conformity with state data privacy law.

PRISONER WELFARE

2945.2500 SEPARATION OF PRISONERS (MANDATORY).

Subpart 1. **General.** A combination of separate living spaces, sanitation facilities, activity spaces, cell units, and detention rooms shall be provided to properly segregate prisoners under Minnesota Statutes, section 641.14.

Subp. 2. **Prisoners to be housed separately.** The following prisoners must be housed separately:

A. female prisoners from male prisoners;

B. juvenile prisoners from adult prisoners; and

C. mentally ill prisoners from all other prisoners.

Subp. 3. **Separation by sight and sound.** Juvenile prisoners must be separated from adult prisoners by sight and sound.

2945.2510 INFORMATION TO PRISONERS.

Subpart 1. **Information to prisoners.** Minimal rules for prisoner behavior must be posted in a conspicuous place or provided to the prisoner.

Subp. 2. **Official charge, legal basis for detention (mandatory).** Every prisoner admitted to a facility must be advised of the official charge or legal basis for detention and confinement, information gathered, and to whom disseminated.

Subp. 3. **Limitations on disciplinary actions.** The decision to deprive a prisoner of articles of clothing and bedding as a result of the prisoner's destruction of those items must be reviewed by the officer in charge during each eight-hour period, and the review must be documented.

The delegation of authority to a prisoner or group of prisoners to exercise the right of punishment over another prisoner or group of prisoners shall be prohibited.

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No prisoner may be deprived of the use of materials necessary to maintain an acceptable level of personal hygiene. Items such as toilet paper and soap and water must be made available and provided upon request.

Subp. 4. **Instruments of restraint.** Instruments of restraint, such as handcuffs, chains, irons, and straitjackets must not be used as punishment.

A. Instruments of restraint must not be used except in the following circumstances:

(1) as a precaution against escape during a transfer;

(2) on medical grounds by direction of a consulting or attending physician or licensed psychologist; or

(3) by order of the facility administrator or person in charge in order to prevent a prisoner from injuring himself or herself, others, or from damaging property.

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

C. Instruments of restraint must not be applied for any longer time than is strictly necessary.

D. Each incident involving the use of restraints consistent with item A, subitem (2) or (3), must be documented and on file.

Subp. 5. **Disciplinary records.** Disciplinary records must be maintained on all documented disciplinary infractions and punishment administered.

2945.2520 PRISONER VISITATION.

Subpart 1. **Initial visits for juveniles (mandatory).** The initial visit for parents, guardians, and attorneys must be permitted at any time.

Subp. 2. **Visiting plan.** Each facility administrator shall develop and implement a prisoner visiting policy. The policy shall be in writing and shall provide at a minimum:

A. That prisoners be allowed nonmonitored visits with the prisoner's attorney.

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B. A schedule that specifies days and times for visits (not applicable to Class III and IV municipal holding facilities.)

C. A uniform number of permissible visits and the number of visitors permitted per visit (not applicable to Class III and IV municipal holding facilities).

D. For adult prisoners, an initial visit with a member or members of their immediate family at the next regularly scheduled visiting period (not applicable to Class III and IV municipal holding facilities).

E. That when a visit to a prisoner is denied on the belief that the visit might endanger the security of the facility, the action and reasons for denial be documented.

F. That visitors must register, giving name, address, relationship to prisoner, and nature of business.

G. That visiting must not be audio monitored.

H. That visits by parents, guardians, and attorneys with juvenile prisoners be as unrestricted as is administratively possible.

I. That prisoners be allowed private meetings for family problems with clergy, nuns, seminarians, and laypersons active in community church affairs, who provide appropriate credentials, to the extent that such visits do not compromise the facility's security (not applicable to Class IV).

2945.2530 CORRESPONDENCE.

Subpart 1. **Plan for prisoner mail.** A facility administrator shall develop a plan for prisoner mail consistent with established legal rights of prisoners and facility rules which are reasonable and necessary to protect the facility's security (not applicable to Class III and Class IV municipal holding facilities).

Subp. 2. **Unrestricted volume of mail.** The volume of written mail to or from a prisoner must not be restricted (not applicable to Class III and Class IV municipal holding facilities).

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Subp. 3. **Inspection and censorship (mandatory).** Mail must not be read or censored if it is between a prisoner and an elected official, officials of the department, the ombudsman for corrections, attorneys, or other officers of the court. Inspection of incoming mail from this group is permitted in the presence of the prisoner. This subpart is not applicable to Class III and Class IV municipal holding facilities.

Subp. 4. **Money.** Cash, checks, or money orders should be removed from incoming mail and credited to a prisoner's account (not applicable to Class III and Class IV municipal holding facilities).

Subp. 5. **Contraband.** If contraband is discovered in either incoming or outgoing mail, it must be removed (not applicable to Class III and Class IV municipal holding facilities).

Subp. 6. **Sacred books (mandatory).** A prisoner must be provided a copy of the Bible or sacred book of another religion at the expense of the appointing authority.

2945.2540 BEDDING, LAUNDRY, AND CLOTHING REMOVAL.

Subpart 1. **Bedding.** Upon request, or after eight hours, each prisoner shall be issued clean, sanitary, and fire-retardant bedding (not applicable to Class IV municipal facilities).

Subp. 2. **Laundry (mandatory).** Sheets must be laundered and blankets cleaned before reissuing them to another prisoner.

Subp. 3. **Removing clothing and bedding.** The facility administrator shall develop a policy and procedure for dealing with incidents in which prisoners misuse clothing or bedding. Clothing and bedding should be removed from a prisoner only when the prisoner's behavior threatens the health, safety, or security of self, others, or property. Clothing and bedding must be returned to the prisoner as soon as it is reasonable to believe that the behavior that caused the action will not continue.

2945.2550 EMERGENCIES AND SPECIAL OCCURRENCES.

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Subpart 1. **Emergency plan (mandatory).** The facility administrator shall develop a written emergency plan. The plan must include:

A. location of alarms and fire fighting equipment;

B. emergency drill policy;

C. specific assignments and tasks for personnel;

D. persons and emergency departments to be notified;

E. a procedure for evacuation of prisoners; and

F. arrangements for temporary confinement of prisoners.

Subp. 2. **Review of emergency procedures.** There must be a documented quarterly review of emergency procedures by the person in charge of the facility that includes:

A. assignment of persons to specific tasks in case of emergency situations;

B. instructions in 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; and

E. specification of evacuation routes and procedures.

Subp. 3. **Reporting of special incidents.** Incidents or special occurrences which endanger the lives or safety of staff or prisoners or the physical plant of the facility must be reported. Reports must include the names of staff members and prisoners involved, the nature of the special occurrence, actions taken, and the date and time of the occurrence. Special occurrences include, but are not limited to:

A. attempted suicide;

B. suicide;

C. homicide;

D. death other than suicide or homicide;

E. serious injury or illness incurred after detention;

F. escape or runaway;

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G. fire causing serious damage;

H. riot;

I. assaults requiring medical care;

J. other serious disturbances; or

K. occurrences of infectious diseases and disposition of the occurrences.

Special occurrences must be reported on forms provided by the department or comparable forms used by the facility.

In the event of an emergency such as serious illness, accident, imminent death, or death, the prisoner's family or others who maintain a close relationship must be notified.

Subp. 4. **Prisoner death (mandatory).** When a prisoner's death occurs:

A. the date, time, and circumstances of the prisoner's death must be recorded in the prisoner's record;

B. if the prisoner dies in the facility, the coroner, medical examiner, or sheriff must be notified immediately;

C. personal belongings must be handled in a responsible and legal manner;

D. records of a deceased prisoner must be retained for a period of time in accordance with law; and

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

FOOD SERVICE

2945.3400 FOOD HANDLING PRACTICES (MANDATORY).

Food service shall be provided according to parts 4625.2401 to 4625.4701.

2945.3410 FREQUENCY OF MEALS.

There must be no 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 must be made available at regular times during each 24-hour period (not applicable to Class IV municipal holding facilities).

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2945.3420 THERAPEUTIC DIETS (MANDATORY).

A facility housing prisoners in need of medically prescribed therapeutic diets must document that the diets are provided as ordered by the attending physician (not applicable to Class IV municipal holding facilities).

2945.3430 USE OF FOOD IN DISCIPLINE (MANDATORY).

Food must not be withheld as punishment (not applicable to Class IV municipal holding facilities).

2945.3440 SUPERVISION OF MEAL SERVING.

All meals must be served under the direct supervision of staff (not applicable for Class IV municipal holding facilities).

2945.3450 HOT MEAL MINIMUM.

A minimum of one hot meal must be provided for each 24 hours of confinement (not applicable to Class III and Class IV municipal holding facilities).

SECURITY

2945.4700 SECURITY POLICIES AND PROCEDURES, GENERAL.

Subpart 1. **Security policies and procedures (mandatory).** Each facility must have and adhere to written security policies and procedures which provide for at a minimum the following:

A. the control and recovery of contraband;

B. the prohibition on firearms in prisoner areas; and

C. that all prisoners are personally observed by an employee at least every 30 minutes, but on an irregular schedule; more frequent observation is required for those prisoners who are violent, suicidal, mentally disordered, or who demonstrate unusual or bizarre behavior.

Subp. 2. **Additional security policies and procedures.** Written security policies and procedures must also include the following:

A. visitor and visit control;

B. search and shakedown schedules and procedures;

C. escort of prisoners outside security areas;

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D. escape prevention and action plans;

E. tool, medication, key, and weapon control procedures;

F. count procedure;

G. classification of prisoners; and

H. riot prevention and control procedures.

This subpart is not applicable to Class III and IV municipal holding facilities.

2945.4710 ADMISSIONS.

Subpart 1. **Admission policies.** Admission policies and procedures must include the following:

A. a thorough search of all admissions and prisoners on release status returning to the facility;

B. showering and delousing facilities (Class III and IV municipal holding facilities must have some type of facilities for prisoners to wash up if showers are not available);

C. an assessment of health status;

D. security classification (not applicable to Class III and IV municipal holding facilities);

E. inventory of prisoner's property;

F. fingerprinting and photographing, if appropriate; and

G. completion of admission form.

Subp. 2. **Identification (mandatory).** No prisoners may be received or released by the staff of a facility until the arresting or escorting officer has produced proper credentials or until the proper documents have been completed, identifying the purpose for detention or release.

Subp. 3. **Privacy.** All intake procedures must be conducted in a manner and location that assures the personal privacy of the prisoner and the confidentiality of the transaction.

2945.4720 RELEASES.

Subpart 1. **Return of prisoner property.** Upon release of a prisoner, the property of that prisoner, unless held for

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authorized investigation or litigation, must be returned with a receipt for the prisoner to sign or for the transporting officer to sign.

Subp. 2. **Transportation.** Prisoners must be permitted to make arrangements for transportation before release.

Subp. 3. **No release in intemperate weather.** No prisoner may be released in intemperate weather without proper clothing to ensure the prisoner's health and comfort.

2945.4730 SEARCHES AND SHAKEDOWNS.

Subpart 1. **Visitor searches.** Searches of visitors and their personal belongings brought into the facility must be done in accordance with the facility's written policy and legal procedures.

Subp. 2. **Regular inspection of facility.** The facility must be regularly inspected for contraband, evidence of breaches in security, and inoperable security equipment. Facility inspections must be documented.

Subp. 3. **Inspection of materials.** All materials delivered to or transported from the facility must be inspected for contraband before distribution and the inspection shall be documented.

2945.4740 LOCKS AND KEYS.

Subpart 1. **General (mandatory).** All keys to security locks must be properly tagged and stored in a secure cabinet within a secure area, and out of reach of the prisoners or the public. At least one complete set of facility keys must be kept on hand for replacement purposes. Keys that serve a critical security purpose must be easily identifiable and never issued to facility staff except upon order of the facility administrator or person in charge, and in accordance with established procedure. No security keys may be made available to prisoners regardless of status. All electronic locking systems must have a manual override.

Subp. 2. **Regular inspection.** Locks to security doors or gates must be inspected regularly by facility staff to ensure

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efficient operation.

Subp. 3. **Inoperable locks (mandatory).** No lock to a security door or gate may be permitted to be inoperable or left in an unsuitable condition. No prisoner shall be placed in a cell or area that has inoperable locks.

2945.4750 DANGEROUS MATERIALS (MANDATORY).

Materials dangerous to either security or safety shall be properly secured.

2945.4760 COUNT PROCEDURE.

Each facility must have a written policy describing the system of counting prisoners. Formal counts must be completed with an official entry made in the daily log after each mass movement and at least once each eight hours.

ENVIRONMENTAL-PERSONAL HEALTH AND SANITATION

2945.5400 AVAILABILITY OF MEDICAL AND DENTAL RESOURCES (MANDATORY).

Subpart 1. **Availability of resources.** Each facility must have a licensed physician or medical resource such as a hospital or clinic designated for the medical supervision and treatment of prisoners. Resources must insure service 24 hours a day.

Subp. 2. **Emergency dental care.** Each facility must have emergency dental care available to prisoners.

Subp. 3. **Ambulance service.** Ambulance services must be available 24 hours a day.

Subp. 4. **Examination of prisoner where medical attention is necessary.** A prisoner must be examined by trained medical personnel if the prisoner is visibly ill, chronically ill, or when it is suspected that medical attention is necessary.

2945.5410 POSTING OF AVAILABLE RESOURCES (MANDATORY).

A listing of telephone numbers of the medical, dental, and ambulance services available must be posted at each staff station along with the schedule of availability.

2945.5420 HOSPITALIZATION OF A PRISONER.

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Subpart 1. **Agreement between facility and hospital.** Each facility must have an agreement with a hospital in the same or nearby community permitting admission of a prisoner on the recommendation of the attending physician.

Subp. 2. **Guarding of prisoner.** When a prisoner requires hospitalization, the prisoner must be guarded 24 hours a day unless the prisoner is not in need of supervision or the prisoner is medically incapacitated in the opinion of the attending physician.

2945.5430 FIRST AID.

Subpart 1. **Training of personnel (mandatory).** Custody personnel responsible for the supervision, safety, and well-being of prisoners must be trained in emergency first aid.

Subp. 2. **First aid kit.** Facilities must have a minimum of one first aid kit located at the facility's control center or primary staff station.

Subp. 3. **Records of illness and injury.** A facility must record all complaints of illness or injury and actions taken.

Subp. 4. **Medical or dental records (mandatory).** Records must be maintained on prisoners under medical or dental care. The records must include at a minimum:

A. the limitations and disabilities of the prisoner;

B. instructions for prisoner care;

C. orders for medication, including stop date;

D. any special treatment or diet;

E. activity restriction; and

F. times and dates when the prisoner was seen by medical personnel.

2945.5440 PREVENTIVE HEALTH SERVICES.

Subpart 1. **Written plan for personal hygiene.** The facility administrator shall develop and implement a written plan for personal hygiene practices of all prisoners with special assistance for those prisoners who are unable to care for themselves (not applicable for Class III and Class IV municipal holding facilities).

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Subp. 2. **Delousing materials.** Delousing materials and procedures must be approved through consultation with trained medical personnel.

Subp. 3. **Bathing.** A prisoner must be permitted daily washing (not applicable to Class IV municipal holding facilities).

Subp. 4. **Indigent prisoners (mandatory).** Indigent prisoners shall receive reasonable personal hygiene items upon request.

2945.5450 DELIVERY, SUPERVISION, AND CONTROL OF MEDICINE.

Subpart 1. **Legend drugs (mandatory).** Facility policy shall prohibit stock supplies of legend drugs.

Subp. 2. **Delivery by unlicensed staff.** The delivery of legend drugs by unlicensed staff must be under the direction of a consulting physician.

Subp. 3. **Policy for storage, delivery, and control of medicine.** A facility administrator, in consultation with a licensed physician or physician trained paramedic, shall develop procedures for the secure storage of medicine. The policy must include at a minimum the following storage requirements:

A. medicine be stored in a locked area;

B. the storage area be kept locked at all times;

C. medicine requiring refrigeration be refrigerated and secured;

D. prisoners not be permitted in the medicine storage area;

E. only staff authorized to deliver medicine may have access to keys for the medicine storage area;

F. prescribed medicine be kept in its original container, bearing the original label; and

G. poisons and medicine intended for external use be clearly marked and stored separately from medicine intended for internal use.

Subp. 4. **Procedures for delivery of medicine.** Each facility must adopt procedures for the delivery of medicine.

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A. The procedures must include the following (mandatory):

(1) Requirements that medicine administered by injection must be administered by a physician, registered nurse, or licensed practical nurse. Diabetics under physician order and direct staff supervision must be permitted to self-administer insulin.

(2) Requirements that no prisoner while receiving legend drugs may receive any nonlegend drug without the approval of the attending physician.

(3) Procedures for reporting to the physician any adverse reactions to drugs. Any reports shall be included in the prisoner's file.

(4) Procedures for reporting the attending physician a prisoner's refusal of prescribed medicine, and an explanation made in the prisoner's record.

(5) Procedures for ensuring that no prisoner is deprived of medicine as prescribed because of penalty or staff retaliation.

(6) Procedures that prohibit the delivery of medicine by prisoners.

(7) Procedures requiring that a physician be contacted for instructions before the next prescribed medicine dosage time for all newly admitted prisoners who are either in possession of prescribed medicine or indicate a need for prescribed medicine.

B. Procedures must also include at a minimum the following:

(1) medicine delivered to a prisoner is to be self-administered under staff supervision;

(2) there is to be a means for the positive identification of the recipient of medicine;

(3) procedures and records to assure that medicine is delivered in accordance with physician instructions, and by whom; and

(4) procedures for confirming that medicine

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delivered for oral ingestion has been ingested.

Subp. 5. **Records of receipt; disposition of drugs.** Records of receipt, the quantity of the drugs, and the disposition of legend drugs must be maintained in sufficient detail to enable an accurate accounting.

Subp. 6. **Medicine given to prisoner upon release.** Prescription medicine belonging to a prisoner must be given to the prisoner or to the appropriate authority upon transfer or release and shall be recorded in the prisoner's file.

Subp. 7. **Destruction of unused prescribed medicine.** Unused prescribed medicine should be destroyed by incineration or by flushing into the sewer system. A notation of the destruction made in the prisoner's record and a statement of what was destroyed, who destroyed it, and how it was destroyed.

2945.5460 REPORTING SUSPECTED COMMUNICABLE DISEASE (MANDATORY).

It is the responsibility of the facility administrator or person in charge in consultation with the attending physician to report to the Minnesota Department of Health any known or suspected communicable disease.

2945.5470 SEPARATION OF PRISONERS SUSPECTED OF HAVING A COMMUNICABLE DISEASE (MANDATORY).

Prisoners suspected of having a communicable disease must be separated from other prisoners.

2945.5480 MENTALLY ILL PRISONERS.

A policy must be developed for the management of mentally ill prisoners and include a procedure for managing prisoners who are suspected of being mentally ill and considered to be a danger to self or others.

2945.5490 HOUSEKEEPING, SANITATION, AND PLANT MAINTENANCE.

Subpart 1. **General.** The facility must be kept in good repair to protect the health, comfort, safety, and well-being of prisoners and staff.

Subp. 2. **Maintenance plan.** The person responsible for plant maintenance, housekeeping, and sanitation must develop a

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written maintenance plan.

Subp. 3. **Compliance with rules (mandatory).** Housekeeping, sanitation, water supplies, plumbing, sewage disposal, solid waste disposal, and plant maintenance conditions must comply with rules required by the Minnesota State Building Code, the Minnesota Fire Marshal's Office, the Minnesota Department of Health, the Minnesota Department of Labor and Industry (O.S.H.A.), and other departmental rules having the force of law.

Subp. 4. **Plan for daily inspection.** The facility administrator must establish a plan for the daily inspection of housekeeping, sanitation, and plant maintenance when the facility is occupied.

Subp. 5. **Policies and procedures to detect deterioration of building and equipment.** The facility administrator must develop policies and procedures designed to detect building and equipment deterioration, safety hazards, and unsanitary conditions.

Subp. 6. **Reporting of unsanitary and unsafe conditions (mandatory).** Facility staff must report to the facility administrator any unsanitary and unsafe conditions as well as physical plant and equipment repairs or replacement needs.

Subp. 7. **Priority of work requests.** The facility must have a process for prioritizing work requests and reporting to the governing body in an expedient manner.

Subp. 8. **Records of repair.** The facility must have a records system for review of budget and work requests, expenditures, dates and actions pursuant to detection of need, submission of work orders, and completion of requests.

Subp. 9. **Elimination of conditions conducive to vermin (mandatory).** A condition in the facility conducive to harborage or breeding of insects, rodents, or other vermin must be eliminated immediately.

Subp. 10. **Fire inspection (mandatory).** Fire inspections of the facility must be conducted on an annual basis by a state fire marshal or local fire official. Documentation of the inspection and any resulting orders must be maintained and

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available for inspection by the regulatory authority. Failure to comply with fire safety requirements will result in a denial of approval to continue facility operations.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Municipal Jail Facilities

AGENCY: Department of Corrections

MINNESOTA RULES: Chapter 2945

The attached rules are approved for publication in the State Register

Robert P. Kittel

Robert P. Kittel
Assistant Deputy Revisor

Official Notices

Pursuant to the provisions of Minnesota Statutes § 14.10, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Minnesota Comprehensive Health Association

Notice of Meeting of the Enrollee Appeal Committee

NOTICE IS HEREBY GIVEN that a meeting of the Minnesota Comprehensive Health Association (MCHA), Enrollee Appeal Committee will be held at 8:30 a.m. on Monday, April 13, 1992 at the Minnesota Department of Commerce, 133 E. 7th Street, St. Paul, Minnesota, in the first floor hearing room. Portions of this meeting may be closed to the public.

For additional information please call Lynn Gruber at (612) 593-9609.

Minnesota Comprehensive Health Association

Notice of Actuarial Committee Meeting

NOTICE IS HEREBY GIVEN that a meeting of the Actuarial Committee of the Minnesota Comprehensive Health Association (MCHA), will convene at 9:00 a.m. on Thursday, April 23, 1992 at Blue Cross Blue Shield of Minnesota, 3535 Blue Cross Road, Eagan, Minnesota, in the Fish Bowl.

For additional information please call Lynn Gruber at (612) 593-9609.

Minnesota Comprehensive Health Association

Notice of Board of Directors Meeting

NOTICE IS HEREBY GIVEN that the Minnesota Comprehensive Health Association (MCHA), Board of Directors will meet at 9:00 a.m. on Thursday, April 9, 1992 at Prudential Insurance Company of America, 3701 South Wayzata Boulevard, Minneapolis, Minnesota, in the 8th floor board room.

For additional information please call Lynn Gruber at (612) 593-9609.

Department of Corrections

Community Services Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rule Governing Municipal Jail Facilities

NOTICE IS HEREBY GIVEN that the State Department of Corrections is seeking information or opinions from sources outside the agency in preparing to propose the adoption of the rule governing municipal jail facilities. The adoption of the rule is authorized by *Minnesota Statutes*, section 241.021, which requires the agency to promulgate rules governing correctional facilities.

The State Department of Corrections requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to: Kenneth E. Merz, Director Standards Development, Minnesota Department of Corrections, 300 Bigelow Building, 450 North Syndicate Street, St. Paul, MN 55104. Oral statements will be received during regular business hours over the telephone at 612/642-0333 and in person at the above address.

All statements of information and opinions shall be accepted until May 15, 1992. Any written material received by the State Department of Corrections shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Dated: 30 March 1992

Orville B. Pung
Commissioner
Department of Corrections

Office of the Revisor of Statutes

Administrative Rules

Robert P. Kittel
Assistant Deputy Revisor
296-0218



700 State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1297

March 11, 1992

Kenneth E. Merz
Department of Corrections
300 Bigelow Building
450 North Syndicate
St. Paul, MN 55104

RE: File No. 1996

Dear Mr. Merz:

I am enclosing six copies of your rules, approved as to form.
Please submit two copies to the State Register for publication.

If you have any questions, please call me.

Very truly yours,

Robert P. Kittel

Robert P. Kittel

STATE OF MINNESOTA

DEPARTMENT OF CORRECTIONS

In the Matter of Proposed Rules
of the Department of Corrections
Relating to Permanent Rules
Relating to Municipal
Jail Facilities
Chapter 2945

STATEMENT OF NEED
AND REASONABLENESS

INTRODUCTION

Minnesota Statutes, section 642.09, provides that the sheriff of a county in which municipality maintains a lockup, shall inspect the lockup once a year, with reference to its security and administration, and make a written report to the commissioner on blanks furnished by the commissioner and deliver a copy of the report to the governing body of the municipality maintaining the lockup.

Minnesota Statute 241.021, subdivision 1, provides that the commissioner adopt 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 in them according to law except to the extent that they are inspected or licensed by other state regulating agencies.

To this end, the minimum standards set forth in the rule were established for the inspection of all municipal jail facilities by the sheriff or sheriff's designee of the county in which the facility is located.

2945.0100 DEFINITIONS.

This part defines words and phrases that have meanings specific to Chapter 2945, that otherwise may have several possible interpretations or that need exact definitions to be consistent with statute or other department rules.

Subpart 1. **Scope.** This provision is necessary to clarify that the definitions apply to the entire sequence of Chapter 2945. This subpart and the definitions that follow in subpart 2 to 34 are necessary to inform county, sheriff and municipal law enforcement agencies of the meaning of specific words used in this rule.

Subpart 2. **Administrative segregation.** This definition is necessary to clarify a term in the rule. Administrative segregation means the physical separation of one prisoner from all others held based on the classification of the individual rather than behavior.

Subpart 3. **Approved capacity.** This definition is necessary to clarify a term in the rule. Approved capacity means the maximum number of prisoners that may be held in a facility based on the standards set forth in Chapter 2945.

Subpart 4. **Average daily population.** This definition is necessary to clarify a term used in the rule. Average daily population means the average number of prisoners held in the facility per day during the previous calendar year and which types of prisoners are not to be included in this count.

Subpart 5. **Class I municipal holding facility.** This definition is necessary to clarify a term used in the rule. A Class I facility is any municipal lockup that may confine one or more prisoners for more than 48 hours. This will be reasonable due to the fact it is a mutual agreement between its municipality and the Department of Corrections.

Subpart 6. **Class II municipal holding facility.** This definition is necessary to clarify a term used in the rule. A Class II facility is any municipal lockup that may confine one or more prisoners for up to, but no longer than 48 hours. This will be reasonable due to the fact it is a mutual agreement between the municipality and the Department of Corrections.

Subpart 7. **Class III municipal holding facility.** This definition is necessary to clarify a term used in the rule. A Class III facility is any municipal lockup that may confine one or more prisoners for up to, but no longer than 16 hours. This will be reasonable due to the fact it is a mutual agreement between the municipality and the Department of Corrections.

Subpart 8. **Class IV municipal holding facility.** This definition is necessary to clarify a term used in the rule. A Class IV facility is any municipal lockup that may confine one or more prisoners for up to, but no longer than a maximum of 4 hours. This will be reasonable due to the fact it is a mutual agreement between the municipality and the Department of Corrections.

Subpart 9. **Commissioner.** This definition is necessary to clarify a term used in the rule. "Commissioner" means the Minnesota Department of Corrections. It is reasonable to shorten the term "Commissioner of the Minnesota Department of Corrections" to "Commissioner" to shorten the length of the rule.

Subpart 10. **Communicable disease.** This definition is necessary to clarify a term used in the rule. Communicable disease means a disease or condition by which an infectious agent may pass or be carried from the body of one person to the body of another. It is reasonable to require these facilities to take extra precautions against the spread of communicable diseases due to the nature of confinement within a jail facility.

Subpart 11. **Contraband.** This definition is necessary to clarify a term used in the rule. Contraband means those items defined by policy of the facility administration that are prohibited on the physical premises. This is reasonable in order to ensure the safety and security of the facility.

Subpart 12. **Controlled substance.** This definition is necessary to clarify a term used in the rule. Controlled substance means those drugs that must be accounted for when handled or dispensed within the facility. Those drugs are defined in Schedules I to V of Minnesota Statutes, section 152.02.

Subpart 13. **Court holding facility.** This definition is necessary to clarify a term used in the rule. A court holding facility is separate and distinct from a municipal jail facility. A court holding facility may be secure, but is non-residential in design and are used to hold an individual awaiting a court appearance for less than four hours.

Subpart 14. **Custody personnel.** This definition is necessary to clarify a term used in the rule. Custody personnel are those staff members or employees directly responsible for the custody and supervision of the prisoners held in the municipal jail facility.

Subpart 15. **Department of Corrections.; department.** This definition is necessary to clarify a term used in the rule. "Department of Corrections" or "department" shall mean the Minnesota Department of Corrections. It is reasonable to shorten the term "Minnesota Department of Corrections" or Department of Corrections" to "department" in order to shorten the rule.

Subpart 16. **Directory.** This definition is necessary to clarify a term used in this rule. Directory means that any standard in the rule which is <u>not</u> identified as mandatory is a directory standard. It is reasonable to direct the facility to comply with these standards to ensure the security and safety of the prisoners to the greatest extent.

Subpart 17. **Emergency.** This definition is necessary to clarify a term used in the rule. Emergency shall mean any incident or activity which disrupts the normal facility operation. Examples of such are included in this definition.

Subpart 18. **Existing facility.** This definition is necessary to clarify a term used in the rule. Existing facility means any municipal jail facility built and used to confine prisoners prior to the effective date of the rule.

Subpart 19. **Facility administrator.** This definition is necessary to clarify a term used in the rule. Facility administrator is the one individual who is responsible for the administration and operation of the municipal jail facility.

Subpart 20. **Holding cell.** This definition is necessary to clarify a term used in the rule. A holding cell is the cell or room that is used to hold one or more prisoner within the municipal holding facility.

Subpart 21. **Inspection.** This definition is necessary to clarify a term used in the rule. Inspection is the actual assessment or evaluation of the municipal jail facility by the Sheriff or his designee or the county in which the municipality is located.

Subpart 22. **Jail.** This definition is necessary to clarify a term used in the rule. A jail is a secure adult detention facility which is inspected by the Department of Corrections pursuant to Minnesota Statute 241.021 Subdivision 1, and is regulated by Minnesota Rules Chapter 2910.

Subpart 23. **Legend drug.** This definition is necessary to clarify a term used in the rule. A legend drug is a drug that is required by the Federal Food, Drug and Cosmetic Act to bear the following, "Caution: Federal law prohibits dispensing without prescription."

Subpart 24. **Local facility.** This definition is necessary to clarify a term used in the rule. A local facility is any correctional facility in a city, county, or multiple jurisdiction used for the detention and confinement of an individual.

Subpart 25. **Mandatory.** This definition is necessary to clarify a term used in the rule. Mandatory means that any standard in the rule which is identified as mandatory must be complied with by the facility or waived by the commissioner in order for the facility to be licensed and continue to operate.

Subpart 26. **Maximum security areas.** This definition is necessary to clarify a term used in the rule. A maximum security area is that area of the municipal jail facility that provides the greatest degree of physical barriers in order to provide security for control and separation of the prisoners being detained.

Subpart 27. **Medicine.** This definition is necessary to clarify a term used in the rule. A medicine is any agent whether of a legend or nonlegend nature that may be given to a prisoner to cure, prevent, treat or mitigate a disease.

Subpart 28. **Mentally ill person.** This definition is necessary to clarify a term used in the rule. It is necessary to identify a mentally ill person as soon as possible for a jail type facility or staff are not properly equipped or trained to handle the special needs of this population. It is reasonable to require transfer to a facility that can meet the needs of this individual appropriately.

Subpart 29. **Minimum security areas.** This definition is necessary to clarify a term used in the rule. A minimum security area is that area of the municipal jail facility that relies the least on physical barriers, in order to provide security for the control and separation of the prisoners being detained.

Subpart 30. **Municipal police facilities.** This definition is necessary to clarify a term used in the rule. A municipal police facility means the area of a police facility used to temporarily detain persons primarily for processing purposes and held until they could be released to another responsible person. This area must be non-residential in nature, meaning the area or room does not have bed or bathroom facilities contained within. This area would not normally be locked or necessarily within the security perimeter of the building.

Subpart 31. **Nonresidential.** This definition is necessary to clarify a term used in the rule. Nonresidential is used to describe the area a person is detained which cannot be termed a cell or detention room which would normally have a bed, toilet and wash basin.

Subpart 32. **Policy.** This definition is necessary to clarify a term used in the rule. A policy is a written statement which outlines the stated course or method of action which guides and determines present and future decisions and actions within the facility.

Subpart 33. **Prisoner.** This definition is necessary to clarify a term used in the rule. A prisoner is any person who is detained or confined within the security of the municipal jail facility.

Subpart 34. **Procedure.** This definition is necessary to clarify a term used in the rule. A procedure is the method by which the established policy of the municipal jail facility is implemented.

Subpart 35. **Rule.** This definition is necessary to clarify a term used in the rule. The rule is the means of general applicability and future effect adopted to implement or make specific the law enforced or administrated, or to govern operation or procedure. The definition is reasonable because it is consistent with Minnesota Statutes, section 14.02, subdivision 4.

Subpart 36. **Substantially conform.** This definition is necessary to clarify a term used in the rule. Substantially conform means that a municipal jail facility when inspected must comply with all standards labeled as mandatory or 100% of that category. Additionally, the facility must comply with 70% of all standards not identified as mandatory contained within the rule at the time of the inspection.

Subpart 37. **Undue hardship.** This definition is necessary to clarify a term used in the rule. An undue hardship means the financial costs to a facility in order to comply with a particular standard is not warranted when weighted against the benefits derived in the estimation of the commissioner or his designee.

Subpart 38. **Variance** This definition is necessary to clarify a term used in the rule. A variance is written permission from the commissioner for the facility to temporarily depart from a specific rule for a specified period of time. The definition is reasonable because it is consistent with Minnesota Rule 2910.0400, Subpart 1.

2945.0110 INTRODUCTION.

This section is needed to clarify the statutory basis for the development of the proposed rules, as well as the statutory authority to inspect such facilities on an annual basis. It is reasonable to assume that the proposed standard will meet these requirements.

2945.0120 INTENDED USE NONCONFORMANCE; LIMITATIONS OF RULES.

Subpart 1. **Intended use.** Municipal facilities serve different functions in the state. Length of time a prisoner may be held varies from several hours to several days. It was necessary to develop various levels of classifications in order to adequately address each facility. It is reasonable to recognize that particular standards for one facility may not be appropriate for another. It is necessary to ensure that a facility is used only for the purpose for which it has been approved.

Subpart 2. **Nonconformance, unsafe, unsanitary, or illegal conditions.** It is necessary to identify the statutes and actions available to the Commissioner if facilities do not substantially conform to the rule. It is reasonable to create a mechanism for discontinuing use of the facility.

2945.0130 VARIANCES.

Subpart 1. **Variances; general.** This subpart is necessary to identify information that must be included in a request for a variance from a rule requirement. This subpart is reasonable because it is consistent with the variance requirements under Minnesota Rule 2910.0400, Subpart 1, and Minnesota Statute 14.03, subpart 4. Items A through E are necessary to establish a uniform procedure for justifying a variance request and each of these items have to be met. Item A is reasonable to prevent the facility from having to take unnecessary steps if the facility can still maintain a safe and secure environment. Item B is reasonable to ensure the safe and secure environment with the variance. Item C is reasonable to ensure the variance does not prevent the maintenance of a safe and secure environment. Item D is reasonable to ensure a proactive stance on the part of the facility. Item E is reasonable to ensure that the facility comes as close to complete compliance with the rule as possible.

Subitem A. This subitem is necessary to identify exactly what a Class I facility must do in order to be approved to operate by the commissioner. It is reasonable to require a Class I municipal facility to meet the requirements of Chapter 2910 due to the fact it is authorized to hold prisoners as long as a county jail which is governed by Chapter 2910.

Subitem B. This subitem is necessary to identify exactly what a Class II facility must do in order to be approved to operate by the commissioner. It is reasonable to require a Class II facility to meet all mandatory rules and 70% of all rules not labeled as mandatory since this classification is permitted to hold prisoners for the longest period of time of all facilities governed by this chapter.

Subitem C. This subitem is necessary to identify exactly what a Class III facility must do in order to be approved to operate by the commissioner. It is reasonable to not require some of the standards be applied to this classification due to the limited time it is authorized to hold persons.

Subitem D. This subitem is necessary to identify exactly what a Class IV facility must do in order to be approved to operate by the commissioner. It is reasonable to require the least from this classification due to the fact they are authorized to hold persons for the least amount of time.

Subitem E. This subitem is necessary to clarify the mandatory implications of the terms "shall" or "must" when used in a directory standard. It is reasonable to use such terms to direct the facility with regards to the importance of these standards even if they are not mandatory.

Subpart 2. **Emergencies.** 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 occasion 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 ensure against arbitrary, capricious and unreasonable rule suspension.

Subpart 3. **Notification of emergencies (mandatory).** This subpart is needed to ensure that those people responsible for the operation of and monitoring of the facility are aware of the fact that one or more of its regulations have been suspended and the reasons why. It is reasonable to require this notification within 72 hours so that they could possibly respond to inquiries.

Subpart 4. **Extension of emergency.** This subpart is necessary to ensure that a facility administrator does not arbitrarily extend the suspension of any rule. In some cases it may be reasonable for the commissioner to grant a variance to extend the suspension.

2945.0500 MEDICAL EXAMINATIONS.

Staff whose responsibilities include security and control or regular contact with inmates in an institutional setting must have physical examinations to protect their health, ensure their ability to perform effectively, and avoid appointments or assignments incompatible with their physical condition. The basic health status of all employees should be evaluated against the specific job requirements of their assignments. Physical examination and screening procedures may be established by the appropriate medical authority for the agency in accordance with applicable laws and regulations. Policy should encourage the hiring of handicapped persons.

2945.0510 STAFF RECRUITMENT

Subpart 1. **Discrimination prohibited (mandatory).** This subpart is necessary to ensure that all job qualifications and hiring policies should be examined with the assistance of equal employment specialists from outside agencies. Employment qualifications should be demonstrably related to the skills required to perform the work. It is reasonable to expect that tests not be culturally bias.

Subpart 2. **Staff selection.** This subpart is necessary and reasonable to permit selection from a larger pool of applicants, and ensure that artificial barriers to employment should be removed.

2945.0520 EXTRA DUTY.

Needed to recognize the nature of the work is stressful and that employees should not be expected to routinely work longer than one shift at a time. The standard allows for deviation in case of emergency or unexpected staff shortages.

2945.0530 STAFFING REQUIREMENTS.

Subpart 1. **Staffing plan.** This subpart is necessary to ensure that each facility is staffed with enough employees to perform all duties and discharge all responsibilities. This is reasonable to ensure the safety and security for all prisoners detained there.

Subpart 2. **Staff person in charge. (mandatory).** This subpart is necessary to identify primary responsibility for the overall operation of the facility. This is reasonable to determine where the decision making authority for the facility.

Subpart 3. **Condition of staff person on duty. (mandatory).** This subpart is necessary to ensure that staff presence is available and the someone is capable of responding to an emergency. This is reasonable so that the safety of anyone detained is protected.

Subpart 4. **Opposite sex policy. (mandatory).** This subpart is necessary to protect each residents' right to privacy. This is reasonable because it is consistent with Minnesota Statute 642.08, which prohibits the detention of a person of one sex without the presence of a staff member of the same sex, and consistent with Minnesota Rule 2910.0900, Subpart 5.

Subpart 5. **Assistance for dispatcher/custody staffperson (mandatory).** This subpart is necessary to ensure that all services that are provided as necessary by the facility without jeopardizing the efficiency of the overall operation. This is reasonable for it is consistent with Minnesota Rule 2910.0900, subpart 7.

Subpart 6. **Reporting incidents and responding to emergencies. (mandatory).** This subpart is necessary to ensure that sufficient staff is available so that the premises are not left unsupervised at any time, and that sufficient staff is available and able to respond to the emergency needs of a prisoner. It is reasonable to require staff to complete an incident report to ensure that the situation was handled in an appropriate manner.

Subpart 7. **Ancillary functions.** This subpart is necessary to ensure that prisoners are never left unsupervised while jail staff may be occupied with noncustodial duties. This is reasonable because it is consistent with Minnesota Statute 642.02, Subdivision 2 and Minnesota Rule 2910.0900, Subpart 10.

STAFF TRAINING

2945.1000 STAFF TRAINING PLAN

Subpart 1. **Orientation and in-service training plan.** This is necessary because of all the aspects of the operation of a municipal jail facility, none is more important or essential than personnel.

The most securely constructed jail or prison have not prevented escapes by way of the front door and over 30 foot guarded wall, because of the deficiencies in numbers, and the quality of the guard force. The need for a competent staff dictates the need for personnel management practices that will aid in job satisfaction, more efficient job performance, and the operation of the jail in accordance with acceptable standards.

Proper training is essential for the protection of all concerned. This should include a general understanding of the rights and responsibility of these confined as well as the rights and responsibilities of correctional staff. Line officers should also understand why correctional administrators adopt the 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.

Subpart 2. **First aid and CPR training (mandatory).** This is necessary and reasonable due to the fact that staff are charged with ensuring the health and safety of all persons detained within the facility.

Subpart 3. **Other health and safety training (mandatory).** This is necessary to ensure that staff is capable of responding to medical situations other than emergency. This is reasonable given to large diversity of individuals which may be detained in the facility.

Item A requires instruction which would enable the staff to respond to a health threatening situation within four minutes. This is reasonable so that the safety of the prisoner can be protected as best as possible.

Item B requires instruction on the recognition of signs and symptoms of health problems and the appropriate action that may be needed for reasonable treatment.

Item C requires instruction in the methods of obtaining appropriate assistance. This is reasonable so that time is not wasted in getting the assistance necessary.

Item D requires instruction in the identification of specific problems that would be best handled outside of a municipal jail facility.

Item E requires instruction in obtaining transfers to facilities other than the municipal jail facility This is reasonable as the patient would receive proper medical or mental health care.

Item F requires instruction in the proper handling and care of a prisoner with a communicable disease. This is reasonable so that no other prisoner or staff member would become infected.

2945.1010 PART-TIME AND RELIEF STAFF

Needed to ensure that part-time or relief staff not ordinarily responsible for the supervision of prisoners have a basic understanding of the tasks they must perform. When part-time or relief staff are responsible for prisoners who are locked up, there is a prisoner concern and security concern. It is reasonable that an orientation to the facility operation be provided to these employees.

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

2945.1600 GUIDELINES AND RESPONSIBILITIES.

Due to the smaller nature and short term stay of prisoners in municipal jail facilities, it may be necessary for a variety of staff persons to be involved in the supervision of a prisoner. This responsibility may not be a part of their normal job description. Therefore, this is needed so that staff know clearly what their responsibilities are when they work within the jail facility, what tasks must be done, and what the agencies policies and procedures are. It is reasonable to have formal guidelines to ensure continuity.

2945.1610 POLICY AND PROCEDURE MANUAL.

Needed in order to ensure a uniform daily operation of the facility, the policy and procedure manual should be of sufficient detail. Every employee should have access to a copy. This is reasonable to ensure equal treatment and continuity.

2945.2100 MAINTENANCE OF RECORDS AND REPORTS.

The need for records and reports has been, in the past, due to the fact that the Department of Corrections is required to inspect and assess conditions in such facilities. As a function of that process, adequate documentation is necessary to the Department's ability to carry out the responsibility of the Commissioner of Corrections. Additionally, the Department of Corrections is under an obligation to investigate complaints made by prisoners as referred to it, either directly to the Department of Corrections by the prisoner, sent to it through the Attorney General's Office, and a number of other offices that deal with a number of the concerns mentioned under the section of record (as examples: food service, medical and dental records, etc.). To properly facilitate investigation of such complaints, it is imperative that the documentation be maintained to assist in that process and to also document that, in fact, the facility has met its legal obligations with respect to same.

Similarly, records of budget requests and work orders are especially important to the investigation of physical plant conditions. If physical plant conditions of an unsanitary, unsafe, or non-secure condition are found by the inspector; for the purpose of facilitating correction, it is extremely important that the Department be able to establish whether or not the facility administrator has submitted a request for repair. If so, has a local governing body taken the appropriate action. If the facility administrator has not submitted such request, it would be unreasonable to expect that the governing body take action with respect to such need.

Subpart 1. All subitems A through C are mandatory requirements and must be maintained in order to continue to be licensed by the department. This is necessary in order to keep accurate count of the number of prisoners held and of any unusual or special occurrences within the facility.

Subpart 2. All subitems A through K are considered to be directory requirements. Therefore, at the time of inspection it is reasonable to require a minimum of 70% of these records be maintained. Each of these items are considered to be important even if not mandatory. Those in non-compliance will be noted in the facility's report with correction expected.

All records act as documentation as to where the responsibility for failure to affect improvement lie. In the event the Department of Corrections finds it necessary to initiate action to revoke the facilities license, it should be noted very clearly and specifically where the responsibility for failure to rectify the given conditions falls. The rule is very specifically designed for the safety of both the facility administrator and the local governing board.

2945.2110 STORAGE AND PRESERVATION OF RECORDS (MANDATORY)

Records should be stored in a secure area so that they are protected from theft, loss, tampering and destruction.

2945.2120 FILING AND DISPOSITION OF PRISONER RECORDS.

State law requires that a facility maintain a prisoner register. The documents in the custody record insures that the inmates are properly committed, that inmate property is correctly managed, that a record of major events while in custody is maintained. The purpose of the custody record is primarily one of a documentation. This standard is reasonable for it is required by Minnesota Statute 641.05.

2945.2130 CONFIDENTIALITY OF AND ACCESS TO PRISONER RECORDS (MANDATORY).

Access to records for legitimate purposes should be limited only to the extent necessary to protect confidentiality. Statutes govern the confidentiality and protection of information on inmates; these statutes apply also to persons who have been discharged. When statutorily required, judicial and correctional authorities involved with the case should be supplied information without a signed consent form. Those who jail individuals are responsible under the law to protect these confidential rights of prisoners. It is reasonable to require these facilities to comply with these requirements due to the fact that it is Minnesota Statute Chapter 13.05.

2945.2500 SEPARATION OF PRISONERS (MANDATORY).

Subpart 1. **General.** This is necessary and reasonable to ensure that each facility licensed under this rule is in compliance with State Statute 641.14. It is reasonable to expect that prisoners be housed separately for reasons of age, nature of offense, and mental capabilities in order to maintain safety and security of the facility.

Subpart 2. **Prisoners to be housed separately.** This subpart with subitems A through C is necessary to spell out exactly which prisoners must be held separately. The provision of the statute requiring separation of sentenced prisoners from those awaiting trial was omitted because these municipal facilities do not hold sentenced prisoners.

Subpart 3. **Separation by sight and sound.** This subpart is necessary because it is a separate and distinct requirement of Minnesota Statute 641.14. It is reasonable to expect these facilities to keep juveniles out of the direct line of sight and adult prisoners as well as far enough away so that communication is not possible by normal conversational tones, anything louder would alert facility staff personally or over audio devices.

2945.2510 INFORMATION TO PRISONERS.

Subpart 1. **Information to prisoners.** This is necessary because prisoners have the right to know what they can and cannot do within the facility. It is reasonable to require that they be informed of what the consequences of their negative behavior might be.

Subpart 2. **Official charge, legal basis for detention (mandatory).** This is necessary in order to ensure that the prisoners know what the legal basis is for their detention and to whom all information will be disseminated.

Subpart 3. **Limitations on disciplinary actions.** This subpart is needed to protect the rights of prisoners from punitive actions from either staff or fellow prisoners. When prisoners are deprived of clothing or other items due to behavior, a superior officer and one who has not been immediately involved, needs to oversee the disciplinary action. It is necessary to expect that all disciplinary actions be instituted by facility staff and never by other prisoners.

It is reasonable to expect that prisoners be provided with hygiene items such as toilet paper, soap, and water in order to maintain an acceptable level of personal hygiene. For those facilities that are authorized to house prisoners for more than 24 hours should also provide toothpaste, toothbrush, and shampoo.

Subpart 4. **Instruments of restraint.** This is necessary to ensure that instruments of restraint are never used as a punitive action.

Subitem A, 1-3. This is necessary to define under what circumstances the use of physical restraints may be used. It is reasonable to allow the use of restraints during transfer as a precaution against escape. It is reasonable to use restraints if under the direction and order of a physician in order to prevent a prisoner from harming him/herself. It is reasonable to require the use of restraints within the facility to prevent a prisoner from injuring him/herself, others or damaging property to be done only by order of the person in charge. This is a decision made by a responsible authority.

Subitem B. It is necessary for the facility administrator to develop written policies and procedures governing the use of restraints so that all staff will be consistent in their use. It is reasonable to require this in order to ensure the proper use of restraints.

Subitem C. This is necessary and reasonable to ensure that the use of restraints does not go beyond a preventative action into a punitive action.

Subitem D. This is necessary to document the reasons for the use of restraints, and reasonable in order to justify it if the prisoner complains to our department or sues the facility.

Subpart 5. **Disciplinary records.**

Needed in order to insure that the protection of the rights of prisoners is being safeguarded as well as the protection of the facility staff. Records of disciplinary action need to be documented and records maintained in the event that legal action may occur years later and only the records may be available as the defense. The purpose of the disciplinary record is primarily one of documentation.

2945.2520 **PRISONER VISITATION.**

Visiting is needed to meet recognized constitutional and statutory rights of residents as well as to establish uniformity of basic visiting provisions for all residents of the facility. Inmates should not be denied access to visitation of persons of their choice, except where administrators or designee has clear and convincing evidence that such visits jeopardize the security of the facility, or the safety of the inmate or visitor. It is reasonable to require that the facility's visiting policy be in writing so that it is understood by prisoners and enforced by staff.

Subpart 1. **Initial visits for juveniles (mandatory).** This subpart is necessary due to fact that the act of being detained is a traumatic experience for most and especially so for a juvenile. It is reasonable to allow the initial visit by a juvenile's parent to take place as soon as possible.

Subpart 2. **Visiting plan.** This subpart is necessary to ensure that the visiting policies are equally applied to all prisoners. It is reasonable to require this plan in writing so that all staff, prisoners and visitors are aware of all stipulations.

Subitem A. This is necessary to ensure that attorney/client privilege is not breached.Subitem B. This is necessary and reasonable to ensure that all parties involved, prisoners, visitors, and staff are aware of when visiting is permitted.

Subitem C. This is necessary and reasonable in order to ensure that the facility can accommodate the demand and that all prisoners get the same treatment with respect to visits.

Subitem D. This is necessary and reasonable to ensure that a prisoner get an initial visit as soon as possible.

Subitem E. This is necessary and reasonable to ensure that visits are not being denied by staff for arbitrary and/or capricious reasons.

Subitem F. This is necessary and reasonable in order to keep an accurate accounting of all visitors for each prisoner.

Subitem G. This is necessary and reasonable to ensure privacy for the prisoner to the extent possible while maintaining the safety and security of the facility.

Subitem H. This is necessary and reasonable because for most juveniles the act of being locked up is a depressing and frightening experience. To make a juvenile wait until the next scheduled visiting time to see parents and/or attorney would be cruel and in certain circumstances dangerous if the juvenile is particularly depressed.

Subitem I. This is necessary and reasonable because the event of being detained is very depressing and disconcerting. If possible, a visit with accredited religious persons could be comforting to the prisoner and eliminate future problems within the facility.

2945.2530 CORRESPONDENCE.

Subpart 1. **Plan for prisoner mail.** An established plan for the handling of residents correspondence inclusive of those areas covered by rules here is needed and reasonable to insure that residents' legal rights with respect to correspondence are met.

Subpart 2. **Unrestricted volume of mail.** This is needed to ensure that a prisoner is not being punished by restricting his/her mail. It is reasonable to assume that if a prisoner is busy reading or writing mail he/she will be less likely to be involved in an activity detrimental to the prisoner or the facility.

Subpart 3. **Inspection and censorship (mandatory).** This is necessary and reasonable to ensure that all legitimate complaints or concerns an inmate may have concerning their care within the facility are conveyed to the appropriate authorities without interference.

Subpart 4. **Money.** Cash, checks or money orders should be received in the incoming mail and credited to the offender's account. This is necessary and reasonable in order to control the potential liability of one prisoner stealing money from another, and to curtail the possibility of gambling taking place between prisoners.

Subpart 5. **Contraband.** This is necessary and reasonable so that if contraband is discovered in either incoming or outgoing mail it is removed. Only illegal items and items that threaten the security of the facility should be considered contraband.

Subpart 6. **Sacred books (mandatory).** People in jail are in a life crisis situation. Often religion is a comfort to them. The statutes have recognized this and have required facilities to respond by providing books to read of a religious nature at the facilities expense.

2945.2540 BEDDING, LAUNDRY, AND CLOTHING REMOVAL.

Subpart 1. **Bedding.** This subpart is necessary due to the fact that upon arrest a prisoner may be tired and need to lie down. It is reasonable to require bedding to be furnished of a prisoner was to be held in the facility for longer than eight (8) hours if requested.

Subpart 2. **Laundry (mandatory).** This subpart is necessary to ensure a healthy environment for all prisoners. It is reasonable to require that the facility launder all bedding after each use. This is also required under Minnesota Statute 642.07.

Subpart 3. **Removing clothing and bedding.** This subpart is necessary in order to maintain the security and control of the facility. Policies should be established which ensures that the removal of these items is done only when the behavior of the prisoner warrants such and must never be done as a form of punishment. It is reasonable that these policies be written so that staff is uniform in their application. It is also reasonable to return these items when the person in charge determines that the prisoner's negative behavior has ceased.

2945.2550 EMERGENCIES AND SPECIAL OCCURRENCES.

Subpart 1. **Emergency plan (mandatory).** There is a need for all facilities to develop an emergency plan because they are charged with the care and custody of prisoners who are vulnerable and dependent. Proposed rules are needed and reasonable to ensure that employees of such facilities, particularly supervisors, on all shifts are familiar with steps to be taken in such situations.

Subitem A. is necessary and reasonable to ensure that all staff are familiar with where all alarms and fire fighting equipment is located.

Subitem B. is necessary so all staff is familiar with the steps to be taken in the event of an emergency. It is reasonable to require staff to practice the drill.

Subitem C. is necessary so that each staff member knows exactly what they are to do and reasonable to that there is no confusion.

Subitem D. is necessary to ensure that the appropriate and responsible people are notified.

Subitem E. is necessary to ensure that staff is familiar with the proper way to remove prisoners from the facility and reasonable to protect the health and safety of all involved.

Subitem F. is necessary to ensure the safety of the community by being able to reasonably continue to detain prisoners.

Subpart 2. **Review of emergency procedures.** If an emergency occurs, staff must be able to respond appropriately. Therefore, it is not enough to just have a plan, staff must review that plan on a regular basis. It is reasonable to require this review quarterly to keep the procedures fresh in staff's minds.

Subitem A is necessary and reasonable to ensure that each staff member knows exactly what they are to do without duplicating efforts.

Subitem B. is necessary and reasonable to ensure the efficient and appropriate use of the alarms.

Subitem C. is necessary and reasonable to ensure that the persons in charge of the facility are properly and promptly notified.

Subitem D. is necessary and reasonable to ensure that staff know where the equipment is and are instructed in the proper use.

Subitem E. is necessary to ensure the safest and fastest way out of the facility and reasonable to ensure to the greatest extent possible the health, safety and welfare of the staff and prisoners.

Subpart 3. **Reporting of special incidents.** Proposed rules concerning special occurrences are needed to ensure that the Department is made aware of such incidents in order that inquiries concerning such incidents can be effectively handled by the Department, that the Department is informed of the event of complaints for litigation, that the Department may assess such situations and assist where appropriate in the prevention of similar such incidents and that, where staff have contributed to such incidents, such knowledge may be used to the benefit of other facilities. Special occurrences listed are generally recognized as being of a serious and special nature.

Subitems A - K are examples of what the Department of Corrections considers to be special incidents. It is necessary to give these examples so that the facility and staff can reasonably determine if an incident which occurs in the facility needs to be reported. It would be impossible to list every circumstance, but by listing these examples a reasonable conclusion can be made by staff.

Subpart 4. **Prisoner death (mandatory).** The ultimate emergency or special occurrence is a death of a prisoner. It is important that staff know what to do in case of death and is important that the facility has a plan prior to such a crisis. It is reasonable to require this of municipal facilities for it is consistent with the requirements of Chapter 2910 which regulates county jails and by Minnesota Statute 390 which governs the investigation of a death by the county coroner.

Subitem A. is reasonable to ensure that the prisoner's record is complete and accurate.

Subitem B. is reasonable to ensure that the circumstances surrounding the prisoner's death are investigated by the appropriate outside authorities.

Subitem C. is reasonable to ensure that the prisoner's belongings are handled responsibly and an accurate accounting of all items is maintained.

Subitem D. is reasonable to ensure that all records are maintained and kept in accordance with state law and needed in case of lawsuit.

Subitem E. is reasonable to ensure that an independent investigation is conducted and that an accurate conclusion to the cause of death is reached.

2945.3400 FOOD HANDLING PRACTICES (MANDATORY)

This standard is necessary and reasonable to ensure that the food handling practices are done in accordance with and consistent with Minnesota Department of Health rules 4625.2401 to 4625.4701.

2945.3410 FREQUENCY OF MEALS.

This standard is necessary to ensure that prisoners are being fed adequately. The requirements of no more than 14 hours between a substantial evening meal and breakfast as well as at least 3 meals in each 24 hour period were determined to be reasonable as a minimum standard by the task force appointed by the commissioner to develop this rule.

2945.3420 THERAPEUTIC DIETS (MANDATORY).

This standard is necessary and reasonable to ensure that a prisoner is receiving care as prescribed by a physician. To further ensure that this is the case, it is reasonable to require documentation.

2945.3430 USE OF FOOD IN DISCIPLINE (MANDATORY).

This standard is necessary and reasonable to ensure that a prisoner is not being punished by depriving him/her the minimum daily nutritional requirements as defined by the Minnesota Department of Health.

2945.3440 SUPERVISION OF MEAL SERVING.

This standard is necessary and reasonable to ensure that each prisoner receives an equal serving of food, and that all utensils used in the serving of the meal are accounted for in order to maintain the safety and security of the facility.

2945.3450 HOT MEAL MINIMUM.

This is necessary and reasonable to ensure a variety of food is served. It would be inappropriate to serve a prisoner 3 meals of cereal or peanut butter sandwiches in a 24 hour period.

SECURITY

2945.4700 SECURITY POLICIES AND PROCEDURES, GENERAL.

Subpart 1. Security policies and procedures (mandatory). This subpart is necessary and reasonable due to the fact that security is the primary activity when operating any type of locked facility.

Proposed rules requiring the development of policies and procedures are needed to ensure that reasonable and prudent precautions are taken to ensure that the primary objective of the facility, which is to protect the public by securely detaining persons who present a danger to the community or to themselves, is met.

Subitem A. is necessary and reasonable in order for all staff to be familiar with the approved methods of the facility to discover and confiscate contraband items.

Subitem B. is necessary and reasonable due to the nature of the clientele being detained; it is imperative that no weapons be carried into the security area for fear of it falling into the wrong hands.

Subitem C. is necessary and reasonable to ensure that there is personal contact between prisoners and staff. The 30 minute time frame was considered to be the minimum requirement by the task force charged with the development of this rule. It also is reasonable due to the fact it is consistent with the county jail standards Chapter 2910.

Subpart 2. **Additional security policies and procedures.** This subpart is necessary to define those policies and procedures that although not mandatory, were considered to be important by the task force which developed this rule and reasonable to be consistent with Chapter 2910.

Subitem A. is necessary and reasonable in an effort to control the visitors within the facility and maintain the integrity of the facility.

Subitem B. is necessary and reasonable in an effort to control contraband and limit damage to the facility.

Subitem C. is necessary and reasonable so that staff is aware of the proper techniques of escorting prisoners outside the security perimeter to maintain detention and prevent escape.

Subitem D. is necessary and reasonable so that staff is aware of the proper techniques to prevent escape from within the facility and the proper steps to take if an escape occurs.

Subitem E. is necessary and reasonable so that staff can account for these items at all times in an effort to maintain the safety and security of the facility.

Subitem F. is necessary and reasonable so that an accurate accounting of facility usage can be maintained.

Subitem G. is necessary and reasonable so that the facility can comply with Minnesota statute 641.14 and to protect one prisoner from another when necessary.

Subitem H. is necessary and reasonable so that all staff knows exactly what they are to do in the event of a riot.

2945.4710 ADMISSIONS.

Subpart 1. **Admission policies.** This subpart is necessary and reasonable for there are specific considerations which need to be put in place when admitting a person to a jail facility.

Subitem A. is reasonable in order to ensure against the possibility of contraband being introduced to the facility.

Subitem B. is necessary and reasonable in an effort to control the spread of disease transmitted by lice within the confined environment of a jail facility.

Subitem C. is necessary and reasonable so that staff knows how to do an initial assessment to ensure that prisoners will receive prompt medical attention where appropriate.

Subitem D. is necessary and reasonable so that staff knows how to determine classification for the protection of the prisoner or the protection of others.

Subitem E. is necessary and reasonable to ensure that the prisoner has had everything returned to them that they had when they were admitted.

Subitem F. is necessary and reasonable where appropriate to ensure proper identification and to assist in ongoing investigations from other jurisdictions.

Subitem G. is necessary and reasonable in order to ensure that all pertinent information required for each prisoner is obtained.

Subpart 2. **Identification (mandatory).** This subpart is necessary and reasonable to ensure that no individual is illegally detained thus minimizing the possibility of litigation at a later date.

Subpart 3. **Privacy.** This subpart is necessary to ensure that all transactions and conversations that take place at intake are done in a location and manner that will ensure to the greatest extent possible the privacy of the prisoner. This is reasonable since the prisoners held at this time type of facility are pre-trial prisoners and are still assumed to be innocent at this point.

2945.4720 RELEASES

Subpart 1. **Return of prisoner property.** This subpart is necessary to ensure that each resident receives back all of the personal property with which he entered the facility. It is reasonable to keep any property which is used as evidence in the court case. It is reasonable to require the prisoner to sign a receipt for property so that the prisoner cannot falsely claim at a later date that some of his/her property had been lost or stolen at the facility.

Subpart 2. **Transportation.** This subpart is necessary due to the fact that persons brought to these facilities after arrest are transported by the arresting officers thus having no way back to their cars after release. It is reasonable to allow these individuals the opportunity to arrange for a ride.

Subpart 3. **No release in intemperate weather.** This subpart is necessary due to how quickly weather changes in this area of the country and that what a prisoner may be wearing at admission may not be appropriate at release. It is reasonable to protect a prisoner's health and comfort.

2945.4730 SEARCHES AND SHAKEDOWNS.

Subpart 1. **Visitor searches.** It is necessary for the facility to develop written policies regarding the searches of visitors and their belongings in order to maintain the security of the facility. Adopting and following a policy is a reasonable way to ensure that searches are done uniformly and not subject to an individual staff member's prejudices.

Subpart 2. **Regular inspection of the facility.** This is necessary and reasonable in order to achieve the main goal of staff to maintain the safety of prisoners and security of the facility. A form should be developed to document inspections.

Subpart 3. **Inspection of materials.** This subpart is necessary and reasonable due to the fact the main concern of staff is the safety and security of the facility.

2945.4740 LOCKS AND KEYS

Subpart 1. **General (mandatory).** This subpart is necessary to ensure the safety of prisoners, staff and the public. It is reasonable that a facility of this nature, given the need for security, would need a good system of key control.

Subpart 2. **Regular inspection.** This subpart is necessary and reasonable to ensure that in the event of an emergency, no prisoner would be trapped in an area with inoperable locks.

Subpart 3. **Inoperable locks (mandatory).** This subpart is necessary to ensure that when an inoperable lock is identified, it is repaired at once. It is reasonable to prohibit any prisoner from being placed in a call
or area of the facility with inoperable locks. A prisoner's safety must be protected.

2945.4750 DANGEROUS MATERIALS (MANDATORY).

This standard is necessary to ensure that any material determined by the facility administrator to be hazardous to the physical safety of prisoners or the security of the facility such as tools that could be used as weapons, cleaning materials that may be poisonous or aerosol containers that may be flammable must be controlled. It is reasonable to require that such items be under lock and key in the facility or outside of the security perimeter all together.

2945.4760 COUNT PROCEDURE

This standard is necessary and reasonable to ensure that all prisoners confined to the facility are present and accounted for and that such prisoners are not in need of medical assistance or involved in breeches of security. The larger the facility, the greater the need for formal counts.

ENVIRONMENTAL-PERSONAL HEALTH AND SANITATION

2945.5400 AVAILABILITY OF MEDICAL AND DENTAL RESOURCES (MANDATORY). This subpart is necessary for the staff of the facility who are not trained medical personnel and are not qualified to make medical judgement. Therefore, it is reasonable to require the facility have such a person or medical facility available 24 hours a day to consult.

Subpart 2. **Emergency dental care.** This subpart is necessary and reasonable due to the fact that a dental emergency is extremely painful and attention is needed immediately.

Subpart 3. **Ambulance service.** This subpart is necessary due to the fact that in the event of a medical emergency speed is of the utmost importance. It is reasonable to assume that staff cannot leave the facility and therefore outside transportation is required.

Subpart 4. **Examination of prisoner where medical attention is necessary.** This subpart is necessary since staff of these facilities are not qualified to make medical judgements. It is reasonable to require a medical examination for a prisoner in need of medical care and they cannot be neglected.

2945.5410 POSTING OF AVAILABLE RESOURCES (MANDATORY).

Proposed rules concerning posting of available resources are needed and reasonable to ensure 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 material for the telephone numbers of such resources.

2945.5420 HOSPITALIZATION OF A PRISONER.

Subpart 1. **Agreement between facility and hospital.** This subpart is necessary to ensure prisoner access to local hospital facilities when needed. It is reasonable to require these arrangements to be made in advance to eliminate any delay in getting the proper medical care.

Subpart 2. **Guarding of prisoner.** This subpart is necessary to ensure the safety of the hospital personnel and the community at large if the prisoner is deemed to be a dangerous individual by the facility administrator based on the facility's classification system. It is reasonable to allow the facility administrator the flexibility to decide that guarding the prisoner is not necessary due to the fact he is not dangerous based on classification or in the opinion of the attending physician the prisoner is medically incapacitated.

Subpart 1. **Training of personnel (mandatory).** This subpart is necessary and reasonable to ensure that persons who are responsible for the care and custody of a prisoner are trained in emergency first aid procedures. Generally accepted course is the American Red Cross Basic First Aid Course. The certificate for completion of this course is good for a 3 year period.

Subpart 2. **First aid kit.** This subpart is necessary to ensure that the supplies to administer first aid are available in the facility. It is reasonable to require the kit to be kept at a central location familiar to all staff to eliminate delay in locating.

Subpart 3. **Records of illness and injury.** This subpart is necessary in order to ensure that the medical needs of inmates are being met and reasonable to require a record so that a prisoner cannot later claim mistreatment.

Subpart 4. **Medical or dental records (mandatory).** This subpart is necessary to ensure that those prisoners that are under medical or dental care receive this care as directed by the medical personnel. It is reasonable to require these facilities to provide proper care. To this end it is reasonable to require at a minimum the following subitems.

Subitem A. is necessary and reasonable so that all staff are aware of exactly what the prisoner is or is not physically capable of doing.

Subitem B. is necessary and reasonable so that all staff are instructed in the proper medical attention to be given each prisoner.

Subitem C. is necessary and reasonable in order to keep a permanent record of all medication and the proper methods for dispersal.

Subitem D. is necessary and reasonable to ensure that a prisoner is receiving all special treatment or diet as ordered by the responsible physician.

Subitem E is necessary and reasonable so that staff will not require a prisoner to do something they are physically unable to do.

Subitem F is necessary and reasonable so that an accurate record of medical attention given a prisoner is maintained primarily in defense of allegations of improper medical attention and treatment.

2945.5440 PREVENTIVE HEALTH SERVICES.

Subpart 1. **Written plan for personal hygiene** This subpart is necessary and reasonable to ensure that each prisoner is required to maintain proper personal hygiene and it is reasonable to require staff to assist those prisoners unable to care for themselves.

Subpart 2. **Delousing materials.** This subpart is necessary and reasonable due to the fact that if these materials are used improperly it could be hazardous to the prisoner. Additionally, it is important these materials are used only when appropriate and in a manner that will be most effective.

Subpart 3. **Bathing.** This subpart is necessary to ensure each prisoner has access to washing, bathing or showering if detained for an extended period. It is reasonable to require this opportunity to bathe on a daily basis at a minimum.

Subpart 4. **Indigent prisoners (mandatory).** While it is acceptable to require a prisoner to pay for hygiene items if this is the policy of the facility, this subpart is necessary and reasonable to ensure that if a prisoner has no money that prisoner is not denied any items necessary to maintain an acceptable hygiene level.

2945.5450 DELIVERY, SUPERVISION, AND CONTROL OF MEDICINE.

Subpart 1. **Legend drugs (mandatory).** This subpart is necessary to ensure that staff are not dispensing legend drugs without a prescription.

Subpart 2. **Delivery by unlicensed staff.** This subpart is necessary to ensure that all medicine is delivered under the direction of a consulting physician to ensure its proper usage. It is reasonable due to the short period of time that prisoners will be held in these facilities to believe this will be adequate.

Subpart 3. **Policy for storage, delivery, and control of medicine.** This subpart is necessary in order to have a uniform consistent plan so that all staff are aware of the proper method of handling medicine. It is reasonable to require this plan to be formulated in conjunction with a trained medical person. It is necessary and reasonable to detail at a minimum what should be included in a minimum policy.

Subitem A) is necessary and reasonable so that medicine does not fall into the wrong hands.

Subitem B) is necessary and reasonable to ensure that unauthorized personnel does not have access to medicine.

Subitem C) is necessary and reasonable to ensure medicine is stored in the appropriate manner.

Subitem D) is necessary and reasonable to ensure prisoners do not have access to an unauthorized area.

Subitem E) is necessary and reasonable to control who has access to medicine.

Subitem F) is necessary and reasonable to ensure that the proper medicine is given to the proper prisoner by the proper method.

Subitem G) is necessary and reasonable to ensure that internal medicine does not become accidently contaminated.

Subpart 4. **Policy for delivery of medicine.** It is necessary and reasonable to ensure that all medicine is delivered in an approved, appropriate manner, and to outline all areas which are required.

Subitem A. is necessary and reasonable to ensure these policies are included.

1) is necessary and reasonable due to the fact that staff of these facilities are not trained medically and are not qualified to administer injections.

2) is necessary and reasonable due to the fact that staff of these facilities are not trained medically and would not be familiar with how certain drugs may interact and cause adverse reactions

3) is necessary and reasonable to insure the proper treatment for the reaction and to maintain the record in case of litigation.

4) is necessary and reasonable in order for the physician to address an additional course of treatment, and to guard against a prisoner claiming at a later date that he/she was not offered their medicine.

5) is necessary and reasonable to ensure that staff does not use medicine as a form of punishment.

6) is necessary and reasonable to limit access to medicine to those individuals or staff who are given this responsibility.

7) is necessary and reasonable to verify that the medicine is in fact what the prisoner claims so that staff are not dispensing non-prescribed drugs.

Subitem B. is necessary and reasonable in order to define the minimum requirements that should be included in the plan for the delivery of medicine.

1) is necessary and reasonable to ensure that the medicine is administered in the most sanitary manner.

2) is necessary and reasonable to ensure that all medicine is given to the prisoner for when it is prescribed.

3) is necessary and reasonable to ensure that the physician's orders are being followed directly.

4) is necessary and reasonable to ensure that a prisoner is not hiding the individual dosage under his/her tongue or elsewhere in an effort to stockpile medicine in an effort to take all together at a later time in an attempt at suicide or a high.

Subpart 5. **Records of receipt; disposition of drugs.** This subpart is necessary and reasonable to ensure that all medicine has been handled by staff in a proper and appropriate manner in an effort to eliminate any abuse by prisoners or staff.

Subpart 6. **Medicine given to prisoner upon release.** This subpart is necessary and reasonable for the medicine was prescribed for the prisoner and only the prisoner and in most cases was purchased by the prisoners thus is their property. It is reasonable that if the prisoner is not responsible enough to handle the medicine it is given to the appropriate authority taking custody of the prisoner.

Subpart 7. **Destruction of unused prescribed medicine.** This subpart is necessary if a prisoner refuses to take their medicine, absconds without medicine or is released directly from court and does not return for the medicine. The facility is prohibited from stockpiling legend drugs thus it must be destroyed. It is reasonable to require such destruction to be done consistent with procedures developed by Minnesota Board of Pharmacy in their rule defined in Chapter 6800.6500. Subpart 3.

2945.5460 REPORTING SUSPECTED COMMUNICABLE DISEASE (MANDATORY).

This standard is necessary in order to control the spread of a communicable disease as defined in this rule and to report it to the appropriate authority. This is reasonable and consistent with the Minnesota Department of Health Rule, Chapter 2605.7030. Subpart 2.

2945.5470 SEPARATION OF PRISONERS SUSPECTED OF HAVING A COMMUNICABLE DISEASE (MANDATORY).

This standard concerning the separation for communicable disease are needed and reasonable to ensure that prisoners placed in separation for suspicion of a communicable disease receive prompt medical attention and are not unreasonable deprived of privileges as a result of placement in separation. Separation for communicable disease is not a disciplinary action and, consequently, the individuals privileges and rights must be maintained to the greatest extent possible under the circumstances.

2945.5480 MENTALLY ILL PRISONERS

This standard is necessary to ensure that prisoners deemed mentally ill, as defined in this rule, by the facility administrator or person in charge and in consultation with an attending physician receive prompt medical assessment so that they are not a danger to themselves or others. If at all possible, such prisoners are to be placed in a facility more appropriate to the care of the prisoner.

2945.5490 HOUSEKEEPING, SANITATION, AND PLANT MAINTENANCE.

Subpart 1. **General.** This subpart is necessary and reasonable in order to achieve the main goal of the facility which is to detain persons in a secure, safe, and healthy environment.

Subpart 2. **Maintenance plan.** This subpart is necessary and reasonable to ensure the upkeep and repair of the facility if the person responsible is absent. It also assists that person to develop a routine maintenance schedule for the facility.

Subpart 3. **Compliance with rules (mandatory).** This subpart is necessary and reasonable due to the fact that corrections officials or representatives of the county sheriff's department charged with enforcing the standards of the rule are not experts in these related areas. Therefore, it is reasonable to require that these facilities be in compliance with the rules of these other agencies.

Subpart 4. **Plan for daily inspection.** This subpart is necessary and reasonable to identify any unsanitary or unsafe conditions and to provide a method to correct the situation.

Subpart 5. **Policies and procedures to detect deterioration or building and equipment.** This subpart is necessary and reasonable to provide a vehicle for the repair of the physical structure and define the minimum procedures required.

Subpart 6. **Reporting of unsanitary and unsafe conditions (mandatory).** This subpart is necessary to begin to have an unsafe or unsanitary condition corrected.

Subpart 7. **Priority of work requests.** This subpart is necessary and reasonable to ensure that those conditions which are most dangerous are corrected first.

Subpart 8. **Records of repair.** This subpart is necessary to affix responsibility for failure to correct housekeeping, sanitation, or maintenance needs. In the event of litigation, it is 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 affect improvements.

Subpart 9. **Elimination of conditions conducive to vermin (mandatory).** This subpart is necessary and reasonable to ensure against disease transmission by same. Licensed pest control operators are necessary to ensure that selection of equipment and procedures assure the most effective application of poisons, dust, sprays and traps.

Subpart 10. **Fire inspection (mandatory).** This subpart is necessary and reasonable due to the fact that the most dangerous and deadly incident that could occur in a facility that has individuals locked up is fire. It is reasonable to require the facility to be inspected by fire officials and to immediately or within the time frames allowed, correct all orders.

Department of Corrections
In the Matter of the Proposed
Adoption of the Rule of
the State of Minnesota
Governing Municipal Jail Facilities

NOTICE OF INTENT TO
ADOPT A RULE WITHOUT
A PUBLIC HEARING

(1) Notice is hereby given that the State of Minnesota intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, section 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes 241.021, Subd. 1.

(2) All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. (3) Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. (4) If 25 or more persons submit a written request for a public hearing within the 30-day period, a public hearing will be held unless a sufficient number withdraw their request in writing. (6) Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. (7) If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes section 14.131 to 14.20.

(5)
Comments or written requests for public hearing must be submitted to:

Kenneth E. Merz, Director Standards Development
Inspection and Enforcement Unit
300 Bigelow Building
450 N. Syndicate Street
St. Paul, Minnesota 55104
612/642-0333

(8) The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

(11) A copy of the proposed rule is attached to this notice.

(12) A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Kenneth E. Merz upon request.

(9) If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or wish to receive a copy of the adopted rule, must submit the written request to Kenneth E. Merz.

May 20, 1992

Orville B. Pung
Commissioner

In the Matter of the Proposed Adoption of the Rule of the State of Minnesota Governing Municipal Jail Facilities

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

Tamara L. Osowski, being sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, section 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the State of Minnesota rulemaking mailing list is accurate, complete, and current as of this 21st day of May, 1992.

That on the 21st day of May, 1992 at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt a Rule Without a Public Hearing by depositing in the United States mail, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Tamara L. Osowski

Tamara L. Osowski
Inspection & Enforcement Unit

Subscribed and sworn to before me this 21st day of May, 1992.

SHARI LYNN BURT
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Comm Expires Aug. 1. 1996

Department of Corrections

Proposed Permanent Rules Relating to Municipal Jail Facilities

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State of Minnesota intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes*, 241.021, Subd. 1.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, section 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Kenneth E. Merz, Director Standards Development
Inspection and Enforcement Unit
300 Bigelow Building
450 N. Syndicate Street
St. Paul, Minnesota 55104
612/642-0333

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Kenneth E. Merz upon request.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or wish to receive a copy of the adopted rule, must submit the written request to Kenneth E. Merz.

Dated: 20 May 1992

Orville B. Pung
Commissioner

Rules as Proposed (all new material)

CHAPTER 2945
DEPARTMENT OF CORRECTIONS
MUNICIPAL JAIL FACILITIES

2945.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of this chapter, the following terms have the meanings given them.

Subp. 2. **Administrative segregation.** "Administrative segregation" means the physical separation of prisoners prone to escape, prone to assault staff or other prisoners, likely to need protection from other prisoners or themselves, or determined to be mentally deficient and in need of special care.

Subp. 3. **Approved capacity.** "Approved capacity" means the maximum number of prisoners that any cell, room, unit, building, facility, or combination of them is approved for in compliance with the standards.

Subp. 4. **Average daily population.** "Average daily population" means the average number of prisoners residing daily during the last calendar year. Prisoners on furlough or hospitalized are excluded.

OFFICE OF THE CHIEF OF POLICE
BRADLEY J. KOLLMANN

Saint Peter Police Department

May 26, 1992

Mr. Kenneth E. Merz, Director Standards Development
Inspection and Enforcement Unit
300 Bigelow Building
450 N. Syndicate Street
St. Paul, Minnesota 55104

Dear Mr. Merz:

This communication is to make comments on the proposed rule for Municipal Jail Facilities. Below are some questions and comments.

1. We presently have a policy which conforms to the rules pertaining to jails and lock ups which were put in place approximately 2 years ago. **Question:** Will we have to comply with both sets of rules?

2. The Saint Peter Police Department has two (2) cells and is used for short periods of time for low risk prisoners. Although generally speaking the rules as set forth are good rules, many of them really are unnecessary because of the small number of cells. Would it be possible to place mandated rules according to the number of cells used as well as the time detained?

3. Page 4, Subp. 28. As I understand, it is illegal to hold mentally ill persons in a jail. It does not appear to be the case under your rules. Also, the definition is very vague. Would it make more sense to identify the mentally ill as those who are court committed as mentally ill. Also, I would think that someone adjudicated as mentally retarded would be classified as mentally ill and should be restricted from a jail. One other consideration would be those who are adjudicated as mentally ill and dangerous or psychopathic personalities. The rules should allow for the incarceration of those individuals for the safety of the public. It appear that this definition needs a lot of work to make it workable.

4. 2945.0530 Staffing Requirements., Subpart 1. Many law enforcement agencies are finding that a 10 or 12 hour shift is more effective and efficient for personnel. In fact,

OFFICE OF THE CHIEF OF POLICE
BRADLEY J. KOLLMANN

Saint Peter Police Department

the trend and the findings bear out the fact that personnel are more alert and more effective when working less days and longer hours. I would suggest that there are many law enforcement agencies who use this shift for their dispatchers, jailers and officers who would normally be in charge of jails. It really makes no sense to say that a person in charge of a jail would be less effective on a 10 or 12.5 hour shift than an officer on the street. This rule should allow for up to a 12 hour shift but to assure a long rest period between shifts, such as the rest period shall be as great between shifts as the length of the shift. This would allow for an agency to schedule a 12 hour shift but assure that the person has 12 hours off between shifts.

5. 2945.0500 Medical Examinations. The definition of a medical examination is very vague. What is the definition of a medical examination?

Please consider this a request for a copy of the adopted rules when completed.

Sincerely,

Brad Kollmann

Bradley Kollmann
St. Peter Chief of Police

star city 207 SOUTH FRONT STREET, ST. PETER, MN 56082 (507) 931-1550

BLAINE POLICE DEPARTMENT

9150 Central Avenue NE, Blaine, Minnesota 55434

Administrative – 784-6700
Emergency – 911

May 28, 1992

Mr. Kenneth E. Merz
Inspection and Enforcement Unit
300 Bigelow Building
450 N. Syndicate Street
St. Paul, MN 55104

Dear Mr. Merz:

In response to a letter dated May 20, 1992 over the signature of Commissioner Pung, I am hereby stating my wish to receive a copy of the proposed Rule Governing Municipal Jail Facilities as identified in the Commissioner's letter.

I am also requesting copies of all documentation the Department intends to use in support of either the proposed Rule or the adoption of the proposed Rule.

Thank you for your assistance in this matter.

Sincerely,

Ronald L. Nicholas, Chief of Police
Blaine Police Department

RLN/bma

cc: Holding Cell File

CITY OF HOPKINS

June 26, 1992

Kenneth E. Merz, Director Standards Development
Inspection and Enforcement Unit
300 Bigelow Building
450 N. Syndicate St.
St. Paul, MN 55104

Dear Mr. Merz,

Please provide our agency with the date of submission to the Attorney General of the proposed rule Minnesota Rules Chapter 2945.

I would also like a copy of the Statement of Need and Reasonableness to be sent to me.

I do have some questions regarding implementation. What is the proposed date for implementation and how will enforcement be carried out? What penalties are proposed for violation of any mandatory provision?

Thank you for your assistance in this matter.

Sincerely,

Heather M. Alex

Heather M. Alex, Administrative Services Manager
Hopkins Police Department
1010 1st St. S.
Hopkins, MN 55343
612-938-8885

STATE OF MINNESOTA
DEPARTMENT OF CORRECTIONS

In the Matter of the Proposed Adoption of the Rule of the State of Minnesota Governing Municipal Jail Facilities

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

Notice of the Commissioner's intent to adopt the above-entitled rule was published in the State Register on June 8, 1992 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 on May 21, 1992. The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. No requests for a public hearing on the rule were received by the agency.

Four (4) submissions or comments on the rule were received by the agency. One (1) request for notice of submission to the attorney general was received by the agency.

Based on the comments and evidence in the record before the agency, I find the following:

The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as Chapter 2945.0100 through 2945.5490 is adopted this 11 day of August, 1992, pursuant to authority vested in me by Minnesota Statutes, section 241.021.

Orville Pung
Commissioner of Corrections

LCRAR

Legislative Commission
to Review Administrative Rules

Representative Peter Rodosovich
Chair

Senator Phil Riveness
Vice Chair

55 State Office Building
St. Paul, Minnesota 55155-1201
Telephone 612/296-1143

Maryanne V. Hruby, Director

June 10, 1992

Kenneth Merz, Director
Standards Development
Inspection and Enforcement Unit
Minnesota Department of Corrections
300 Bigelow Building
450 N. Syndicate Street
St. Paul, Minnesota 55104

Dear Mr. Merz:

I write to request a copy of the Department of Correction's Statement of Need and Reasonableness (SONAR) for recently published rules relating to municipal jail facilities.

As you may know, Minnesota Statutes, sections 14.131 and 14.23 now require state agencies to provide copies of SONAR's to the LCRAR when they become available for public review.

If you have not already done so, please send a copy of the SONAR for these proposed rules to:

The Legislative Commission to Review Administrative Rules
Maryanne Hruby, Director
55 State Office Building
St. Paul, Minnesota 55155

Please contact me at 296-1143 if you have any questions.

Thank you.

SONAR was received by LCRAR on June 16th 1992 (see attached).

Sincerely,

Michele Swanson

Michele Swanson
Commission Secretary

Representatives Phil Carruthers • Jim Farrell • Dave Gruenes • Ray Welker
Senators Betty Adkins • William Belanger • John Hottinger • Fritz Knaak

STATE OF MINNESOTA

DEPARTMENT OF CORRECTIONS

In the Matter of Proposed Rules
of the Department of Corrections
Relating to Permanent Rules
Relating to Municipal
Jail Facilities
Chapter 2945

STATEMENT OF NEED
AND REASONABLENESS

INTRODUCTION

Minnesota Statutes, section 642.09, provides that the sheriff of a county in which municipality maintains a lockup, shall inspect the lockup once a year, with reference to its security and administration, and make a written report to the commissioner on blanks furnished by the commissioner and deliver a copy of the report to the governing body of the municipality maintaining the lockup.

Minnesota Statute 241.021, subdivision 1, provides that the commissioner adopt 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 in them according to law except to the extent that they are inspected or licensed by other state regulating agencies.

The Legislative Commission to Review Administrative Rules
JUN 16 1992

Minnesota Department of Corrections

Office of the Commissioner

September 3, 1992

Governor Arne Carlson
Room 130 Capitol Bldg.
75 Constitution Ave.
St. Paul, MN 55155

Dear Governor Carlson:

Minnesota Statutes, section 241.021, subdivision 1, 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. This authority was originally granted during legislation enacted in approximately 1978. At that time, the categories of facilities identified as in need of rules were prioritized. They were as follows:

1) Adult Detention Facilities (County Jails)
2) Adult Halfway Houses
3) Group Foster Homes
4) Juvenile Residential Facilities
5) Secure Juvenile Detention Facilities
6) Municipal Jail Facilities

The Municipal Jail Facility Rule was placed at the end of the priority list primarily due to the fact that under Minnesota Statute 642.09 these facilities were being inspected on an annual basis already. This statute is as follows:

642.09 INSPECTION; AGENT OF A BOARD OF HEALTH, SHERIFF.

The agent of a board of health as authorized under section 145.A.04 of every city having a lockup shall inspect the same once a year, with reference to its sanitary condition, make a written report thereof to the commissioner of corrections upon blanks furnished by the commissioner, and deliver a copy of such report to the governing body of such city. Upon filing such report the authorized agent shall receive from the treasurer of such municipality a fee of $5.00. The sheriff of any county in which a municipality maintains a lockup shall inspect such lockup once a year, with reference to its security and administration, and make a written report thereof to the commissioner of corrections upon blanks furnished by the commissioner, and deliver a copy of such report to the governing body of the municipality maintaining such lockup.

300 Bigelow Building•450 North Syndicate Street•St. Paul, Minnesota 55104•612-642-0282

An Equal Opportunity Employer

These facilities have been inspected on an annual basis by the appropriate county sheriff, health official, and fire official on forms provided by this department.

In 1987 this department began the process of developing more extensive and comprehensive standards for Municipal Jail Facilities. The promulgation process was started but then stopped due to technical problems and budgetary restraints. This process was restarted in 1990 under the direction of a new staff person. Problems were encountered with the Statement of Need and Reasonableness and once again the rule was withdrawn. After extensive consultation with the Attorney General's Office, the Revisor of Statutes Office and our internal legal consul both the Statement of Need and Reasonableness and the Municipal Jail Facility Rule itself were re-written and the process begun once again. The current status of this rule is that it is under final review by the Attorney General's Office.

I hope that this background information is beneficial to you in answering any questions you may have had with regards to the delay in the development of the rule.

Sincerely,

Orville B. Pung
Commissioner

Minnesota Department of Corrections

Office of the Commissioner

September 3, 1992

Maryanne V. Hruby, Director
Legislative Commission
to Review Administrative Rules
55 State Office Building
St. Paul, Minnesota 55155-1201

Dear Ms. Hruby:

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Sincerely,

Orville B. Pung
Commissioner

Minnesota Department of Corrections

Office of the Commissioner

September 3, 1992

Senator Allan H. Spear, Chair
Senate Judiciary Committee
Capitol Building G-27
75 Constitution Ave.
St. Paul, MN 55155

Dear Senator Spear:

Minnesota Statutes, section 241.021, subdivision 1, 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. This authority was originally granted during legislation enacted in approximately 1978. At that time, the categories of facilities identified as in need of rules were prioritized. They were as follows:

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Sincerely,

Orville B. Pung
Commissioner

Minnesota Department of Corrections

Office of the Commissioner

September 3, 1992

Representative Kathleen Vellenga, Chair
House Judiciary Committee
State Office Building, Room 509
100 Constitution Ave.
St. Paul, MN 55155

Dear Representative Vellenga:

Minnesota Statutes, section 241.021, subdivision 1, 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. This authority was originally granted during legislation enacted in approximately 1978. At that time, the categories of facilities identified as in need of rules were prioritized. They were as follows:

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Sincerely,

Orville B. Pung
Commissioner

In the Matter of the Proposed Adoption of the Rule of the State of Minnesota Governing Municipal Jail Facilities

AFFIDAVIT OF MAILING THE NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

Delores Brueske, being sworn says:

That on the 31st day of August, 1992, in the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Submission to the Attorney General by depositing in the United States mail, a copy thereof, with postage prepaid, to all persons and associations who requested notice that the rule in the above-entitled matter has been submitted to the Attorney General.

Delores Brueske

Delores Brueske
Inspection and Enforcement Unit

Subscribed and sworn to before me this 31st day of August, 1992.

Mary A. Kahnke

MARY A. KAHNKE
NOTARY PUBLIC - MINNESOTA
DAKOTA COUNTY
MY COMMISSION EXPIRES 5-9-97