



THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: 103 CMR 924.00

CHAPTER TITLE: County Correctional Facilities-Security & Control

AGENCY: Department of Correction

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*
To establish standards for the care and custody of all persons committed to any county correctional facility and provisions for the enforcement of such standards

REGULATORY AUTHORITY: M.G.L. c. 124 s. 1(c) & (d) and M.G.L. c. 127 s.1A

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Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *If this regulation is adopted as an emergency, state the nature of the emergency.*

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

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Date of public hearing or comment period: November 21, 2008

FISCAL EFFECT - Estimate the fiscal effect of the public and private sectors.

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CODE OF MASSACHUSETTS REGULATIONS INDEX - List key subjects that are relevant to this regulation:

PROMULGATION - State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:

Amends 103 CMR 924.00

ATTESTATION - The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency. ATTEST:

SIGNATURE: _____ DATE: 4/30/2009

Publication - To be completed by the Regulations Division

MASSACHUSETTS REGISTER NUMBER: 1130 DATE: 5/15/09

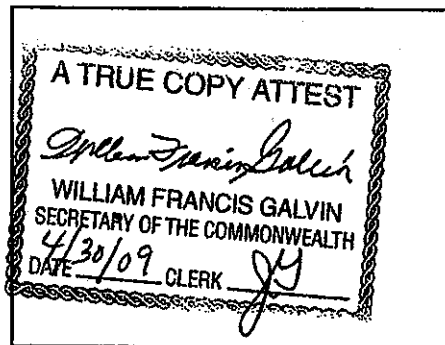
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CODE OF MASSACHUSETTS REGULATIONS

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103 CMR 924.00: COUNTY CORRECTIONAL FACILITIES -- SECURITY AND CONTROL

Section

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- 924.02: Security and Control Management
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924.01: Physical Security Measures

In order to maintain physical security at the the county correctional facility, written policy and procedure shall require:

- (1) A control center to be manned 24 hours per day and monitor and control all day-to-day facility operations, including the facility's security, life safety, and communications systems.
- (2) All security perimeter entrances, control center doors, cell block doors and all doors opening into an unsecured corridor are kept locked, except when used for admission or exit of employees, inmates or visitors, and in emergencies. This requirement shall not apply to community release facilities.
- (3) A plan of perimeter security, which includes perimeter patrols and watchtowers, if applicable. This requirement shall not apply to community release facilities.
- (4) A system for screening persons entering the facility, including surveillance and metal detector or other similar equipment, to prevent the introduction of weapons or other contraband. This requirement shall not apply to community release facilities.
- (5) A system for inspecting and logging in and out all vehicles entering the secure perimeter. This requirement shall not apply to community release facilities.
- (6) An annual security equipment needs assessment to include, but not be limited to, firearms, ammunition, disorder control and restraint equipment, chemical agents, and communications equipment.

924.02: Security and Control Management

Written policy and procedure shall:

- (1) Ensure that no inmate or group of inmates is given control or authority over other inmates;
- (2) Provide security and control requirements which include:
 - (a) that no staff member enters a high security cell block without the availability of immediate assistance from another staff member;
 - (b) that trained personnel provide around-the-clock supervision of all inmates;
 - (c) that personal contact and interaction is facilitated between staff and inmates;
 - (d) that all high security and special management inmates are observed by appropriate security staff at least every 30 minutes, but on an irregular schedule;

924.02: continued

- (e) that more frequent observation is required for those inmates who are violent, mentally disordered, or who demonstrate unusual or bizarre behavior; and,
- (f) suicidal inmates are under continuous observation (meaning one-on-one observation) by correctional officers, medical staff, or other appropriate persons as determined by the Sheriff/facility administrator; and

(3) Require that correctional officer posts shall be located in or immediately adjacent to inmate living areas to permit officers to hear and respond promptly to emergency situations.

924.03: Post Orders

(1) The county correctional facility shall provide written orders for every custodial post. These post orders are to be available to staff, reviewed annually and updated if necessary.

(2) Written policy and procedure shall require that all personnel read, sign and date the appropriate post orders at timeframes stipulated by the Sheriff/facility administrator, but at least annually and when revisions occur.

924.04: Disorder Management (Required)

(1) The county correctional facility shall develop and implement reaction plans to include written policy and procedures addressing, at a minimum, the following types of disorder situations:

- (a) inmate disorders, including:
 - 1. escapes;
 - 2. work stoppage;
 - 3. hunger strikes;
 - 4. property destruction; and
 - 5. riot.
- (b) disorders between two or more inmate factions;
- (c) intrusion of outside individuals or groups intent on disruption of normal operation or facility security;
- (d) bomb threats;
- (e) hostage incidents;
- (f) staff job action;
- (g) environmental disorders which include, but are not limited to:
 - 1. loss of utilities,
 - 2. toxic chemical contamination,
 - 3. inclement weather conditions that disrupt normal operations or restrict availability of staff;
- (h) fires; and,
- (i) space requirements for overcrowding situation, especially due to a mass arrest, or a large scale transfer from another facility.

(2) All plans are to include procedures, routes and designated holding areas for evacuation of the county correctional facility as necessary and a system of notification of appropriate staff and outside agencies.

924.05: Inmate Movement

Written policy and procedure shall provide:

- (1) A system for staff to regulate inmate movement; and
- (2) A system to physically count inmates, which includes strict accountability for inmates on work and education release, furlough, and other approved temporary absences.

924.06: Searches

Written policy and procedures shall govern searches of the county correctional facility and inmates in order to detect and prevent the introduction of contraband, recover missing or stolen property, and to prevent escapes and other disturbances. The search policy, but not the procedure, shall be made available to the inmates and the public and shall be reviewed annually and updated as necessary. The search policy shall include, but not be limited to, written policy and procedures on the following:

- (1) Visual inspection of the facility to include housing units, shops, program and activity areas, vehicles and deliveries, which are to be thorough and documented;
- (2) Personal (pat) searches of inmates, ensuring that cross-gender pat searches of inmates shall be conducted in relative privacy with as much dignity as possible.
- (3) Provided the circumstances warrant and following applicable legal restrictions, strip searches of inmates ensuring that said searches shall be conducted in relative privacy with as much dignity as possible by security personnel and conducted by staff of the same sex as the inmate. Cross gender pat searches of inmates shall be conducted in relative privacy with as much dignity as possible. Strip searches shall be conducted by one security personnel and a second security personnel within ear shot, except in an emergency as determined by the Sheriff/facility administrator or designee. Said searches may be employed in, but not limited to, the following situations:
 - (a) entrance or exit into secure area,
 - (b) transportation to and from court/medical trips/visits,
 - (c) alleged disciplinary infraction,
 - (d) inmate believed to be in possession of contraband,
 - (e) after escape or attempted escape,
 - (f) placement into isolation or segregation,
 - (g) prior to and following visits, and,
 - (h) return from temporary release (furlough, work release, etc.).
- (4) Intrusive body cavity searches, ensuring that said searches, manual or instrumental, shall not be conducted unless all of the following have occurred:
 - (a) Probable cause has been determined by staff through reasonable belief that the inmate is carrying contraband or other prohibited material;
 - (b) Authorization has been given by the Sheriff/facility administrator; and
 - (c) Search warrant has been obtained.

Note: The body cavity search shall be done by qualified health care personnel or correctional personnel thoroughly trained by health care personnel and shall be conducted in private.
- (5) Searches of visitors to the facility. (See 103 CMR 950.04);
- (6) Procedures detailing the seizure and disposal of all discovered contraband items, ensuring that staff document the circumstances;
- (7) Specific guidelines for search and preservation of evidence when a crime is suspected and prosecution is possible.

924.07: Firearms, Ammunition, and Chemical Agents (Required)

Written policy and procedure shall govern the use and storage of firearms, ammunition, and chemical agents, and shall include, but not be limited to, the following:

- (1) The types of firearms, ammunition, and chemical agents authorized for use by the Sheriff/facility administrator or designee. Only those items authorized for use may be issued/carried and only with prior authorization by the Sheriff/facility administrator or designee.
- (2) (a) Firearms may be used only as a last resort (when all other means have failed or would be ineffective) and only in the following situation: - to prevent an act which is likely to create an imminent risk of death or serious bodily injury to an employee or another person; and

924.07: continued

- (b) firearms may be used only with the prior authorization of the Sheriff/facility administrator or designee unless an emergency exists requiring the immediate use of a firearm to prevent death or serious bodily injury.
- (3) Firearms, ammunition and chemical agents shall be subject to stringent safety regulations and monthly inspections and inventories.
- (4) Each shall be stored in a secure but readily accessible depository outside of inmate housing and activity areas. There shall be an area for safe loading and unloading of firearms located outside the secure inner perimeter of the facility.
- (5) Only employees authorized by the Sheriff/facility administrator and who have been properly trained and/or requalified during the past 12 months are issued firearms and ammunition;
- (6) Chemical agents shall be issued only to employees authorized by the Sheriff/facility administrator and who have received documented training within the past 24 months in the use of chemical agents and in the treatment of individuals exposed to the chemical agents.
- (7) Employees supervising inmates outside the facility perimeter follow proper procedure for security of weapons;
- (8) Employees on duty at the facility only use firearms issued by the facility or authorized by the Sheriff and only when directed or authorized by the Sheriff/facility administrator or designee. If the Sheriff/facility administrator allows for an employee working at the facility to store a county-owned weapon at home, such authorization shall be documented in writing. Such home storage shall only be authorized if the employee working at the facility maintains a valid firearms license in the state where he/she resides.
- (9) Logs are maintained on routine and emergency distribution of all firearms, ammunition, or chemical agents; and
- (10) If a firearm or chemical agent is discharged in any instance, excluding training, the employee discharging the firearm or chemical agent must submit a full written report in accordance with Sheriff's Department policy and no later than the conclusion of duty, unless prevented by extraordinary circumstances such as injury.

924.08: Disorder Control and Communication Equipment

Written policy and procedure shall govern the storage and use of all disorder control and communication equipment and shall include, but not be limited to the following:

- (1) The types of disorder control and communication equipment authorized for use by the Sheriff/facility administrator or designee;
- (2) At least quarterly inventory and inspection of all such devices for damaged, worn or inoperable devices with replacement as required;
- (3) Proper storage in a secure locker or area readily accessible yet located outside inmate housing or activity areas;
- (4) Annual equipment needs assessment;
- (5) Recording both routine and emergency issuance;
- (6) Use of disorder control equipment by authorized and qualified staff who are instructed in use of force; and,
- (7) Reporting of the use of disorder control equipment, especially in the use of force, must be completed in accordance with Sheriff's Department policy.

924.09: Use of Force (Required)

- (1) Written policy and procedure shall govern the use of reasonable force in the following instances:
 - (a) to prevent the commission of a felony, including an escape;
 - (b) to prevent an act which could result in death or serious bodily injury;
 - (c) to defend against physical assaults;
 - (d) to prevent serious damage to property;
 - (e) to prevent or quell a riot or take over of all or part of the facility by an inmate(s);
 - (f) to move an inmate who has refused a proper order by an employee;
 - (g) to apprehend an escaped inmate;
 - (h) to effect the search of an inmate who has refused a proper order by an employee to submit to said search; and,
 - (i) to preserve the overall order and security of the facility or safety of any employee, inmate or visitor.

- (2) In no event shall physical force be justified as punishment and no employee shall use or permit the use of excessive force.

- (3) The use of firearms, chemical agents, disorder control equipment, restraint equipment (when used other than as a normal precautions during inmate movement or transportation), and K-9 (when used against persons) shall constitute a use of force and shall be governed in accordance with:
 - (a) firearms - 103 CMR 924.07;
 - (b) chemical agents - 103 CMR 924.07;
 - (c) disorder control equipment - 103 CMR 924.08;
 - (d) restraint equipment 103 CMR 924.12; and
 - (e) canine - 103 CMR 924.10.

- (4) Written policy and procedure shall provide the reporting requirements for the use of force, and shall include, but not be limited to, the following:
 - (a) the reporting of any use of force to the Sheriff/facility administrator;
 - (b) the submission of a report by the employee prior to the end of the tour of duty unless prevented by extraordinary circumstances such as injury, to include:
 1. an accounting of events leading up to the use of force;
 2. precise description of incident and reason for employing force;
 3. description of type of force used;
 4. description of observed injuries and treatment given;
 5. a list of participants and witnesses;
 - (c) a reporting to the parent agency of the incident; and,
 - (d) whenever death occurs in a use-of-force incident, the Sheriff/facility administrator, parent agency, and if appropriate, the District Attorney, shall be immediately notified.

924.10: Use of Canines

The county correctional facility, if applicable, shall provide written policy and procedure governing the use of canines, which shall include, but not be limited to, the following:

- (1) Ensuring the certification of dogs and handlers;

- (2) Ensuring that use within the facility only under direct control of handlers and with prior authorization of the Sheriff/facility administrator or designee;

- (3) Ensuring that any individual injured by a canine shall be seen by medical personnel as soon as possible;

- (4) Requiring that a full written report for the use of a canine by the handler to the Sheriff/facility administrator in accordance with Sheriff's Department policy; and

- (5) The maintenance and care of canines owned by the facility shall be in accordance with applicable rules of law and regulations; and

924.10: continued

- (6) Prohibiting the use of canines in cell extractions.

924.11: Medical Attention (Required)

Written policy and procedure shall provide that all persons injured in an incident receive medical attention, which shall include, but not be limited to, the following:

- (1) Any person injured as a result of the use of force shall be given medical attention as soon as possible and such care or treatment shall be documented; and
- (2) All inmate refusals of medical treatment shall be made to, and documented by, medical staff.

924.12: Use of Restraint Equipment

Written policy and procedure shall govern:

- (1) The reporting requirements, storage, quarterly inventories and inspection, and authorization/approvals for the use of restraint equipment;
 - (a) proper storage in a secure but readily accessible locker or an area located outside inmate housing or activity areas;
 - (b) use by only authorized and qualified staff instructed in proper use and the use of force;
 - (c) restraint equipment shall not be applied for longer than necessary;
 - (d) restraint equipment shall never be applied as punishment; and,
 - (e) only equipment authorized by the Sheriff/facility administrator shall be used.
- (2) The use of four/five point restraint equipment or a restraint chair to include:
 - (a) prior approval from the facility administrator or designee;
 - (b) medical and/or mental health assessment by the health authority or designee:
 1. in circumstances where prior approval and medical and/or mental health assessment are impractical due to the inmate's behavior or being an immediate threat to himself, staff or others, approval and assessment may occur subsequent to the inmate being placed in restraints;
 2. staff shall directly and continuously observe inmates who are restrained prior to a medical assessment; and
 3. subsequent visual observation shall be made at least every 15 minutes.
 - (c) staff utilizing four/five point restraints or a restraint chair shall submit a report prior to the end of the tour of duty unless prevented by extraordinary circumstances.

924.13: Control of Tools, and Culinary and Medical Equipment

Written policy and procedure shall govern the use and control of tools, and culinary and medical equipment, and shall include, but not be limited to, the following:

- (1) Storage in a secure location which provides a means of accountability and instant identification;
- (2) Procedure to record disbursement and return of equipment;
- (3) Procedure governing the controlled use of all tools and culinary equipment;
- (4) Return of items to appropriate locations upon completion of use, but definitely prior to end of a tour of duty; and
- (5) Immediate reporting of any lost tools, culinary or medical equipment to the appropriate supervisor, and reporting of damaged tools, culinary or medical equipment to the appropriate supervisor prior to the end of a tour of duty.

924.14: Control of Keys

Written policy and procedure shall govern the control and use of keys and shall include, but not be limited to requirements that:

- (1) County correctional facility keys shall be inventoried and stored in areas that are not accessible to inmates;
- (2) A physical count and inspection of all keys subject to being issued, except for those issued on a 24 hour basis, shall be conducted daily;
- (3) Lost or damaged keys shall be reported immediately;
- (4) The issuance of keys shall be noted by the exchange of a chit or by a written or electronic record; and
- (5) Keys which are issued on a 24 hour basis shall be approved in writing by the Sheriff/facility administrator or designee.

924.15: Inmate Transportation

Written policy and procedure shall govern inmate transportation and shall include, but not be limited to, ensuring the following:

- (1) Plan of transportation;
- (2) The use and security of county correctional facility vehicles;
- (3) That all vehicles shall be well maintained, inspected, and contain two-way radio communication and, where appropriate, safety screen; and
- (4) That use of personal vehicles for official purposes shall be prohibited, except when authorized by the Sheriff/facility administrator or designee and when provision for insurance coverage has been outlined.

924.16: Reporting and Inspections

Written policy and procedure shall:

- (1) Require the facility to maintain a written or electronic record which shall include, but not be limited to, the following:
 - (a) personnel on duty;
 - (b) inmate count;
 - (c) admissions and releases of inmates;
 - (d) shift activities;
 - (e) entry and exit of all visitors to the county correctional facility or a unit within the facility (M.D., attorneys, government officials, *etc.*); and
 - (f) unusual occurrences.
- (2) Require custodial staff to maintain written or electronic logs in each living unit and prepare a shift record daily recording, at a minimum: post assignments, routine and emergency situations, and unusual occurrences;
- (3) Govern the prompt reporting of all incidents that result in physical harm to, or threaten the safety of, any person in the county correctional facility, or that threaten the security of the facility; and
- (4) Govern the inspection of the county correctional facility's physical plant and reporting of any deficiencies and shall include, but not be limited to, the following:
 - (a) the Sheriff/facility administrator or designee, chief custodial officer and department/division head shall visit all living and activity units within the county correctional facility at least weekly, and initiate corrective action as needed; and

103 CMR: DEPARTMENT OF CORRECTION

924.16: continued

(b) line supervisors and line staff (custodial and program) shall inspect their respective units daily, and report findings to their supervisor.

REGULATORY AUTHORITY

103 CMR 924.00: M.G.L. c. 124, § (1), (c), (d) and (q); c. 127, §§ 1A and 1B.



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AGENCY: Department of Correction

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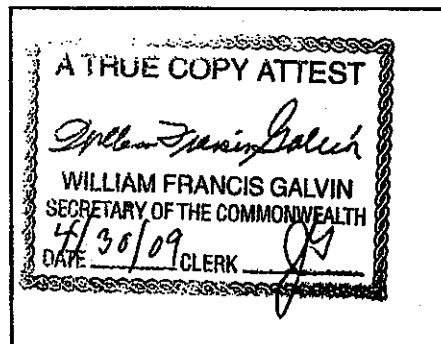
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103 CMR 926.00: COUNTY CORRECTIONAL FACILITIES -- SPECIAL MANAGEMENT INMATES

Section

- 926.01: Requirements
- 926.02: Management and Inspection of Special Management Units
- 926.03: Placement and Review of Inmates in Segregation
- 926.04: Programs and Services for Inmates in Segregation

926.01: Requirements

- (1) Written policy and procedure shall provide for the special management of inmates classified as administrative segregation, protective custody, or disciplinary detention status. Inmates requiring such special management may be confined in a separate housing unit from the general population or may be confined to their room within a general population housing unit. Regardless of where he/she is housed each special management inmate is entitled to receive the privileges and reviews discussed in 103 CMR 926.01 through 926.04.
- (2) Written policy and procedure shall govern the supervision of inmates within special management units, and shall provide requirements for the following:
 - (a) the management of inmates to include inspections and reporting;
 - (b) the placement, review, and release process for special management inmates; and,
 - (c) the programs and services offered to inmates in special management units.103 CMR 926.01 is not applicable to community release facilities.

926.02: Management and Inspection of Special Management Units

- (1) Written policy and procedure shall govern the selection criteria, supervision and assignment of staff who work with special management inmates on a regular and daily basis. These shall include procedures to supervise and evaluate the on-the-job performance of all staff members who work with such inmates.
- (2) Written policy and procedure shall require that special management inmates receive, at a minimum, the following staff visits:
 - (a) daily from the chief custody officer or shift supervisor;
 - (b) when requested from the program staff; and
 - (c) daily from qualified health care personnel unless medical attention is needed more frequently.
- (3) Written policy and procedure shall ensure that the presence of a health care provider in segregation is announced and recorded.
- (4) Written policy and procedure shall require that staff members in the Special Management Units maintain a permanent written log and shall record, at a minimum, the following information:
 - (a) admission information of inmates in units including name, number, date, time, status, special medical/mental health problems or needs, and other relevant information;
 - (b) all visits by officials who inspect the units or provide services to inmates;
 - (c) all incidents and any unusual behavior or occurrences;
 - (d) shift activities; and,
 - (e) releases of inmates.
- (5) Written policy and procedure shall govern the removal of an item or activity from an inmate in the unit. Such policy or procedure shall require that:
 - (a) no item or activity be withheld longer than is necessary to ensure the inmate's safety and the well-being of the staff and other inmates;
 - (b) an inmate shall not be deprived of an item or activity for the purpose of punishment, except in accordance with 103 CMR 943.00; and,
 - (c) if circumstances warrant the removal of all of an inmate's personal items, approval for this action shall be obtained in advance from the Facility Administrator or designee, or by medical staff, unless there is imminent danger that an inmate will induce self injury.

926.02: continued

(6) Written policy and procedure shall require that whenever an inmate in the special management unit is not allowed privilege(s) other than what is usually authorized, the supervising staff shall complete a report of the action and forward it to the facility administrator or designee. The written report shall include, but not be limited to, the following:

- (a) inmate's name and number;
- (b) the privilege(s) not allowed;
- (c) date and time of incident or removal; and,
- (d) the reasons for the action.

926.03: Placement and Review of Inmates in Segregation

When necessary to protect an inmate or others, the Sheriff/facility administrator, or designee, may place an inmate in a special management unit.

(1) This action shall be reviewed within three working days by the classification, disciplinary, or other appropriate authority depending on the type of segregation ordered.

(2) Written policy and procedure shall specify that an inmate may be placed in disciplinary detention for a rule violation only after a hearing pursuant to 103 CMR 943.09(2).

(3) Written policy and procedure shall provide that an inmate be placed in segregation for the purpose of protective custody only when there is documentation that protective custody is warranted and no reasonable alternatives are available.

(4) Written policy and procedure provide that the status of inmates in administrative segregation and protective custody are reviewed by the appropriate committee every seven days for the first two months and at least every 30 days thereafter.

(5) If special management status for administrative segregation or protective custody continues beyond 30 days, written policy and procedure shall provide that an inmate be seen by a qualified mental health care person for assessment, with a written report of the findings forwarded to the Facility Administrator. If such status continues, a psychological assessment shall be provided every three months thereafter.

(6) Written policy and procedure shall specify the review process utilized by the appropriate committee to release an inmate from administrative segregation or protective custody status.

926.04: Programs and Services for Inmates in Segregation

(1) Written policy and procedure shall require that inmates in Special Management Units are provided, at a minimum, the following:

- (a) opportunity to shave and shower at least three times per week;
- (b) barbering and hair care services on the same basis as general population inmates;
- (c) issue and exchange of clothing, bedding, linens and towels at least weekly or the laundering of the same at least weekly;
- (d) prescribed medication which shall be maintained and logged appropriately; and,
- (e) access to basic personal items for use in their cells, unless there is imminent danger that an inmate or other inmate(s) may destroy an item or induce self-injury.

(2) Written policy and procedure shall require that inmates in special management status receive the same meals as those served to the general population, or a meal representative of the food served on the main serving line. If an inmate utilizes food or serving utensils in a way that may be hazardous to himself or others, alternative meal service may be required. Alternative meal service shall be on an individual basis, be based upon health or safety considerations only, meet basic nutritional requirements, and occur with the written approval of the Sheriff/facility administrator or designee and responsible health authority. The substitution shall not exceed seven days.

926.04: continued

- (3) Written policy and procedure shall provide that inmates in segregation receive the following communication opportunities:
 - (a) the same provisions for the writing and receipt of letters available to the general inmate population;
 - (b) for inmates in disciplinary detention, limited telephone and visiting privileges to calls related specifically to access to judicial process and family emergencies as determined by the Sheriff/facility administrator or designee; and,
 - (c) administrative segregation and protective custody inmates shall have the same provisions for visiting and telephones as available to the general population, unless substantial reason exists for withholding such privileges as determined by the Sheriff/facility administrator or designee. Substantial reason shall include a threat to life, property, self, staff or other inmates, or to the security and order of the facility.

- (4) Written policy and procedure shall provide that all inmates within special management units shall have reasonable access to legal material and reading material.

- (5) Written policy and procedure shall provide that all inmates within special management units receive a minimum of one hour a day, five days a week, of exercise outside their cells, unless security or safety considerations dictate otherwise. When weather permits, this shall include outdoor exercise.

- (6) Written policy and procedure shall provide that, consistent with the safety and security of the county correctional facility, inmates in administrative segregation and protective custody have access to, at a minimum, the following facility programs and services:
 - (a) education programs;
 - (b) commissary or canteen services;
 - (c) library services;
 - (d) social services or caseworker;
 - (e) counseling;
 - (f) religious guidance; and,
 - (g) recreational programs.

REGULATORY AUTHORITY

103 CMR 926.00: M.G.L. c. 124, § (1), (c), (d) and (q); c. 127, §§ 1A and 1B.

NON-TEXT PAGE



THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: 103 CMR 928.00

CHAPTER TITLE: County Correctional Facilities-Food Services

AGENCY: Department of Correction

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*
To establish standards for the care and custody of all persons committed to any county correctional facility and provisions for the enforcement of such standards

REGULATORY AUTHORITY: M.G.L. c. 124 s. 1(c) & (d) and M.G.L. c. 127 s.1A

AGENCY CONTACT: Kevin A. Anahory PHONE: (617) 727-3300 ext 125

ADDRESS: 70 Franklin Street, Ste. 600, Boston, MA 02110

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

Notified Executive Office of Communities and Development and the Massachusetts Municipal Association on October 9, 2008. No statement of impact was received from either office, thus this regulation was deemed to have no impact.

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: November 21, 2008

FISCAL EFFECT - Estimate the fiscal effect of the public and private sectors.

For the first and second year: _____

For the first five years: _____

No fiscal effect: X _____

SMALL BUSINESS IMPACT - State the impact of this regulation on small business. Include a description of reporting, record keeping and other compliance requirements as well as the appropriateness of performance versus design standards and whether this regulation duplicates or conflicts with any other regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.

No impact on small business is anticipated as a result of this regulation.

CODE OF MASSACHUSETTS REGULATIONS INDEX - List key subjects that are relevant to this regulation:

PROMULGATION - State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:

Amends 103 CMR 928.00

ATTESTATION - The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency. ATTEST:

SIGNATURE: _____ DATE: 4/30/2009

Publication - To be completed by the Regulations Division

MASSACHUSETTS REGISTER NUMBER: 1130 DATE: 5/15/09

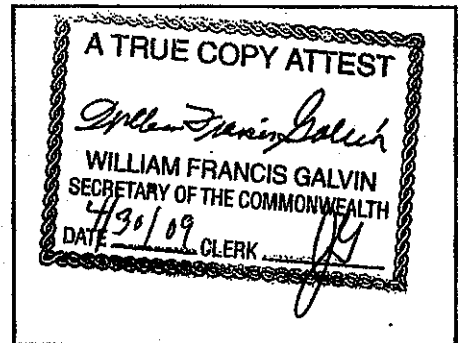
EFFECTIVE DATE: 5/15/09

CODE OF MASSACHUSETTS REGULATIONS

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103 CMR: DEPARTMENT OF CORRECTION

103 CMR 928.00: COUNTY CORRECTIONAL FACILITIES -- FOOD SERVICES

Section

- 928.01: Food Service Regulations (Required)
- 928.02: Food Service Administration
- 928.03: Health Protection For Inmates and Staff (Required)
- 928.04: Nutritional Requirements (Required)
- 928.05: Medical Diets (Required)
- 928.06: Religious Diets
- 928.07: Menu Planning
- 928.08: Food Preparation
- 928.09: Serving of Food
- 928.10: Food Storage
- 928.11: Food Service Areas and Equipment
- 928.12: Inspections

928.01: Food Service Regulations (Required)

- (1) Written policy and procedure shall require that all food service facilities, personnel and equipment comply with safety standards and regulations contained in 105 CMR 590.000: *State Sanitary Code Article X - Minimum Sanitation Standards for Food Establishments* and 105 CMR 451.000: *Minimum Health and Sanitation Regulations* of the Department of Public Health.
- (2) Written policy and procedure shall require that when the facility's food services are provided by an outside agency or individual, the facility shall obtain annual written verification that said provider complies with the Department of Public Health Regulations regarding food service.

928.02: Food Service Administration

The Sheriff/facility administrator shall designate a staff member experienced in food service management to be responsible for food service management and operations.

103 CMR 928.02 does not apply to community release facilities or to facilities that have contracted with outside vendors.

928.03: Health Protection For Inmates and Staff (Required)

Written policy and procedure shall provide for adequate health protection for all inmates and staff in the facility and inmates and other persons working in food service. Such health protection shall include:

- (1) Prior to job assignment, all food service workers receive a medical examination, to ensure freedom from diarrhea, skin infections, acute respiratory infections, or any diseases or other illnesses transmissible through food, water or utensils. Every food service worker shall have a medical examination prior to returning to work after a substantial illness; and
- (2) All food service workers shall maintain a high degree of personal cleanliness, wear clean outer garments while working and wash their hands upon reporting to duty and after using the toilet facilities.

928.04: Nutritional Requirements (Required)

Documentation shall be provided that the county correctional facility's system of dietary allowance is reviewed at least annually by a registered dietician, or physician, to ensure compliance with nationally recommended food allowances.

928.05: Medical Diets (Required)

Written policy and procedure shall govern medical and dental diets prescribed by appropriate medical and dental personnel. There shall be provisions for such diets to be reviewed and rewritten when necessary.

928.06: Religious Diets

Written policy and procedure shall provide for religious diets for those inmates whose religious beliefs require the adherence to religious dietary laws which must be pre-approved by a certified clergy of appropriate religious belief.

928.07: Menu Planning

- (1) All menus, including special diets, shall be planned, dated, and available for review at least one week in advance; notations are made of any substitutions in the meals actually served, and shall be of equal nutritional value.
- (2) The facility shall provide for menu evaluations which are conducted quarterly by facility food service supervisory staff who shall verify adherence to the nationally recommended basic daily servings.

928.08: Food Preparation

- (1) All food preparation shall be under the supervision of qualified food service personnel following a prepared menu in which the following are considered: flavor, texture, temperature, appearance, and palatability.
- (2) All food products that are grown or produced on the grounds of the county correctional facility shall be inspected and approved by qualified food service personnel for all small garden operations, and an appropriate governmental agency for larger agricultural or dairy operations. The distribution of the above products to the kitchen shall be in a timely fashion, in order to guarantee freshness and condition for optimum food service.
- (3) All food, milk and other dairy products purchased, stored and prepared shall conform with the standards outlined in the Department of Public Health Regulation, 105 CMR 590.000.

928.09: Serving of Food

Written policy and procedure shall govern the serving of food, to include, but not be limited to, the following:

- (1) Meals shall be served under the direct supervision of staff to provide conditions that minimize regimentation and avoid favoritism and improper handling of food and waste;
- (2) All meals shall normally be served in a group dining setting and only be served in cells when necessitated by safety and security;
- (3) At least three meals shall be provided at regular meal times during a 24 hour period with no more than 14 hours between the evening meal and breakfast. Two of the three meals shall be hot meals, with variations allowed on weekends or holidays or during hot summer weather, provided that the basic nutritional goals are met;
- (4) Accurate counts and records shall be maintained on all meals served; and,
- (5) Written policy shall preclude the use of food as a disciplinary measure.

928.10: Food Storage

Suitable storage facilities which are sanitary and well maintained shall be available, so that:

- (1) Shelf goods can be stored at room temperature of 45° to 80°F;
- (2) Refrigerated foods are maintained at 45°F or below; and,
- (3) Freezer temperature foods are at 0°F or below.

928.10: continued

- (4) Written policy and procedure shall be provided to stipulate what foods may be stored in inmates' rooms and that the storage of perishables in the rooms is prohibited.

928.11: Food Service Areas and Equipment

- (1) The county correctional facility shall ensure that all equipment, utensils, and surfaces for food preparation are smooth, easily cleanable and durable and kept in such repair as to be readily maintained in a clean and sanitary condition.
- (2) The county correctional facility shall provide a written plan for the maintenance of the food services area and equipment.
- (3) The county correctional facility shall conform to the manual washing procedures or the proper operation of dishwashing machines as outlined in the regulations found in Department of Public Health Regulations 105 CMR 590.000.
- (4) The county correctional facility shall ensure that all garbage and rubbish in the kitchen is disposed of with sufficient frequency, at least daily, in accordance with 105 CMR 590.000.
- (5) Toilet and wash basin facilities shall be available to food service personnel, inmates and staff in the vicinity of the food preparation area. Each such facility shall contain a proper sign regarding handwashing before returning to work.
- (6) The county correctional facility shall ensure that:
 - (a) poisonous and toxic material used to maintain the food service department are properly identified and used only in a proper manner and under such conditions that shall not contaminate food or constitute a hazard to employees and inmates;
 - (b) poisonous and toxic material used to maintain the food service department are stored in locked cabinets outside the food service area which are used for no other purpose; and,
 - (c) cleaning compounds are not to be stored in the same cabinet or area as insecticides or rodenticides.

928.12: Inspections

Written policy and procedure shall require documentation of the following inspections:

- (1) Daily inspection of the food storage facility by food service personnel, ensuring proper refrigerator and freezer temperatures, water temperatures, and sanitary conditions;
- (2) Weekly inspections of all food service areas, including dining and food preparation areas and equipment by qualified departmental staff;
- (3) Comprehensive and thorough monthly inspection by a safety/sanitation specialist;
- (4) Annual inspection of the food service department by the Department of Public Health, if any deficiencies were noted and corrected, documentation of such corrective action shall be available.

REGULATORY AUTHORITY

103 CMR 928.00: M.G.L. c. 124, § (1), (c), (d) and (q); c. 127, §§ 1A and 1B.

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THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: 103 CMR 932.00

CHAPTER TITLE: County Correctional Facilities-Health Care Services

AGENCY: Department of Correction

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*
To establish standards for the care and custody of all persons committed to any county correctional facility and provisions for the enforcement of such standards.

REGULATORY AUTHORITY: M.G.L. c. 124 s. 1(c) & (d) and M.G.L. c. 127 s.1A

AGENCY CONTACT: Kevin A. Anahory PHONE: (617) 727-3300 ext 125

ADDRESS: 70 Franklin Street, Ste. 600, Boston, MA 02110

Compliance with M.G.L. c. 30A

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Date of public hearing or comment period: November 21, 2008

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Amends 103 CMR 932.00

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SIGNATURE: _____ DATE: 4/30/2009

Publication - To be completed by the Regulations Division

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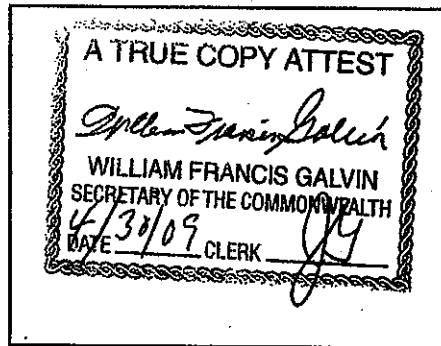
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103 CMR 932.00: COUNTY CORRECTIONAL FACILITIES – HEALTH CARE SERVICES

Section

- 932.01: Health Policy and Authority
- 932.02: Space and Health Supplies
- 932.03: Health Care Personnel
- 932.04: Health Care Treatment (Required)
- 932.05: Health Care Training (Required)
- 932.06: Admission Medical Screening (Required)
- 932.07: Health Appraisal/Physical Examination
- 932.08: Unimpeded Access to Health Care (Required)
- 932.09: Sick Call
- 932.10: General Health Care Services
- 932.11: Emergency Health Care (Required)
- 932.12: Dental Care Services
- 932.13: Mental Health Services
- 932.14: Inmate Transfers
- 932.15: Proper Management of Pharmaceuticals (Required)
- 932.16: Distributing Medications
- 932.17: Guidelines for Serious Illness, Injury, or Death
- 932.18: Medical Records
- 932.19: Medical Experimentation and Research (Required)

932.01: Health Policy and Authority

- (1) Written policy and procedure shall provide for the delivery of health care services, including medical, dental and mental health services, under the control of a designated health authority. The health authority may be a physician, health administrator, or health agency whose responsibility is pursuant to a written agreement, contract, or job description. When the authority is other than a physician, the final medical judgement shall rest solely on a physician licensed by the Commonwealth.
- (2) If a health care specialist is required, such arrangements shall be made in advance of any need, whenever possible.
- (3) The county correctional facility shall require that the health authority meet with the Sheriff/facility administrator or designee at least quarterly and submit the following:
 - (a) quarterly reports on the health care delivery system and health environment; and
 - (b) annual statistical summaries.
- (4) The county correctional facility shall maintain a manual of health care policies and procedures specifically developed for the facility and approved by the health authority.

932.02: Space and Health Supplies

The county correctional facility shall provide adequate space, equipment, supplies and materials for health care delivery by the facility as determined by the health authority and in accordance with 105 CMR 205.000: *Minimum Standards Governing Medical Records and the Conduct of Physical Examinations in Correctional Facilities*, and shall include:

- (1) First-aid kits in designated areas of the facility based on need;
- (2) Space and equipment for medical staff to conduct health examinations in a room which is used solely for the purpose of providing health care and provides a means of privacy;
- (3) When seriously ill, mentally disordered, injured or non-ambulatory inmates are held in the facility, there is at least one single-occupancy cell or room for them which provides continuing staff observation; and,
- (4) Adequate equipment and space for the storage of active and inactive medical records, including safety from fire and water damage and from unauthorized use.

932.03: Health Care Personnel

- (1) The county correctional facility shall provide qualified health care personnel by ensuring the following:
 - (a) that the Commonwealth's and federal licensure, certification or registration requirements and restrictions apply to personnel who provide health care services to inmates and that such credentials are verified and on file; and,
 - (b) that the duties and responsibilities of health care personnel are governed by written job descriptions approved by the health authority and the Sheriff/facility administrator.
- (2) The county correctional facility shall provide that the health authority systematically determines health care personnel requirements in order to provide inmate access to health care staff and services.
- (3) In county correctional facilities without full-time, qualified health personnel, a health trained employee shall coordinate the health care delivery in the facility under the joint supervision of the responsible health authority and Sheriff or facility administrator.

932.04: Health Care Treatment (Required)

Written policy and procedure shall provide for health care treatment, and shall include, but not be limited to, the following:

- (1) Treatment by health care personnel other than a physician, dentist, psychologist or independent provider shall be performed pursuant to written standing or direct orders of such person authorized by law to give such orders;
- (2) Nurse practitioners and physician assistants shall provide services under the clinical supervision of a licensed physician;
- (3) If students or interns are used to supplement health care personnel, that their work shall be performed under direct staff supervision;
- (4) Inmates shall not be used for the following duties:
 - (a) performing direct patient care services;
 - (b) scheduling health care appointments;
 - (c) determining access of other inmates to health care services;
 - (d) handling or having access to: surgical instruments, dental instruments, syringes, medications, health records; and
 - (e) operating equipment for which they are not trained.
- (5) Medical, dental and mental health matters including clinical judgments shall be the sole province of the responsible physician, dentist, qualified psychologist, or psychiatrist. Security regulations applicable to county correctional facility personnel shall apply to health personnel.

932.05: Health Care Training (Required)

- (1) Written policy and procedure shall provide for the training of other personnel to respond to health-related situations. This shall include the establishment of a training program by the responsible health authority in cooperation with the facility administrator, which includes instruction in the following areas:
 - (a) the ability to respond to health-related situations within four minutes;
 - (b) recognition of signs and symptoms, and knowledge of action required in potential emergency health care;
 - (c) administration of first aid and cardiopulmonary resuscitation (CPR) (to be documented by a copy of the current certification placed in individual training records);
 - (d) methods of obtaining assistance;
 - (e) recognition of signs and symptoms of mental illness, retardation, emotional disturbance and chemical dependency; and,
 - (f) procedures for inmate transfers to appropriate medical facilities or health care providers.

932.05: continued

(2) Each county correctional facility shall develop a written suicide prevention and intervention program that shall be reviewed and approved by qualified medical or mental health personnel. The facility shall require that all staff with responsibility for inmate supervision be trained in the implementation of this program.

932.06: Admission Medical Screening (Required)

(1) Written policy and procedure shall provide for an admission medical screening to be performed by health trained personnel or qualified health care personnel for each inmate upon arrival at the county correctional facility. The findings of the screening shall be recorded on a printed form approved by the health authority.

(2) The screening procedure shall include, but not be limited to, the following:

(a) inquiry into:

1. current illness and health problems including dental problems, communicable diseases and other infectious diseases;
2. medications taken and special health requirements;
3. use of alcohol and other drugs which includes types of drugs used, mode of use, date or time of last use, and a history of problems which may have occurred after ceasing use (e.g., convulsions);
4. past and present treatment or hospitalization for mental disturbance or suicide; and,
5. other health problems designated by a responsible physician.

(b) observations of:

1. behavior, which indicates state of consciousness, mental status, appearance, conduct, tremor, and sweating;
2. body deformities, ease of movement; and,
3. condition of skin, including trauma markings, rashes, bruises, lesions, jaundice, infestations, or needle marks or other indications of drug use.

(c) disposition of inmate to:

1. general population;
2. general population and prompt referral to appropriate health care service; and,
3. referral to appropriate health care service on an emergency basis.

932.07: Health Appraisal/Physical Examination

Written policy and procedure shall govern health appraisals and physical examinations for inmates which include the following requirements for new admissions:

(1) Pursuant to M.G.L. c. 127, § 16, each inmate committed to the facility for 30 days or more shall receive a thorough physical examination. Said examination shall take place no later than seven days after admission. This time frame may be extended to within 14 days of admission for cases in which the admission screening was completed by a physician, physician's assistant or registered nurse.

(2) If a newly admitted inmate is accompanied by a medical record containing documentation of a record of a complete physical examination within the last 90 days, a complete new physical examination is not necessary, except as determined by the designated health authority. However, qualified medical staff shall:

- (a) review the inmate's medical record;
- (b) examine the inmate for any signs of trauma or disease which may have been incurred since the last examination;
- (c) conduct any tests or examinations which are medically indicated; and,
- (d) review findings and any required follow-up services with the inmate.

(3) Health examinations shall include the following:

- (a) a review of the earlier receiving screening;
- (b) collection of additional data to complete the medical, dental, psychiatric and immunization histories;
- (c) administering of laboratory or diagnostic tests to detect communicable diseases and tuberculosis;

932.07: continued

- (d) recording of height, weight, pulse, blood pressure, temperature, and respiration;
- (e) administering of other tests and examinations as appropriate;
- (f) completion of a physical examination with comments about mental health and dental status;
- (g) review of the results of the medical examination, tests and identification of problems by a physician or by any other qualified health care personnel;
- (h) initiation of treatment when appropriate; and,
- (i) recommendations concerning housing, job assignment, or program participation, when appropriate.

932.08: Unimpeded Access to Health Care (Required)

Written policy and procedure shall provide for unimpeded access to health care and shall include the following:

- (1) A system for processing health care complaints;
- (2) Procedures for access, which shall be communicated orally and in writing to inmates upon admission; and,
- (3) The daily processing and acting upon inmates' health complaints by health-trained correctional personnel, and shall be followed by appropriate triage and treatment by qualified health personnel.

932.09: Sick Call

- (1) Written policy and procedure shall provide for continuous response to health care requests and that sick call, conducted by a physician or other qualified health personnel, is available to each inmate as follows:
 - (a) in county correctional facilities with less than 200 inmates, sick call shall be held a minimum of three days per week; and
 - (b) in county correctional facilities with over 200 inmates, sick call shall be held a minimum of five days per week.
- (2) If an inmate's custody status precludes attendance at sick call, arrangements shall be made to provide sick call services in the place of the inmate's detention.

932.10: General Health Care Services

- (1) The county correctional facility shall have a written agreement with an adequately equipped medical facility which meets the legal requirements for a licensed general hospital and will permit admission of inmates in an emergency or upon recommendation of the facility health authority or Sheriff/facility administrator.
- (2) Written policy and procedure shall provide, at a minimum, the following special medical programs:
 - (a) chronic care - medical services rendered to a patient over a long period of time;
 - (b) convalescent care - medical services rendered to a patient to assist in the recovery from illness or injury;
 - (c) for county correctional facilities housing female inmates, proper medical services appropriate to the special needs of the female population;
 - (d) medical preventive maintenance including health education and medical services provided to take advance measures against disease, such as inoculation and immunizations;
 - (e) management and care of inmates with communicable or infectious disease, including provisions for isolation if medically indicated;
 - (f) detoxification from alcohol and other drugs under medical supervision;
 - (g) as determined by the responsible physician, the provision of a medical prosthesis or elective surgery, when the health of the inmate would otherwise be adversely affected; and

932.10: continued

(h) the use of restraints for medical and psychiatric purposes, in conformance with M.G.L. c. 123, § 21.

The above policy and procedure shall be updated as new information becomes available.

(3) Written policy and procedure shall be developed regarding informed consent that provides for the following:

- (a) all examinations, treatments and procedures affected by informed consent standards in the community, shall be observed for inmate care;
- (b) that health care is rendered against an inmate's will only in accordance with law; and,
- (c) in the case of minors, the informed consent of parent, guardian or legal custodian applies when required by law.

(4) If a medical co-payment program is used, written policy and procedure shall be developed and shall address the following:

- (a) a co-payment fee may be required of all inmates for self-initiated sick call visits pursuant to M.G.L. c 127, § 16A and c. 124, §§ 1(c) and 1(s);
- (b) each county correctional facility participating in an inmate co-payment plan shall develop written procedures pertaining to the collection of fees, including the eligibility criteria of the co-payment plan.

(5) Written policy and procedure shall be developed to provide a means to ascertain whether an inmate has insurance, and if so, to ensure appropriate billing for any services provided, pursuant to M.G.L. c. 124, § 1(t).

932.11: Emergency Health Care (Required)

Written policy and procedure shall provide 24 hour emergency medical and dental care ability as outlined in a written plan. This written plan shall include, but not be limited to, the following:

- (1) On site emergency first aid by health trained staff or health care personnel;
- (2) Emergency evacuation of the inmate from within the facility;
- (3) Use of an emergency medical vehicle;
- (4) Use of one or more designated hospital emergency rooms or other appropriate health facilities;
- (5) Emergency on-call physician and dental services when the emergency health facility is not located in a nearby community; and,
- (6) Security procedures that provide for immediate transfer of inmates when appropriate.

932.12: Dental Care Services

Written policy and procedure shall require the provision of dental care, under the direction and supervision of a dentist licensed in the Commonwealth, to all inmates incarcerated for 30 days or more as follows:

- (1) Dental treatment, not limited to extractions, when the health of the inmate would otherwise be adversely affected; and,
- (2) Dental screening and examination as required.

932.13: Mental Health Services

- (1) Written policy and procedure shall require post admission screening and referral for care of mentally ill or retarded inmates whose adaptation to the correctional environment is significantly impaired. This procedure shall provide for referring inmates, who are severely disturbed and/or mentally retarded, for placement in either appropriate non-correctional facilities or in specially designated units for handling the individual.
- (2) Written policy shall require consultation between the Sheriff/facility administrator and the responsible physician or their designees prior to the following actions being taken regarding inmates who are diagnosed as having a psychiatric illness:
 - (a) housing assignment;
 - (b) program assignments;
 - (c) disciplinary measures; and,
 - (d) transfers in and out of the facility.

932.14: Inmate Transfers

- (1) Written policy and procedure shall require inmates in need of health care beyond facility resources, as determined by the responsible physician, to be transferred under appropriate security provisions to a facility where such care is available.
- (2) Written policy and procedure shall provide for health care personnel to evaluate either the inmate or his records, prior to transfer to another facility or other substantial travel, to assess suitability and special needs for travel. When travel is approved, health care personnel shall provide to the appropriate staff, the following:
 - (a) medication needs and specific written instructions for administration of such medication; and
 - (b) other special medical requirements for observation and management during travel.

932.15: Proper Management of Pharmaceuticals (Required)

Written policy and procedure shall provide for the proper management of pharmaceuticals, in accordance with the rules and regulations of the Board of Registration in Pharmacy, the Department of Public Health and the United States Drug Enforcement Agency, and shall address the following:

- (1) A formulary specifically developed for the county correctional facility;
- (2) Prescription practices which require that:
 - (a) psychotropic medications are prescribed only when clinically indicated as one facet of a program of therapy;
 - (b) "stop orders" time periods are required for all medications; and
 - (c) the prescribing provider re-evaluates a prescription prior to its renewal.
- (3) Procedures for medication receipt, storage, dispensing and distribution;
- (4) Maximum security storage and perpetual inventory of all controlled substances, syringes and needles;
- (5) Dispensing of medication by properly licensed personnel in conformance with current federal and state laws;
- (6) Distribution of medication by persons properly trained; and,
- (7) Accountability for distributing medications in a timely manner, according to physician orders.

932.16: Distributing Medications

Persons distributing medications:

932.16: continued

- (1) Shall do so under the supervision of the responsible physician;
- (2) Shall have received training appropriate to their assignments; and
- (3) Shall be accountable for the following:
 - (a) distributing medications according to orders;
 - (b) recording the distribution of medications in a manner and on a form approved by the responsible physician; and,
 - (c) reporting refusals of medication according to a procedure approved by the responsible physician.

932.17: Guidelines for Serious Illness, Injury, or Death

- (1) Written policy and procedure shall govern the process for notification in cases of serious illness or injury, which shall specify the following:
 - (a) the process by which those individuals so designated by the inmate are notified in case of serious illness or injury; and,
 - (b) procedures for obtaining permission for notification from the inmate prior to need, when possible.
- (2) Written policy and procedure shall establish guidelines in the event of death of an inmate or employee of the facility to include, but not be limited to the following:
 - (a) internal notification to include medical and administrative staff;
 - (b) procedures when discovering body;
 - (c) disposition of the body;
 - (d) notification of next of kin;
 - (e) notification of CORI certified individuals as soon as practicable;
 - (f) investigation of causes;
 - (g) reporting and documentation procedures;
 - (h) procedure for review of incident by appropriate designated staff with a final report submitted to all appropriate parties.

932.18: Medical Records

- (1) The county correctional facility shall develop a complete system for maintaining medical, dental, and mental health records of inmates. This shall include the maintenance of a separate medical record for each inmate committed or detained for more than 48 hours. All records shall be maintained in accordance with 105 CMR 205.000: *Minimum Standards Governing Medical Records and the Conduct of Physical Examinations in Correctional Facilities*.
- (2) The medical record file shall contain, but not be limited to, the following items:
 - (a) the completed admission screening form;
 - (b) health appraisal data collection forms;
 - (c) prescribed medications and their administration;
 - (d) laboratory, x-ray and diagnostic studies;
 - (e) signature and title on each document;
 - (f) consent and refusal forms;
 - (g) release of information forms;
 - (h) place, date and time of health encounters;
 - (i) discharge summary of hospitalizations;
 - (j) health service reports (e.g., dental, psychiatric and other consultations); and,
 - (k) all findings, diagnoses, treatments, dispositions. (M.G.L. c. 127, § 17).
- (3) The county correctional facility shall ensure that the method of recording entries in the medical record, and the form and format of the record, are approved by the health authority.
- (4) Written policy and procedure shall govern the confidentiality of the medical record and require that, at a minimum:

932.18: continued

- (a) the active health record is maintained separately from the confinement record;
 - (b) access to the health record is controlled by the health authority, and that only those persons who need access to the record in order to provide medical services to the inmate or fulfill statutory obligations, and those persons specifically authorized by the inmate to see the record shall have access to the information in them; and,
 - (c) the health authority shall share with the Sheriff/facility administrator information regarding an inmate's medical management, security, and ability to participate in programs; and
 - (d) Human immunodeficiency virus (HIV) test information shall be released only with the inmate's written consent, or as otherwise provided under Massachusetts General Laws.
- (5) The county correctional facility shall provide for the inspection of a medical record by the subject inmate, by his attorney or by any other person upon written authorization from the inmate. In accordance with 105 CMR 205.505, the inmate's signature on the written authorization shall be witnessed by a county correctional facility staff person.
- (6) Written policy and procedure shall govern the transfer of health records and information, and shall include the following requirements:
- (a) a copy of the medical record or a summary sheet shall be forwarded with the inmate upon transfer to another correctional or health care facility. Any portion of the record, which is not reasonably completed at the time of transfer, shall be completed and a copy delivered to such facility within 72 hours of the transfer; and,
 - (b) medical record information shall also be transmitted to specific and designated physicians or medical facilities in the community upon the written authorization of the inmate.
- (7) The facility shall provide for the maintenance of inactive medical records, in accordance with jurisdictional authority.

932.19: Medical Experimentation and Research (Required)

Written policy shall prohibit the use of an inmate(s) for medical, pharmaceutical, or cosmetic experiments. 103 CMR 932.19 shall not preclude individual treatment of an inmate based on his need for a specific medical procedure which is not generally available.

REGULATORY AUTHORITY

103 CMR 932.00: M.G.L. c. 124, § (1), (c), (d) and (q); c. 127, §§ 1A and 1B.



THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: 103 CMR 934.00

CHAPTER TITLE: County Correctional Facilities-Legal Rights

AGENCY: Department of Correction

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*
To establish standards for the care and custody of all persons committed to any county correctional facility and provisions for the enforcement of such standards.

REGULATORY AUTHORITY: M.G.L. c. 124 s. 1(c) & (d) and M.G.L. c. 127 s.1A

AGENCY CONTACT: Kevin A. Anahory

PHONE: (617) 727-3300 ext 125

ADDRESS: 70 Franklin Street, Ste. 600, Boston, MA 02110

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

Notified Executive Office of Communities and Development and the Massachusetts Municipal Association on October 9, 2008. No statement of impact was received from either office, thus this regulation was deemed to have no impact.

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: November 21, 2008

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Amends 103 CMR 934.00

ATTESTATION - The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency. ATTEST:

SIGNATURE: _____ DATE: 4/30/2009

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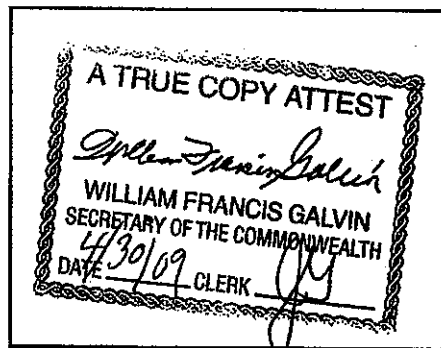
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CODE OF MASSACHUSETTS REGULATIONS

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103 CMR 934.00: COUNTY CORRECTIONAL FACILITIES -- LEGAL RIGHTS

Section

934.01: Inmate Rights (Required)

934.02: Grievance Procedures (Required)

934.03: Reasonable Accommodations of Special Needs

934.01: Inmate Rights (Required)

Each county correctional facility shall ensure that inmate rights are being protected by providing, at a minimum, the following:

- (1) Written policy and procedure ensuring that inmates shall have access to the courts and to address communications to governmental authorities. Inmates seeking judicial or administrative redress shall not be subjected to reprisals or penalties as a consequence.
- (2) Written policy and procedure shall ensure and facilitate that inmates have access to attorneys and their authorized representatives.
- (3) Written policy and procedure shall provide the following:
 - (a) that program access, work assignments and administrative decisions are made without regard to inmates' race, national origin, religion, creed, sex, sexual orientation, or handicap; and
 - (b) equal opportunity to access various programs and work assignments, and involvement in decisions concerning classification status.
- (4) Written policy and procedure shall provide for a program designed to assist inmates in the preparation and filing of legal papers. Such a program shall meet the minimum requirements for legal assistance programs required by applicable Federal and State law. The program shall consist of one of the following:
 - (a) a law collection containing legal materials meeting the minimum requirements of such a collection as required by applicable Federal and State laws, and the required equipment and supplies to prepare legal papers; or,
 - (b) a lawyer assistance program which shall furnish inmates with sufficient opportunity to meet with and be counseled by attorneys, to the extent required by the demonstrated legal needs of the particular inmate.
- (5) Written policy, procedure and practice provide that foreign nationals have access to the diplomatic representative of their county of citizenship.

934.02: Grievance Procedures (Required)

Written policy and procedure which shall provide for the establishment of an inmate grievance procedure, which will provide all inmates access to an administrative remedy for redress of legitimate complaints. The inmate grievance process shall include, but not be limited to:

- (1) Procedures establishing informal measures for resolving inmate complaints.
- (2) Procedures establishing a process where inmates who have not resolved their complaint informally may formally process their complaint.
- (3) A requirement that staff date a receipt of a formal written grievance.
- (4) Procedures ensuring that formal grievances shall be investigated and resolved within 15 working days of receipt. However, grievances of an emergency nature, *e.g.*, those that may subject the inmate to a substantial risk of personal injury or other damages, shall be prioritized as necessary.

934.02: continued

(5) A requirement that a written explanation shall be provided to the inmate regarding the denial or approval of the grievance. Ensure that approvals clearly state what corrective action shall be taken and denials shall inform the inmate of the right to appeal to the Sheriff/facility administrator or designee.

(6) Procedures ensuring that upon receipt of an inmate appeal the appellate authority shall date the receipt.

(7) A requirement that the appeal shall be resolved within 30 working days of receipt.

(8) Procedures ensuring that the appellate authority provide the inmate with a written explanation regarding the denial or approval of the appeal, and if approved, the corrective action to be taken shall be specified.

(9) Procedures ensuring that no disciplinary action shall be taken against an inmate as a result of communication of a complaint unless the complaint is knowingly false or misleading or the inmate's conduct otherwise gives rise to a disciplinary infraction.

The Sheriff/facility administrator may waive the time limits under extenuating circumstances not to exceed an additional 30 working days.

934.03: Reasonable Accommodation of Special Needs

Written policy and procedure shall provide a process to address inmate requests for special accommodations which may fall under the Americans with Disabilities Act (ADA) or other provisions of state and federal law.

REGULATORY AUTHORITY

103 CMR 934.00: M.G.L. c. 124, § (1), (c), (d) and (q); c. 127, §§ 1A, 1B and 38E.



THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: 103 CMR 936.00

CHAPTER TITLE: County Correctional Facilities-Inmate Services and Programs

AGENCY: Department of Correction

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

To establish standards for the care and custody of all persons committed to any county correctional facility and provisions for the enforcement of such standards.

REGULATORY AUTHORITY: M.G.L. c. 124 s. 1(c) & (d) and M.G.L. c. 127 s.1A

AGENCY CONTACT: Kevin A. Anahory PHONE: (617) 727-3300 ext

125

ADDRESS: 70 Franklin Street, Ste. 600, Boston, MA 02110

Compliance with M.G.L. c. 30A

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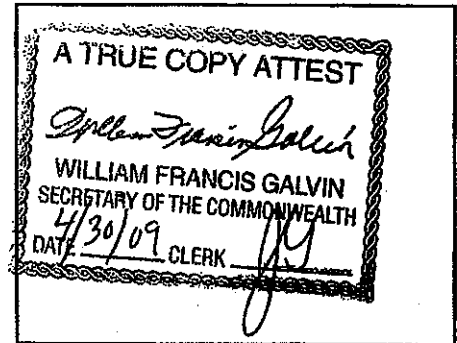
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CODE OF MASSACHUSETTS REGULATIONS

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103 CMR 936.00: COUNTY CORRECTIONAL FACILITIES -- INMATE SERVICES AND PROGRAMS

Section

- 936.01: General Provisions
- 936.02: Academic and Vocational Education
- 936.03: Social Services
- 936.04: Library Services
- 936.05: Recreational and Leisure Activities
- 936.06: Religious Services

936.01: General Provisions

- (1) Written policy and procedure shall provide that inmate programs and services be available and include, but not be limited to, the following:
 - (a) social services;
 - (b) religious services;
 - (c) recreation and leisure time activities;
 - (d) library services; and,
 - (e) educational/vocational services and counseling.
- (2) Written policy and procedure shall govern inmate services and programs, and shall include the following provisions:
 - (a) eligibility criteria for programs;
 - (b) identification and use of available community resources;
 - (c) provision that inmates have the option to refuse to participate in facility programs, except work assignments, adult basic education and other programs required by statute;
 - (d) refusals to participate in required programs shall be documented in writing and shall not prejudice an inmate for future participation; and,
 - (e) when incarcerated within the same facility, males and females shall have equal opportunities for participation in programs and services.

936.02: Academic and Vocational Education

- (1) Written policy and procedure shall provide for an education program available to all eligible inmates that includes, but is not limited to, the following components:
 - (a) basic literacy training;
 - (b) preparation for the general education development test; and
 - (c) instruction in the English language for those for whom English is not the native language.
- (2) Written policy and procedure shall provide, where possible, inmate access to vocational training programs, relevant to skills demanded in the local job market.

This requirement shall not be applicable to jail facilities.
- (3) The county correctional facility shall ensure that all academic and vocational education personnel meet certification requirements as stipulated by the Commonwealth's Department of Education or are working toward said certification.
- (4) The county correctional facility's educational program shall allow for flexible scheduling that permits inmates to enter and to proceed at their own learning pace.
- (5) The county correctional facility shall provide academic and vocational counseling so that inmates are placed in the phase of the educational/vocational programs most suited to their needs and abilities.
- (6) The county correctional facility shall ensure that each educational program is supported by specialized equipment, including classrooms, administrative space, chalkboards, and necessary teaching supplies and equipment.

936.02: continued

- (7) The county correctional facility shall ensure that a record is kept of each inmate's participation in any educational/vocational programs.
- (8) The county correctional facility shall provide for formal recognition of inmates for specific educational accomplishments.
- (9) The Sheriff/facility administrator shall submit the individual's educational record to the parole board pursuant to M.G.L. c. 127, § 135 for use in considering the individual's eligibility for parole.

936.03: Social Services

- (1) Written policy and procedure shall provide for a social service program that provides a range of resources appropriate to the needs of inmates, including individual counseling, community services and crisis intervention services. The program may include family counseling, family planning, and parental education.
- (2) Written policy and procedure shall provide that the county correctional facility staff identify at least annually the needs of the inmate population to ensure that the necessary programs and services are available.
- (3) Written policy and procedure shall provide counseling and program services for inmates with drug and alcohol addiction problems.
- (4) The county correctional facility's social services program shall be administered and supervised by appropriately trained personnel with a minimum of a bachelor's degree in social or behavioral sciences or a related field.
- (5) Written policy and procedure shall require that each inmate receive an orientation to the county correctional facility by a member of the social services staff within one calendar week of admission.
- (6) Written policy and procedure shall require that a counselor or caseworker be assigned to every sentenced inmate.
- (7) Pre-trial detainees may have a counselor or caseworker assigned upon request, or when deemed appropriate by the facility administrator or designee. Crisis intervention shall be available to all individuals held in the county correctional facility.

936.04: Library Services

- (1) The county correctional facility shall provide library services to all inmates. These services, when possible, shall include an inter-library loan program.
- (2) The county correctional facility shall provide for a staff member or trained volunteer to coordinate and supervise library services.

936.05: Recreational and Leisure Activities

Written policy and procedure shall provide opportunities for inmates to participate in recreational and leisure time activities outside the cell on a daily basis. This shall include access to recreational equipment, and at least one hour daily of physical exercise outside the cell, and outdoors when weather permits.

936.06: Religious Services

- (1) Written policy and procedure shall grant inmates the right to their religious beliefs, subject only to the limitations necessary to maintain institutional order and security.

936.06: continued

(2) The Sheriff/facility administrator shall provide the opportunity for inmates to participate in religious services and counseling on a voluntary basis.

REGULATORY AUTHORITY

103 CMR 936.00: M.G.L. c. 124, § (1), (c), (d) and (q); c. 127, §§ 1A and 1B.

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THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: 103 CMR 940.00

CHAPTER TITLE: County Correctional Facilities-Admission, Orientation, Property Control and Release

AGENCY: Department of Correction

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*
To establish standards for the care and custody of all persons committed to any county correctional facility and provisions for the enforcement of such standards.

REGULATORY AUTHORITY: M.G.L. c. 124 s. 1(c) & (d) and M.G.L. c. 127 s.1A

AGENCY CONTACT: Kevin A. Anahory PHONE: (617) 727-3300 ext 125

ADDRESS: 70 Franklin Street, Ste. 600, Boston, MA 02110

Compliance with M.G.L. c. 30A

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Date of public hearing or comment period: November 21, 2008

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Amends 103 CMR 940.00

ATTESTATION - The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency. ATTEST:

SIGNATURE: _____ DATE: 4/30/2009

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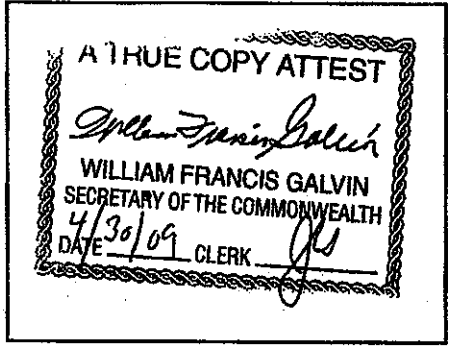
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CODE OF MASSACHUSETTS REGULATIONS

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103 CMR 940.00: COUNTY CORRECTIONAL FACILITIES -- ADMISSION, ORIENTATION,
PROPERTY CONTROL AND RELEASE

Section

940.01: Admission and Orientation

940.02: Property Control

940.03: Release of Inmates

940.01: Admission and Orientation

- (1) Written policy and procedure shall govern the admission and orientation of new inmates. Written policy and procedure shall require a system to identify all nonperishable canteen purchased items accrued throughout the inmate's incarceration.
- (2) Written procedure for admitting new inmates to a county correctional facility shall address, at a minimum, the following:
 - (a) verification of court commitment papers or other legal documents, and a check for outstanding warrants;
 - (b) complete search of the individual and his possessions;
 - (c) disposition of clothing and personal possessions;
 - (d) medical and mental health screening and health appraisal as required in 103 CMR 932.06;
 - (e) telephone calls by inmates;
 - (f) showers and hair care if necessary;
 - (g) issue of clean clothing;
 - (h) photographing or fingerprinting, including notation of identifying marks or unusual characteristics;
 - (i) interview for obtaining identifying data;
 - (j) screening interview by counselor or other trained interviewer;
 - (k) orientation;
 - (l) issue of personal hygiene items;
 - (m) classification for assignment to a housing unit; and
 - (n) assignment to a housing unit.
- (3) Inmates shall be separated from the general population during the admissions process.
- (4) Written policy and procedure shall ensure that all newly admitted inmates receive written or oral orientation information in a language in which the inmate is fluent, to include, but not be limited to: Rules and Regulations, Disciplinary Regulations, Health Services, Mail, Visiting, and Program Services. Completion of orientation shall be documented by a statement that is signed and dated by the inmate and staff person presenting the orientation.

940.02: Property Control

- (1) Written policy and procedure shall specify the personal property inmates can retain in their possession.
- (2) Written policy and procedure shall require a written, itemized inventory of all personal property of newly admitted inmates and secure storage of inmate property including money and other valuables. The inmate shall be given a receipt for all property held until release.
- (3) The facility administrator at each county correctional facility shall appoint a property officer who shall maintain inventories and records of all inmate property. This includes all property items accrued throughout the inmate's incarceration.
- (4) The county correctional facility shall maintain a secure property storage area(s) for the storage of inmate personal clothing and personal property.

940.02: continued

(5) Whenever an inmate is transferred to another correctional facility, all personal property approved for retention at the receiving facility shall be transferred with him, or as soon as practicable thereafter. The property officer shall note on the inmate's inventory the date and the person to whom each item of property is released.

(6) Written procedure shall specify the manner of disposal of inmate property which is being held on a temporary basis (property not allowed, property of discharged, paroled, deceased, etc.).

940.03: Release of Inmates

- (1) Written procedure for releasing inmates shall include, but not be limited to, the following:
- (a) verification of identity;
 - (b) verification of release papers;
 - (c) completion of release arrangements, including the person or agency to which the inmate is to be released;
 - (d) return of all personal property to include an inmate's signature verifying receipt of property;
 - (e) verification that no unauthorized facility property leaves the county correctional facility with the inmate;
 - (f) completion of any pending action, such as grievances or claims for damages or lost possessions;
 - (g) verification that there are no outstanding warrants or pending cases involving the inmate, and a procedure to notify proper authorities, *i.e.*, state fire marshal (M.G.L. c. 127, § 162A) and colonel of the state police (M.G.L. c. 22C, § 37); and
 - (h) consistent with M.G.L. c. 258 and M.G.L. c. 6, § 172 c, there is a system for providing 14 day advance notification by telephone and mail to the CORI certified individuals prior to the scheduled release of the CORI subject (named inmate). If applicable, the notice shall identify the name and location of any agency having jurisdiction (*e.g.*, probation, or a from and after sentence) of the inmate upon release; immediate telephone and written notification shall be made upon receipt of information of an escape, court ordered release, or any other unscheduled release from custody. Follow-up notification to the victim(s) occurs when escapees are returned to custody. CORI certification notification actions shall be documented and entered into the Criminal History Systems Board confidential database (Victim Automation System).

REGULATORY AUTHORITY

103 CMR 940.00: M.G.L. c. 124, § (1), (c), (d) and (q); c. 127, §§ 1A and 1B.



THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: 103 CMR 942.00

CHAPTER TITLE: County Correctional Facilities-Classification

AGENCY: Department of Correction

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*
To establish standards for the care and custody of all persons committed to any county correctional facility and provisions for the enforcement of such standards.

REGULATORY AUTHORITY: M.G.L. c. 124 s. 1(c) & (d) and M.G.L. c. 127 s.1A

AGENCY CONTACT: Kevin A. Anahory PHONE: (617) 727-3300 ext 125

ADDRESS: 70 Franklin Street, Ste. 600, Boston, MA 02110

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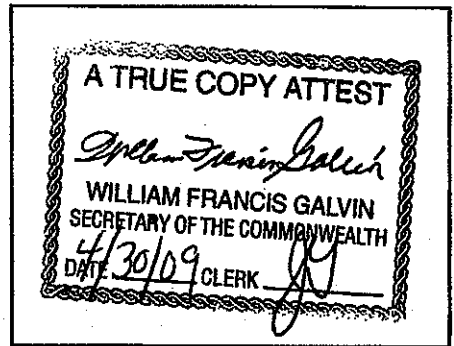
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CODE OF MASSACHUSETTS REGULATIONS

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103 CMR 942.00: COUNTY CORRECTIONAL FACILITIES -- CLASSIFICATION

Section

- 942.01: Classification Plan
- 942.02: Criteria Used
- 942.03: Minimum Requirements in Classification (Required)
- 942.04: Procedure for Classification
- 942.05: Appeal of Classification Decision
- 942.06: Staff Responsibilities

942.01: Classification Plan

- (1) The county correctional facility shall develop and implement a written plan for inmate classification. The plan shall provide written policy and procedure for inmate classification in terms of custody required, housing assignment and participation in correctional programs.
- (2) The plan shall include, but not be limited to, the following:
 - (a) criteria used to determine assignment;
 - (b) minimum requirements in classification;
 - (c) procedures for classification;
 - (d) appeal process for classification decisions; and,
 - (e) staff responsibilities.

942.02: Criteria Used

The Classification Plan shall include written policy and procedure of specific criteria used to determine the inmate's classification assignments. These criteria shall include, but not be limited to:

- (1) age;
- (2) sex;
- (3) tendency for violent, disruptive behavior;
- (4) sentence and any pending court actions;
- (5) type of crime;
- (6) prior incarceration at facility;
- (7) prior criminal history, if any;
- (8) educational level;
- (9) need for protective custody; and,
- (10) employment history and skills.

942.03: Minimum Requirements in Classification (Required)

The Classification Plan shall include written policy and procedure that require:

- (1) Female inmates shall be housed separately from and out of sight of male inmates.
- (2) Juveniles tried and adjudicated as adults shall be managed separately from adult inmates.
- (3) Awaiting trial inmates shall be housed according to statute.
- (4) Inmates assessed as having special needs (mentally ill, drug addicts, handicapped, emotionally disturbed, chronically ill) shall be managed, and where necessary, housed separately.

942.03: continued

- (5) Inmates who, because of their criminal record, the nature of the charges pending against them, their behavior within the facility or other reliable and relevant information, are determined to be a threat to persons, property, or the security of the institution, or in need of protection from other inmates, shall be housed separately from inmates in the general population in a living area operated in accordance with suitable security procedures.
- (6) Inmates shall not be segregated by reasons of race, religion, political beliefs, or national origin.
- (7) Inmates shall be classified in appropriate levels of security which shall include, but not be limited to, the following:
- (a) Maximum Security: A security level in which both the design/construction as well as inmate classification reflect the need to provide maximum external and internal control and supervision of inmates primarily through the use of high security perimeters and extensive use of internal physical barriers and check points. 103 CMR 942.03(7)(a) is applicable to all jail only facilities.
 - (b) Medium Security: A security level in which both the design/construction as well as inmate classification reflect the goal of restoring to the inmates some degree of responsibility and control of their own behavior and actions, while still ensuring the safety of the staff and other inmates. Design/construction is generally characterized by high security perimeters and limited use of internal physical barriers.
 - (c) Minimum Security: A security level in which both the design/construction as well as inmate classification reflect the goal of returning to the inmate a greater sense of personal responsibility and autonomy while still providing for supervision and monitoring of behavior and activity. Design/construction is generally characterized by limiting security to exterior building walls.
 - (d) Pre-release Security: A security level in which both design/construction as well as inmate classification reflect the goal of restoring to the inmate the maximum of responsibility and control of their own behavior and actions prior to release. Design/construction is generally characterized by providing monitoring abilities to the building exterior walls.

942.04: Procedure for Classification

- (1) The Classification Plan shall include written policy and procedure directing initial classification procedures to include, at a minimum, the following:
- (a) Obtaining as much information about the inmate upon admission as soon as possible, including solicited pre-institutional assessment information, to become familiar with the inmate's history and for designing an individual classification plan;
 - (b) Maintaining complete and accurate case record information as required on each inmate for use during classification hearings, decisions, ad reviews; and
 - (c) Assignment of a counselor/social worker to each newly admitted inmate within 72 hours to ensure that appropriate intake and admission procedures have been completed and to assist the inmate with initial classification activities.
- (2) The Classification Plan shall provide for a classification hearing for all sentenced inmates held beyond 30 days which includes, at a minimum, the following:
- (a) inmates shall be given notice 48 hours notice prior to any classification hearing. Such notice may be waived by the inmate in writing;
 - (b) initial classification hearing shall consist of, at a minimum, the following:
 1. notice of hearing;
 2. case presentation by case counselor;
 3. inmate presentation;
 4. recommendation of a Classification Board; and,
 5. written summary of classification decision.
 - (c) all inmates scheduled for a hearing should appear at the hearing unless precluded for security or other substantial reasons, and such absence shall be documented;
 - (d) classification recommendations concerning housing placement and program participation are based on eligibility, suitability and other relevant information. Recommendations shall include a date upon which the case shall be reviewed again; and

942.04: continued

(e) the classification recommendation shall be reviewed by the Sheriff/facility administrator, or designee, and a decision of security level, housing assignment, and program participation shall be made within ten days after receipt of the Board's recommendation.

(3) The Classification Plan shall include written policy and procedure to provide for regular review of each sentenced inmate's classification status which shall include, but not be limited to, the following:

- (a) written review at least every 60 days, to monitor adherence to classification plan;
- (b) a procedure specifying conditions under which inmates may initiate reviews of their classification status; and,
- (c) procedures and criteria for changing the status of an inmate. Any change in status shall be subject to a review by the full Classification Board within 20 days of such a change.

(4) The Classification Plan shall include written policy and procedure for notifying the inmate of the classification decision and shall include the following:

- (a) all inmates shall be notified verbally of the Classification Board's recommendations;
- (b) a formal notification within ten working days, which includes the classification decision, the signature of the board chairperson or designee, signature of Sheriff/Facility Administrator or designee, and the date of the next review;
- (c) upon receipt, the inmate shall sign the notification which verifies receipt and knowledge of the decision; and,
- (d) the specific reasons for reclassification may be withheld from the inmate if knowledge of this information by the inmate would present a threat to the safety of an individual or the security or order of the facility.

942.05: Appeal of Classification Decision

The Classification Plan shall provide written policy and procedure for an appeal process to the Sheriff/facility administrator, or designee, which shall include:

- (1) A procedure for inmates to appeal to the facility administrator, or designee, within five working days of receipt of the decision; and,
- (2) A written response to the inmate's appeal within ten working days of receipt of the appeal.

942.06: Staff Responsibilities

The Classification Plan shall include written policy and procedure governing staff responsibilities and shall include, but not be limited to, the following:

- (1) The appointment of a classification director, or a designated staff member, who is responsible for administering the Classification Plan;
- (2) The facility administrator shall designate appropriate, relevant, and trained staff from various areas of the county correctional facility to serve as members of the Classification Board. The Board shall consist of a minimum of three members, one of which is to be a county correctional security staff;
- (3) All staff with a need to know shall receive orientation to the current Classification Plan, and staff responsible for implementation of the plan shall be trained in the plan; and,
- (4) Staff assistance shall be available to inmates throughout the classification process.

REGULATORY AUTHORITY

103 CMR 942.00: M.G.L. c. 124, § (1), (c), (d) and (q); c. 127, §§ 1A and 1B.

NON-TEXT PAGE



THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: 103 CMR 943.00

CHAPTER TITLE: County Correctional Facilities-Inmate Rules and Discipline

AGENCY: Department of Correction

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*
To establish standards for the care and custody of all persons committed to any county correctional facility and provisions for the enforcement of such standards.

REGULATORY AUTHORITY: M.G.L. c. 124 s. 1(c) & (d) and M.G.L. c. 127 s.1A

AGENCY CONTACT: Kevin A. Anahory PHONE: (617) 727-3300 ext 125

ADDRESS: 70 Franklin Street, Ste. 600, Boston, MA 02110

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

Notified Executive Office of Communities and Development and the Massachusetts Municipal Association on October 9, 2008. No statement of impact was received from either office, thus this regulation was deemed to have no impact.

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: November 21, 2008

FISCAL EFFECT - Estimate the fiscal effect of the public and private sectors.

For the first and second year: _____

For the first five years: _____

No fiscal effect: X _____

SMALL BUSINESS IMPACT - State the impact of this regulation on small business. Include a description of reporting, record keeping and other compliance requirements as well as the appropriateness of performance versus design standards and whether this regulation duplicates or conflicts with any other regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.

No impact on small business is anticipated as a result of this regulation.

CODE OF MASSACHUSETTS REGULATIONS INDEX - List key subjects that are relevant to this regulation:

PROMULGATION - State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number.

Amends 103 CMR 943.00

ATTESTATION - The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency. ATTEST:

SIGNATURE: _____ DATE: 4/30/2009

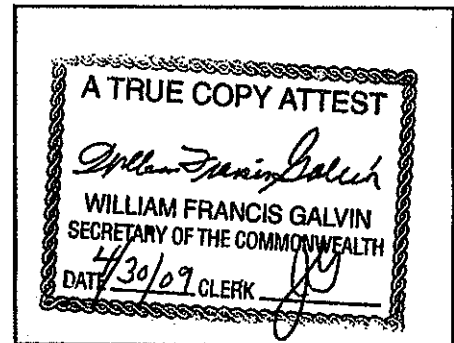
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MASSACHUSETTS REGISTER NUMBER: 1130 DATE: 5/15/09

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CODE OF MASSACHUSETTS REGULATIONS

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103 CMR 943.00: COUNTY CORRECTIONAL FACILITIES -- INMATE RULES AND DISCIPLINE

Section

- 943.01: Inmate Disciplinary Plan
- 943.02: Disciplinary Personnel
- 943.03: Placement in Detention in Awaiting Action Status
- 943.04: Informal Disciplinary Procedures
- 943.05: Formal Disciplinary Procedures
- 943.06: Procedures for Disciplinary Hearings
- 943.07: Appeal Process
- 943.08: Sanctions
- 943.09: Limitations of Disciplinary Action

943.01: Inmate Disciplinary Plan

- (1) The county correctional facility shall develop and implement a written plan for inmate discipline. The plan shall include, but not be limited to, the following elements:
 - (a) rules of inmate conduct and penalties for violations;
 - (b) placement in detention in awaiting action status;
 - (c) informal and formal disciplinary procedures;
 - (d) disciplinary hearing procedures;
 - (e) sanctions; and
 - (f) appeal process.
- (2) The inmate discipline plan shall establish a code of offenses to specify acts prohibited within the county correctional facility and penalties that may be imposed for various degrees of violation. To ensure that all inmates have knowledge of the rules, the rules shall be posted in a conspicuous place given to each inmate during orientation, and shall also be translated into those languages spoken by a significant number of inmates.
- (3) The county correctional facility shall provide training for all staff who interact with inmates so that they are thoroughly familiar with the code of offenses, the sanctions available, the rationale for the rules, and the procedures to be followed.
- (4) The county correctional facility shall review the written discipline plan and rules of inmate conduct on an annual basis and update them, if necessary, to ensure that they are consistent with constitutional and legal principles.

943.02: Disciplinary Personnel

The Sheriff/facility administrator shall appoint one staff member as disciplinary officer to supervise and coordinate the procedures required by 103 CMR 943.00 and the county correctional facility's written plan. The Sheriff/facility administrator shall appoint staff members to act as disciplinary hearing officers. These appointments may be for a definite or indefinite term and a special officer may be appointed for any disciplinary matter.

943.03: Placement in Detention in Awaiting Action Status

- (1) The plan shall include procedures which may authorize the placement of an inmate in detention in awaiting action status, for the safety of the inmate or the security of the facility, pending:
 - (a) a hearing on a disciplinary offense;
 - (b) an investigation of a possible offense; or
 - (c) a transfer or a reclassification of the inmate to a higher custody status.the reasons for such detention shall be documented in writing.
- (2) The Sheriff/facility administrator or designee shall review the detention in awaiting action status within 72 hours to ensure it is for the safety of the inmate or the security of the facility and not for punitive reasons, and that no inmate remains in such status longer than necessary.

943.04: Informal Disciplinary Procedures

The inmate discipline plan shall include written policy and procedure that provides for and governs the informal handling of disciplinary offenses. Such informal procedures shall not apply to offenses for which the sanction imposed may exceed one 72-hour period in room confinement or disciplinary detention and may include the loss of statutory good time. Such informal procedures shall include, but not be limited to, the following:

- (1) Upon becoming aware of the rule violation(s), the staff member may confront the inmate with the option of proceeding informally or formally. If the inmate chooses to proceed informally, the staff member may impose a sanction involving the loss of privileges and/or a period of room confinement up to but not exceeding one 72-hour period once approved by a supervisor.
- (2) The incident and informal resolution shall be documented in a report submitted by the staff person to the shift supervisor or other designated staff on the day it occurs. Such report shall include the name of the inmate involved, the housing unit, the rule infraction and sanction, including starting and ending times, and shall be signed by the inmate and the reporting staff member. A copy of the report shall be placed in the inmate's case files.
- (3) The Sheriff/facility administrator shall appoint a staff member (s) to review such reports and informal resolutions on a regular and continuing basis to ensure their appropriateness and effectiveness in promoting inmate discipline and the good order and safety of the facility.

943.05: Formal Disciplinary Procedures

The inmate disciplinary plan shall include written policy and procedure that provides for and governs the formal handling of disciplinary offenses. Such formal procedures shall include, but not be limited to, the following requirements:

- (1) When a staff member has reason to believe that a disciplinary offense has been committed by an inmate which, due to its nature, repetitiveness, possible sanction, or the inmate's refusal of an informal procedure, requires formal resolution, the staff member shall prepare a disciplinary report and forward it to the designated supervisor(s) before completion of the tour of duty.
- (2) Disciplinary reports prepared by staff members shall include, at a minimum, the following information:
 - (a) the specific rule(s) violated;
 - (b) a formal statement of the charge(s);
 - (c) an explanation of the event, including who was involved, what transpired, and the time and location of occurrence;
 - (d) unusual inmate behavior;
 - (e) staff, or other, witness(es);
 - (f) disposition of any physical evidence;
 - (g) any immediate action taken, including the use of force; and
 - (h) reporting staff member's signature, and date and time report is made.
- (3) An appropriate investigation of the alleged rule violation(s) shall begin within 24 hours, excluding weekends and holidays, after the disciplinary report is received by a designated supervisor, and shall be completed without unreasonable delay unless there are exceptional circumstances for delaying the investigation.
- (4) Upon completion of an investigation indicating that further disciplinary action is warranted, a copy of the disciplinary report shall be given to the disciplinary officer/committee, and a written statement of the charge(s), including a description of the incident and the specific rule(s) violated, shall be given to the inmate. The inmate shall receive such written statement at least 24 hours prior to the disciplinary hearing.

943.05: continued

- (5) A disciplinary hearing shall be scheduled as soon as practicable, but not later than seven days, excluding weekends and holidays, after the disciplinary report is filed with the disciplinary officer/committee, unless the hearing is prevented by exceptional circumstances, unavoidable delays, or reasonable postponements. The reasons for any delays shall be documented.
- (6) The inmate shall receive written notice of the time of the hearing at least 24 hours in advance, but may consent, in writing, to a hearing within less than 24 hours.

943.06: Procedures for Disciplinary Hearings

The inmate disciplinary plan shall include written policy and procedure governing disciplinary hearings which shall include, but not be limited to, the following requirements:

- (1) Disciplinary hearings shall be conducted by an impartial hearing officer appointed by the Sheriff/facility administrator.
- (2) Disciplinary hearing proceedings shall provide that:
 - (a) inmates charged with rule violations are present at the hearing, unless they waive the right in writing or through behavior; the waiver is documented;
 - (b) inmates may be excluded during the testimony of any inmate or other informant whose testimony must be given in confidence and the reasons for the inmate's exclusion are documented;
 - (c) the charged inmate is given an opportunity to make a statement and present documentary evidence and to request as a witness any person who has relevant and not unduly cumulative information; such requests may be denied when the appearance of the witness may jeopardize the life or safety of persons or the security or order of the facility; reasons for such denial shall be stated in writing;
 - (d) if an inmate is illiterate or non-english speaking, or when the issues presented are complex, the inmate shall be afforded the assistance of a staff member designated by the Sheriff/facility administrator or designee; and
 - (e) postponement or continuance of the hearing may be granted for a reasonable period upon good cause, which shall be documented.
- (3) The hearing officer shall, before reading the charge regarding a disciplinary offense which has been or may be referred to the district attorney for prosecution, advise the inmate that anything which is stated may be used against him in any subsequent criminal proceedings.
- (4) The hearing officer's decision shall be based solely upon information obtained in the hearing process, including staff reports, statements of the inmate charged, and evidence derived from witnesses, documents, and video recordings.
- (5) A written record shall be made of the disciplinary hearing decision, the disposition and sanctions, and the reasons for the action(s) imposed. The decision shall be reached and a copy of the hearing decision shall be given to the inmate within 48 hours of the conclusion of the hearing.
- (6) A review shall be conducted of all disciplinary hearings and dispositions by the Sheriff/facility administrator or designee.
- (7) Disciplinary reports concerning an alleged rule violation of which an inmate is found not guilty shall be removed from the inmate's files.

943.07: Appeal Process

- (1) The inmate discipline plan shall provide policy and procedure allowing inmates to appeal decisions of the hearing officer to the Sheriff/facility administrator or designee.
 - (a) inmates shall have up to seven days from receipt of the decision to submit an appeal in writing; and
 - (b) the appeal shall be decided within five days of its receipt, and the inmate shall be notified of the results within 24 hours of the decision.

943.08: Sanctions

- (1) The county correctional facility shall have written policy and procedure providing that in instances in which an inmate is alleged to have committed a crime, the case is referred to appropriate law enforcement officials for possible prosecution.
- (2) The county correctional facility shall ensure that sanctions imposed for rule violations are reasonably related to the severity of the offense. Acceptable forms of discipline shall include, but not be limited to, the following:
 - (a) reprimand;
 - (b) loss of privileges for a specified period of time;
 - (c) removal from work detail;
 - (d) extra work duty for a specified period of time;
 - (e) forfeiture of good time credit earned in accordance with M.G.L. c. 127, § 129;
 - (f) disciplinary detention for a specified period of time; and
 - (g) a combination of 103 CMR 943.08(2)(a) through (f).
- (3) If an inmate is to be confined in disciplinary detention for more than three days, the Facility Administrator shall be informed thereof and the reason(s) therefor.

943.09: Limitations of Disciplinary Action

- (1) Corporal punishment shall be prohibited.
- (2) No inmate shall be placed in disciplinary detention prior to compliance with the procedures set forth in 103 CMR 943.04, 943.05, and 943.06.
- (3) The maximum period of disciplinary detention that may be imposed is ten days for one offense and 30 days for all violations arising out of one incident.
- (4) Continuous confinement in disciplinary detention for more than 30 days requires the review and approval of the Sheriff/facility administrator.

REGULATORY AUTHORITY

103 CMR 943.00: M.G.L. c. 124, § (1), (c), (d) and (q); c. 127, §§ 1A and 1B.



THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: 103 CMR 944.00

CHAPTER TITLE: County Correctional Facilities-Inmate Work Programs

AGENCY: Department of Correction

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*
To establish standards for the care and custody of all persons committed to any county correctional facility and provisions for the enforcement of such standards.

REGULATORY AUTHORITY: M.G.L. c. 124 s. 1(c) & (d) and M.G.L. c. 127 s.1A

AGENCY CONTACT: Kevin A. Anahory PHONE: (617) 727-3300 ext 125

ADDRESS: 70 Franklin Street, Ste. 600, Boston, MA 02110

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

Notified Executive Office of Communities and Development and the Massachusetts Municipal Association on October 9, 2008. No statement of impact was received from either office, thus this regulation was deemed to have no impact.

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: November 21, 2008

FISCAL EFFECT - Estimate the fiscal effect of the public and private sectors.

For the first and second year: _____

For the first five years: _____

No fiscal effect: X

SMALL BUSINESS IMPACT - State the impact of this regulation on small business. Include a description of reporting, record keeping and other compliance requirements as well as the appropriateness of performance versus design standards and whether this regulation duplicates or conflicts with any other regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.

No impact on small business is anticipated as a result of this regulation.

CODE OF MASSACHUSETTS REGULATIONS INDEX - List key subjects that are relevant to this regulation:

PROMULGATION - State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number.

Amends 103 CMR 944.00

ATTESTATION - The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency. ATTEST:

SIGNATURE: _____ DATE: 4/30/2009

Publication - To be completed by the Regulations Division

MASSACHUSETTS REGISTER NUMBER: 1130 DATE: 5/15/09

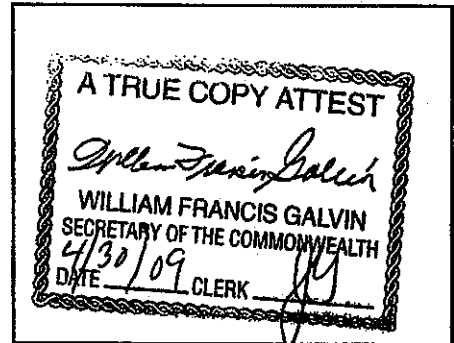
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CODE OF MASSACHUSETTS REGULATIONS

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103 CMR 944.00: COUNTY CORRECTIONAL FACILITIES -- INMATE WORK PROGRAMS

Section

- 944.01: General Provisions
- 944.02: Industries Programs
- 944.03: Compliance with Regulations (Required)
- 944.04: Incentives and Compensation

944.01: General Provisions

The county correctional facility shall develop and implement a written inmate work assignment plan that provides for inmate employment, subject to the number of work opportunities available and the security of the facility.

- (1) Written policy and procedure shall include the following provisions:
 - (a) pre-trial and unsentenced detainees shall not be required to work, except to do personal housekeeping;
 - (b) any inmate may volunteer for work assignments;
 - (c) a variety of work assignments affording inmates an opportunity to learn job skills and develop good work habits and attitudes shall be offered;
 - (d) work shall be offered in facility maintenance and operations;
 - (e) where statute permits, work assignments shall be offered in public works projects and nonprofit and community service projects; and,
 - (f) employment for handicapped inmates is available.
- (2) Policy and procedure shall prohibit discrimination in inmate work assignments based on sex, sexual orientation, race, religion, national origin, or handicap.
- (3) Policy and procedure shall provide that the inmate's work day approximates the work day in the community.

944.02: Industries Programs

If an industries program exists in a county correctional facility, the Sheriff/facility administrator shall provide the following:

- (1) Policy and procedure that authorize the establishment of an industries program, delineating the areas of authority, responsibility and accountability for such industries program.
- (2) Policy and procedure for the county correctional facility's industries program shall include, but not be limited to, the following:
 - (a) security and program determinations necessary for any individual to be eligible for industries work shall be made by the classification committee, consistent with security and available resources;
 - (b) the number of inmates assigned to industries operations shall meet the realistic workload needs of each industries operating unit;
 - (c) a cost accounting system in operation for each operating unit shall be designed and maintained in accordance with generally accepted accounting principles; and,
 - (d) each industries operating unit shall have a written quality control procedure that provides for raw material, in-process, and final product inspection.

944.03: Compliance with Regulations (Required)

- (1) The Sheriff/facility administrator shall ensure that all county correctional facility work, industrial, vocational and educational programs comply with required federal, state, or local work, health and safety standards, applicable to correctional facilities.
- (2) The county correctional facility shall ensure compliance with these standards by conducting weekly inspections of facility work programs by qualified facility staff, monthly inspections by a safety officer and through at least annual inspections by the authority having jurisdiction. Documentation of such inspections shall be recorded and maintained.

944.04: Incentives and Compensation

The written inmate work plan shall provide for any incentives and/or compensation approved by the Sheriff or designee for inmates in work programs, which may include, but not be limited to, the following:

- (a) special housing;
- (b) extra privileges; and
- (c) good time credits, as statute permits.

REGULATORY AUTHORITY

103 CMR 944.00: M.G.L. c. 124, § (1), (c), (d) and (q); c. 127, §§ 1A and 1B.



Docket # 257

THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: 103 CMR 948.00

CHAPTER TITLE: County Correctional Facilities-Mail and Communication

AGENCY: Department of Correction

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*
To establish standards for the care and custody of all persons committed to any county correctional facility and provisions for the enforcement of such standards.

REGULATORY AUTHORITY: M.G.L. c. 124 s. 1(c) & (d) and M.G.L. c. 127 s.1A

AGENCY CONTACT: Kevin A. Anahory PHONE: (617) 727-3300 ext 125

ADDRESS: 70 Franklin Street, Ste. 600, Boston, MA 02110

Compliance with M.G.L. c. 30A

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PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: November 21, 2008

FISCAL EFFECT - Estimate the fiscal effect of the public and private sectors.

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For the first five years: _____

No fiscal effect: X _____

SMALL BUSINESS IMPACT - State the impact of this regulation on small business. Include a description of reporting, record keeping and other compliance requirements as well as the appropriateness of performance versus design standards and whether this regulation duplicates or conflicts with any other regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.

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CODE OF MASSACHUSETTS REGULATIONS INDEX - List key subjects that are relevant to this regulation:

PROMULGATION - State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:

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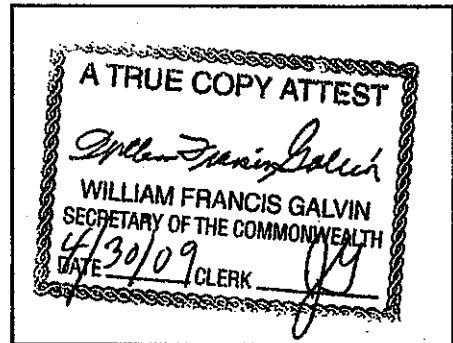
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CODE OF MASSACHUSETTS REGULATIONS

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103 CMR 948.00: COUNTY CORRECTIONAL FACILITIES -- MAIL AND COMMUNICATION

Section

- 948.01: Correspondence Plan
- 948.02: Amount of Mail
- 948.03: Collection and Distribution
- 948.04: Postage Free Mail
- 948.05: Privileged Correspondence
- 948.06: Inspection of Privileged Correspondence
- 948.07: Inspection of Non-privileged Correspondence and Packages
- 948.08: Reading of Non-privileged Correspondence
- 948.09: Disapproval of Non-privileged Correspondence
- 948.10: Telephone Privileges

948.01: Correspondence Plan

Written policy and procedure that govern inmate correspondence and communication shall be available to all staff and inmates.

948.02: Amount of Mail

There shall be no limitation to the volume of lawful mail which an inmate may send or receive, nor on the length, language, content or source of mail, except in accordance with 103 CMR 948.09.

948.03: Collection and Distribution

Written policy and procedure shall govern the collection and distribution of mail and shall contain, at a minimum, the following:

- (1) All outgoing mail shall be collected sealed from the inmate or from locked mail boxes by an employee at least once every day, except Sundays and postal holidays.
- (2) Incoming mail shall be distributed directly to the receiving inmate by an employee in accordance with an established schedule at least once every day except Sundays and postal holidays.
- (3) Outgoing mail shall be delivered to the Post Office and incoming mail shall be delivered to the inmates within 24 hours of collection or pick up.
- (4) A procedure for forwarding mail which cannot be delivered (transfers, escapees, etc.) shall be established.

948.04: Postage Free Mail

Written policy and procedure shall specify that indigent inmates shall be permitted:

- (1) An unlimited number of postage-free letters each week for privileged confidential correspondence, excluding attorneys;
- (2) Three postage-free letters each week for general correspondence; and
- (3) Sheriffs or designees may develop procedures to allow indigent inmates to mail postage-free letters each week to their attorneys of record on any pending criminal matter.

948.05: Privileged Correspondence

Written policy and procedure shall provide that inmates are permitted to send sealed mail to and receive sealed mail from the following:

948.05: continued

- (1) any officer of a court of the United States or of the Commonwealth of Massachusetts (judge, attorney, clerk);
- (2) the President or Vice President of the United States or the Governor of the Commonwealth of Massachusetts;
- (3) any member of the Congress of the United States;
- (4) any member of the Legislature of the Commonwealth of Massachusetts;
- (5) the Attorney General of the United States or the Attorney General of the Commonwealth of Massachusetts;
- (6) the Director or any agent of the Federal Bureau of Investigation;
- (7) the Commissioner of the Massachusetts Department of Public Safety or the Secretary of the Executive Office of Public Safety and Security;
- (8) the County Commissioners or Sheriff of the county in which the inmate is confined;
- (9) the Commissioner of the Massachusetts Department of Correction, and if applicable, the superintendent of the State correctional institution in which the inmate was confined;
- (10) any member of the Massachusetts Parole Board or probation officer;
- (11) any member of the Governor's Advisory Committee on Corrections; and
- (12) any District Attorney of the United States.

948.06: Inspection of Privileged Correspondence

Written policy and procedure shall provide, but not be limited to, the following:

- (1) Outgoing privileged mail may not be opened for inspection or any other purpose or otherwise impeded in its transmission if it meets the following requirements:
 - (a) it is addressed to a person listed in 103 CMR 948.05; and
 - (b) it includes the inmate's name and return facility address on the outside of the envelope.
- (2) Incoming privileged mail may not be opened except in the presence of the addressed inmate and then for the sole purpose of ascertaining that its contents are free from contraband.

948.07: Inspection of Non-privileged Correspondence and Packages

Written policy and procedure shall provide, at a minimum, the following:

- (1) Incoming non-privileged correspondence and packages may be inspected:
 - (a) to receive and record the receipt of any funds enclosed for the inmate;
 - (b) to verify and record the receipt of permitted personal property; and
 - (c) to prevent the transmission of contraband to the inmate.
- (2) The opening and inspection of outgoing non-privileged mail shall only be done upon the authorization of the Sheriff/facility administrator when there is reasonable belief that such action is necessary to maintain the order and security of the county correctional facility. Any such inspection of mail should be documented.

948.08: Reading of Non-privileged Correspondence

Written policy and procedure shall provide that the Sheriff/facility administrator may authorize the reading of non-privileged mail when in his opinion, such action is necessary to maintain security or order in the county correctional facility or protect the physical safety of an individual. Such reading of mail shall be properly recorded.

948.09: Disapproval of Non-privileged Correspondence

Written policy and procedure shall govern the disapproval of inmate correspondence and contain, at a minimum, the following:

(1) Non-privileged correspondence shall be disapproved only to prevent interference with facility goals of security, safety, order or rehabilitation. Disapproval shall not be based upon an employee's personal views of the merit of such correspondence.

(2) The Sheriff/facility administrator, or designee, may disapprove for mailing or receipt by an inmate non-privileged correspondence, the contents of which fall as a whole or in significant part, into any of the following categories:

- (a) information or materials which could clearly and reasonably be expected to encourage the use of physical violence or group disruption of facility operations;
- (b) threats of blackmail or extortion;
- (c) plans for sending contraband in or out of the facility;
- (d) plans to escape;
- (e) plans for activities in violation of Sheriff's Office or facility regulations, orders, or policies;
- (f) criminal activity or plans for criminal activity;
- (g) coded messages which are not reasonably decipherable by the reader;
- (h) descriptions of the making of any weapon, explosive, poison, or destructive device; and
- (i) sexually explicit material or material which features nudity which by its nature or content poses a threat to the security, good order, or discipline of the institution; and
- (j) any publications that may interfere with the treatment and rehabilitation process at that institution.

(3) If any non-privileged correspondence is disapproved for mailing or receipt, a written notice stating one or more of the reasons set forth in 103 CMR 948.09(2)(a) through (j) shall be sent to the inmate (outgoing mail) or to the originator and the inmate (incoming mail). The notice shall inform the inmate or the originator of the right to appeal the decision in writing to the Sheriff/facility administrator.

948.10: Telephone Privileges

Written policy and procedure shall govern inmate access to a public telephone and shall provide for the following:

(1) Reasonable access to public telephones including:

- (a) specific hours of telephone availability;
- (b) length of calls;
- (c) any limitations on phone calls; and
- (d) responsibility of payment for call.

(2) Procedures for receiving emergency phone calls for inmates, notification of such calls, and response to such calls.

(3) The Sheriff/facility administrator shall ensure that a procedure is developed to notify the inmates of the monitoring of inmate telephones. This procedure shall be posted next to all inmate telephones.

REGULATORY AUTHORITY

103 CMR 948.00: M.G.L. c. 124, § (1), (c), (d) and (q); c. 127, §§ 1A and 1B.

NON-TEXT PAGE



Docket # 258

THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: 103 CMR 950.00

CHAPTER TITLE: County Correctional Facilities-Visiting

AGENCY: Department of Correction

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*
To establish standards for the care and custody of all persons committed to any county correctional facility and provisions for enforcement of such standards.

REGULATORY AUTHORITY: M.G.L. c. 124 s. 1(c) & (d) and M.G.L. c. 127 s.1A

AGENCY CONTACT: Kevin A. Anahory PHONE: (617) 727-3300 ext 125

ADDRESS: 70 Franklin Street, Ste. 600, Boston, MA 02110

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

PRIOR NOTIFICATION AND/OR APPROVAL - *if prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

Notified Executive Office of Communities and Development and the Massachusetts Municipal Association on October 9, 2008. No statement of impact was received from either office, thus this regulation was deemed to have no impact.

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: November 21, 2008

FISCAL EFFECT - Estimate the fiscal effect of the public and private sectors.

For the first and second year: _____

For the first five years: _____

No fiscal effect: X _____

SMALL BUSINESS IMPACT - State the impact of this regulation on small business. Include a description of reporting, record keeping and other compliance requirements as well as the appropriateness of performance versus design standards and whether this regulation duplicates or conflicts with any other regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.

No impact on small business is anticipated as a result of this regulation.

CODE OF MASSACHUSETTS REGULATIONS INDEX - List key subjects that are relevant to this regulation:

PROMULGATION - State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:

Amends 103 CMR 950.00

ATTESTATION - The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency. ATTEST:

SIGNATURE: _____ DATE: 4/30/2009

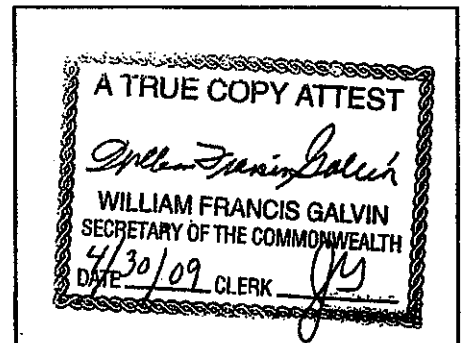
Publication - To be completed by the Regulations Division

MASSACHUSETTS REGISTER NUMBER: 1130 DATE: 5/15/09

EFFECTIVE DATE: 5/15/09

CODE OF MASSACHUSETTS REGULATIONS

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103 CMR 950.00: COUNTY CORRECTIONAL FACILITIES -- VISITING

Section

- 950.01: Visiting Plan
- 950.02: Visiting Rules and Regulations
- 950.03: Identification and Sign-in
- 950.04: Searches of Visitors
- 950.05: Exclusion of Visitors
- 950.06: Special Visits
- 950.07: Visiting Records

950.01: Visiting Plan

(1) The Sheriff/facility administrator shall develop a written visiting plan designed to facilitate visits between inmates and their family and friends, to accommodate visits between inmates and their attorneys, and to maximize the hours during which visits are permitted; provided, that nothing contained in 103 CMR 950.00 shall be construed to impair the discretion of the Sheriff/facility administrator to control access to his institution under the provisions of M.G.L. c. 127, § 36. The Visiting Plan shall include, but not be limited to, the following:

- (a) facility's visiting periods, including some time in the evening or weekends;
- (b) facility's rules and regulations for visiting;
- (c) identification and sign-in process for all visitors;
- (d) procedures for searching visitors;
- (e) written policy on procedure for excluding visitors;
- (f) provisions for special visits; and
- (g) procedure for keeping records of all visitors to facility; and,

(2) The Visiting Plan shall be available to staff, inmates, and visitors upon request.

950.02: Visiting Rules and Regulations

(1) The visiting plan shall contain written rules and regulations which shall include, but not be limited to, the following:

- (a) any limitation as to who may or may not visit an inmate, to include those who need permission (*i.e.*, youths, ex-offenders), or any exclusions (visitors who in the opinion of the Sheriff/facility administrator would be injurious to the best interest of the facility);
- (b) any limitation on the number of weekly visits allowed per inmate, any limitation in duration of single visits, or limitation on number of visitors per inmate at any one time;
- (c) a statement of rules and regulations for conduct of any visitor, a statement regarding physical contact with inmates, and a statement of expected dress code;
- (d) procedures for submitting approved parcels and funds, and a list of articles allowed or disallowed into the facility;
- (e) a statement warning visitors that it is a felony for any person to deliver any article to an inmate without permission of the Sheriff/Facility Administrator, or to procure an article to be delivered, to possess it with intent to deliver it or to deposit or conceal it with intent that an inmate shall obtain it; and
- (f) a procedure for a visitor to disclose any article, other than clothing, that he/she may be carrying, to include personal effects, medication, any form of weapon, *etc.*, and a means to check or properly secure such items prior to visit.

(2) The written rules containing the information required by 103 CMR 950.02(1)(a) through (f) shall be posted in the reception area, available through printed brochures if requested by visitors, and translated into Spanish or other languages understood by a significant number of visitors.

950.03: Identification and Sign-in

The written Visiting Plan shall contain a means to identify and register all visitors to the county correctional facility and shall include, but not be limited to, the following:

950.03: continued

- (1) A visitor shall be required to produce a current photographic identification such as a Massachusetts driver's license or a passport. (Exceptions may be made by the Sheriff/facility administrator or his designee);
- (2) As a condition of entry, every visitor except the officials listed in 103 CMR 950.03(2)(b) is required by statute to make and subscribe a statement under penalties of perjury stating true name and residence, whether or not he has been convicted of a felony and, if visiting an inmate, his relationship. Each institution shall provide either a sign-in sheet or "Request to Visit Inmate" form for the purpose of 103 CMR 950.00.
 - (a) if the visitor answers that he has been convicted of a felony, the visitor may be required, as a condition of entry, to provide a statement of the crime(s) for which he was convicted and the sentence served; and
 - (b) the following persons generally may not be asked to provide the statement generally required by 103 CMR 950.03(2): the Governor, a member of the Governor's Council, a member of the General Court, a Justice of the Supreme Judicial, Superior or District Court, the Attorney General, a District Attorney, the Commissioner, a Deputy or Associate Commissioner of Correction, Sheriff, County Commissioners, a member of the Parole Board, a Parole or Probation Officer, or others as designated by the Sheriff/facility administrator. Any such officer shall be required to sign his name, business address and the office which brings him within the exemption from the normal sign-in requirement.
- (3) Each visitor shall be asked by the admitting officer before entrance into the facility if he has a weapon. All weapons shall be given to the officer prior to entry to the facility.

950.04: Searches of Visitors

The Visiting Plan shall contain policy and procedure for the conducting of searches of visitors, and shall include, but not be limited to, the following:

- (1) A large sign posted in the lobby or other entrance warning that, "ALL VISITORS ARE SUBJECT TO BEING SEARCHED", and containing the same wording in Spanish, "TODAS LAS VISITAS ESTAN SUJETAS A REVISION", or a language which is understood by a significant number of visitors;
- (2) A search procedure effective in preventing the smuggling of articles into the visiting area of the facility; to include that visitors successfully pass through a metal detector or scanner, or a pat down, and that any articles they are carrying may be thoroughly searched. In community release facilities the search procedure shall have a system to control contraband;
- (3) If the search procedure is to include a more extensive search than mentioned above (up to and including a strip search), the following shall be included:
 - (a) authorization from the Sheriff/Facility Administrator or designee for such search;
 - (b) the visitor shall be informed that he may leave the facility rather than submit to such a search. If he agrees to said search, a record of consent shall be documented noting date, time, individual being searched and individuals conducting search; and
 - (c) the officer(s) conducting a more extensive search shall file a written report concerning the search with the Sheriff/facility administrator prior to the end of his tour of duty. The report shall contain the name of the visitor, the names of the searching officers and of the official who approved the search, the extent of the search, and what, if anything, was found.
- (4) No search of a visitor's body cavities (anal or genital) shall be conducted by correctional staff. If a search less intrusive than a body cavity search (of anal or genital body cavities) is insufficient to eliminate suspicions that the visitor is smuggling, the visitor shall be denied admission;
- (5) Any person refusing to submit to any aspect of the search procedure shall be denied entrance to the facility. Where the refusal occurs under circumstances indicating that the most likely motive for refusal is to prevent discovery of concealed articles, where a suspicious pattern of refusals is apparent, or where a visitor engages in offensive or assaultive behavior during the search process, visiting privileges may be suspended or terminated;

950.04: continued

(6) Personal (Pat) searches that involve removal of more than just external clothing and accessories shall be conducted by a correctional employee of the same sex as the visitor, conducted in private, and documented with a written report. Searches are to be conducted in a professional and courteous manner; and,

(7) Papers and documents carried in or out by any judge, attorney, law student, paralegal, the governor, any legislator or member of the parole board may be inspected for concealed articles but may not be read.

950.05: Exclusion of Visitors

The visiting plan shall contain policy and procedure including, but not limited to, the following:

(1) Any visitor, even one who has obtained prior permission to visit, may be denied entrance to the county correctional facility or told to terminate a visit and leave the premises;

(2) A visitor who is denied entrance or asked to leave shall be told the reason for such action, except when it is deemed that to specify the reason might jeopardize security interests or the safety of any person or the facility;

(3) The officer(s) responsible for denying entrance or terminating a visit shall file a written report with the Sheriff/facility administrator, in accordance with Sheriff's Department policy. This report shall include the name of the visitor and the inmate visited, the time for the denial or termination, and the reasons for the action;

(4) When the Sheriff/facility administrator denies, suspends, or places restrictions on visiting privileges, the visitor shall be notified in writing of the reasons for such action, unless specification of the reason would jeopardize security interests or the safety of the individuals or the facility. The visitor may request a review of such action by writing the Sheriff/facility administrator. The Sheriff/facility administrator shall respond to all such requests in writing informing the visitor of the reasons for upholding, eliminating or modifying the original action;

(5) A statement that visiting privileges may be suspended for a specific time and procedures for reapplication of visiting privileges;

(6) Nothing in 103 CMR 950.00 shall in any way impair the Sheriff's or a designee's authority pursuant to M.G.L. c. 127, § 36 to exclude a visitor whenever, in his/her opinion admitting that person to visit would be injurious to the best interest of the facility or the administration of the county correctional facility; and

(7) Before any attorney or any of the officials listed in 103 CMR 950.03(2)(b) is excluded, the Sheriff/facility administrator or other officer in charge shall be consulted. The attorney or official may immediately appeal any exclusion to the Sheriff.

950.06: Special Visits

The visiting plan shall contain provisions for special visits which shall include, but not be limited to, the following:

(1) Provisions that are flexible enough to permit the Sheriff/facility administrator or designee to make exceptions to the rules in unusual circumstances, such as when a visitor has traveled a long distance to see an inmate, or when an inmate is ill or hospitalized; and,

(2) Provisions for special visits with attorneys and members of the clergy.

950.07: Visiting Records

The visiting plan shall include provisions for recording of all visits and shall include, but not be limited to, the following:

103 CMR: DEPARTMENT OF CORRECTION

950.07: continued

- (1) A card or electronic record for each inmate on which shall be recorded the name of every person who visits that inmate and the dates on which those visits occur. This card or printout of the record shall, upon the request of the receiving facility, be forwarded whenever the inmate is transferred;
- (2) A written chronological file: visitor sign-in sheets and/or the "Request to Visit" forms; and
- (3) A written log of all other visitors to the facility stating name, agency, and reason for the visit. Notations may be maintained in the facility log.

REGULATORY AUTHORITY

103 CMR 950.00: M.G.L. c. 124, § (1), (c), (d) and (q); c. 127, §§ 1A and 1B.



THE COMMONWEALTH OF MASSACHUSETTS

William Francis Galvin
Secretary of the Commonwealth**Regulation Filing** *To be completed by filing agency*CHAPTER NUMBER: 103 CMR 952.00CHAPTER TITLE: County Correctional Facilities-Release Preparation and Temporary ReleaseAGENCY: Department of CorrectionSUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*
To establish standards for the care and custody of all persons committed to any county correctional facility and provisions for enforcement of such standards.REGULATORY AUTHORITY: M.G.L. c. 124 s. 1(c) & (d) and M.G.L. c. 127 s.1AAGENCY CONTACT: Kevin A. Anahory PHONE: (617) 727-3300 ext
125ADDRESS: 70 Franklin Street, Ste. 600, Boston, MA 02110**Compliance with M.G.L. c. 30A**EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.***Notified Executive Office of Communities and Development and the Massachusetts Municipal Association on October 9, 2008. No statement of impact was received from either office, thus this regulation was deemed to have no impact.**PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*Date of public hearing or comment period: November 21, 2008

FISCAL EFFECT - Estimate the fiscal effect of the public and private sectors.

For the first and second year: _____

For the first five years: _____

No fiscal effect: X _____

SMALL BUSINESS IMPACT - State the impact of this regulation on small business. Include a description of reporting, record keeping and other compliance requirements as well as the appropriateness of performance versus design standards and whether this regulation duplicates or conflicts with any other regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.

No impact on small business is anticipated as a result of this regulation.

CODE OF MASSACHUSETTS REGULATIONS INDEX - List key subjects that are relevant to this regulation:

PROMULGATION - State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:

Amends 103 CMR 952.00

ATTESTATION - The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency. ATTEST:

SIGNATURE: _____ DATE: 4/30/2009

Publication - To be completed by the Regulations Division

MASSACHUSETTS REGISTER NUMBER: 1130 DATE: 5/15/09

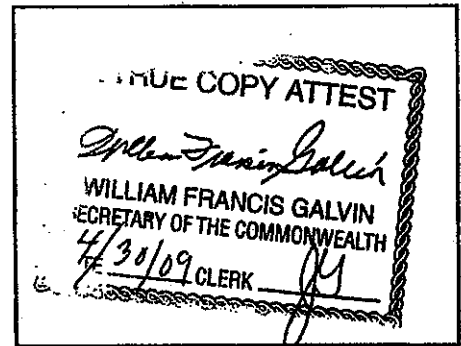
EFFECTIVE DATE: 5/15/09

CODE OF MASSACHUSETTS REGULATIONS

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103 CMR 952.00: COUNTY CORRECTIONAL FACILITIES -- RELEASE PREPARATION AND TEMPORARY RELEASE

Section

- 952.01: Community Release Programs
- 952.02: Work/Educational Release Program
- 952.03: Furloughs

952.01: Community Release Programs

The county correctional facility shall provide a program of release preparation which may include temporary release programs for all eligible inmates to prepare them for parole or discharge from the facility. The program shall contain the following:

- (1) Written policy and procedure shall provide for escorted and unescorted leaves into the community for eligible inmates;
- (2) Any temporary release programs established in accordance with statute, containing the following elements:
 - (a) written operational procedures;
 - (b) established eligibility and suitability criteria;
 - (c) careful screening and selection procedures;
 - (d) written rules of inmate conduct and a community release agreement signed by the inmate, agreeing to abide by the written rules of conduct;
 - (e) a system of supervision;
 - (f) a complete record-keeping system;
 - (g) a system for evaluation of program effectiveness;
 - (h) efforts to obtain community cooperation and support; and,
 - (i) if applicable, a system to provide 14 days advance notice by telephone and mail to persons certified under the citizens initiated petition process; such notice shall include a description of the program activity release, *i.e.*, the date, approximate time and duration, general location and a description of the level of supervision being provided; in the event of an emergency furlough, immediate notification of the victim shall be provided; the notification actions shall be documented, and entered into the Criminal History Systems Board database (victim certification notification program).

This requirement is not applicable in jail facilities.

952.02: Work/Educational Release Programs

Written policy and procedure shall govern inmate participation in programs which are established in accordance with the provisions of M.G.L. c. 127, §§ 86F and 86G.

- (1) In accordance with the requirements of M.G.L. c. 127, §§ 86F and 86G:
 - (a) an inmate on work release and his employer shall agree that all inmate earnings (after taxes and other deductions) shall be delivered directly to the Sheriff/facility administrator or designee. At no time shall any inmate personally receive any monies, checks or the like from his employer;
 - (b) the Sheriff/facility administrator shall deduct from the inmate's earnings delivered to him the following:
 1. an amount for the reimbursement to the county for food, lodging and clothing provided to the inmate;
 2. the actual and necessary food, travel and other expenses for the inmate while on work release;
 3. the amount for support for the inmate's spouse and children as ordered by any court or the Department of Revenue Child Support Enforcement Division;
 4. sums voluntarily agreed to for family allotments and for personal necessities while confined;
 5. court-ordered fines and fees to include victim witness fees.

Any balance remaining shall be credited to the inmate's account and shall be paid upon final release.

952.02: continued

- (2) Inmates participating in work or educational release programs shall be separated from inmates in the general population.

952.03: Furloughs

Written policy and procedure shall specify a system for reviewing applications for furlough for eligible inmates pursuant to M.G.L. c. 127, § 90A. In accordance with those provisions:

- (1) An inmate shall be limited to 14 days furlough in any one calendar year and not more than seven days furlough at any one time;
- (2) Furloughs or emergency escorted trips may be granted for any of the following purposes:
 - (a) to attend a funeral of a relative;
 - (b) to visit a critically ill relative;
 - (c) to obtain medical, psychiatric, psychological or other social services when adequate services are not available at the facility and cannot be obtained by temporary placement in a hospital as provided in M.G.L. c. 127, §§ 117A and 118;
 - (d) to contact prospective employers;
 - (e) to secure a suitable residence for use upon release, parole or discharge; and
 - (f) for any other reason consistent with the reintegration of a committed offender into the community.
- (3) The Sheriff/facility administrator may require that an inmate on furlough be escorted by an employee of the county correctional facility;
- (4) An inmate may not leave the Commonwealth on furlough; and,
- (5) The county correctional facility shall inform local law enforcement or the victim, if a citizen initiated petition is on file, of any furlough.

Furlough procedures are not applicable to jail facilities. However, emergency escorted trips are applicable to both jail and houses of correction.

REGULATORY AUTHORITY

103 CMR 952.00: M.G.L. c. 124, § (1), (c), (d) and (q); c. 127, §§ 1A, 1B, 86F, 86G, 90A, 117A and 118.



Docket # 260

THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: 103 CMR 973.00

CHAPTER TITLE: County Correctional Facilities-Safety and Emergency Standards

AGENCY: Department of Correction

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*
To establish standards for the care and custody of all persons committed to any county correctional facility and provisions for enforcement of such standards.

REGULATORY AUTHORITY: M.G.L. c. 124 s. 1(c) & (d) and M.G.L. c. 127 s.1A

AGENCY CONTACT: Kevin A. Anahory PHONE: (617) 727-3300 ext
125

ADDRESS: 70 Franklin Street, Ste. 600, Boston, MA 02110

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

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PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: November 21, 2008

FISCAL EFFECT - Estimate the fiscal effect of the public and private sectors.

For the first and second year: _____

For the first five years: _____

No fiscal effect: X

SMALL BUSINESS IMPACT - State the impact of this regulation on small business. Include a description of reporting, record keeping and other compliance requirements as well as the appropriateness of performance versus design standards and whether this regulation duplicates or conflicts with any other regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.

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CODE OF MASSACHUSETTS REGULATIONS INDEX - List key subjects that are relevant to this regulation:

PROMULGATION - State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number.

Amends 103 CMR 973.00

ATTESTATION - The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency. ATTEST:

SIGNATURE: _____ DATE: 4/30/2009

Publication - To be completed by the Regulations Division

MASSACHUSETTS REGISTER NUMBER: 1130 DATE: 5/15/09

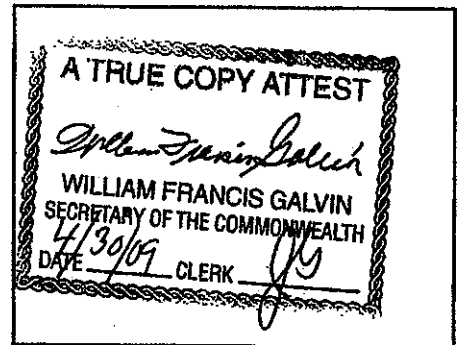
EFFECTIVE DATE: 5/15/09

CODE OF MASSACHUSETTS REGULATIONS

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103 CMR 973.00: COUNTY CORRECTIONAL FACILITIES -- SAFETY AND EMERGENCY STANDARDS

Section

- 973.01: Compliance With Life Safety Codes (Required)
- 973.02: Emergency Evacuation Plans (Required)
- 973.03: Fire Prevention Regulations (Required)
- 973.04: Fire Safety Officer (Required)
- 973.05: Fire Alarm System (Required)
- 973.06: Fire Retardant Furnishings and Materials (Required)
- 973.07: Prompt Release Procedures (Required)
- 973.08: Fire Prevention Training (Required)
- 973.09: Emergency Power
- 973.10: Control, Use, and Storage of Dangerous Materials (Required)

973.01: Compliance With Life Safety Codes (Required)

There shall be documentation, at each county correctional facility, by the public safety authority having jurisdiction, that structural safety and fire safety of the facility complies with applicable codes as required by statute and to the extent not inconsistent with essential security requirements. The authority having jurisdiction shall approve any variances, exceptions, or equivalencies that do not constitute a serious life safety threat to the occupants of the county correctional facility. There shall be plans of action for addressing deficiencies within a reasonable time period.

973.02: Emergency Evacuation Plans (Required)

- (1) Each county correctional facility shall have a written evacuation plan prepared in the event of fire or major emergency. This plan shall be approved by the public safety authority having jurisdiction.
- (2) The plan shall be reviewed annually and updated as needed.
- (3) The plan shall be disseminated to local and state public safety departments in the geographic area.
- (4) The plan shall include, but not be limited to, the following:
 - (a) location of building/room floor plans;
 - (b) use of exit signs and directional arrows;
 - (c) publicly posted evacuation diagrams;
 - (d) at least quarterly drills in all locations; and,
 - (e) staff drills even when evacuation of extremely dangerous inmates may not be possible.

973.03: Fire Prevention Regulations (Required)

Written policy and procedure shall specify the county correctional facility's fire prevention regulations and practices and shall include, but not be limited to:

- (1) Provision for an adequate fire protection service;
- (2) A system of fire inspections to include testing of fire safety equipment and systems at least quarterly unless a different periodic frequency is approved by the AHJ;
- (3) An annual fire inspection by the authority having jurisdiction; and
- (4) Availability of fire hoses or extinguishers at appropriate locations throughout the facility, as directed by applicable regulations from the Department of Public Safety and the State Board of Building Regulations and Standards, or as approved by the authority having jurisdiction.

973.04: Fire Safety Officer (Required)

- (1) Written policy and procedure shall specify the appointment of a qualified fire safety officer to perform comprehensive monthly fire safety inspections.
- (2) There shall be a fire safety inspection of each area of the county correctional facility at least weekly by a qualified employee.

973.05: Fire Alarm System (Required)

- (1) Each county correctional facility shall have a fire alarm and automatic detection system capable of alerting personnel at the control center to the presence of fire or smoke in the facility.
- (2) The system shall also include a direct and reliable means of communication with the local Fire Department.
- (3) The system, or a plan for addressing deficiencies within a reasonable time period, shall be approved by the authority having jurisdiction.

973.06: Fire Retardant Furnishings and Materials (Required)

The selection and purchasing of fire retardant furnishings and materials shall include, but not be limited to:

- (1) For the selection and purchase of facility furnishings, specifications will include the fire safety and flame spread performance requirements of the materials selected as approved by the AHJ; and
- (2) Each county correctional facility shall develop regulations to limit possessions so as not create any fire hazards.

973.07: Prompt Release Procedures (Required)

Written policy and procedure shall specify the means for immediate release of inmates from locked areas in case of emergency, and provide for a secondary means of immediate release.

973.08: Fire Prevention Training (Required)

Each county correctional facility shall conduct in-service training for all personnel in fire prevention, detection, use of emergency fire equipment, and evacuation procedures, and shall seek the assistance of local fire authorities, or other qualified persons in this effort.

973.09: Emergency Power

- (1) Each county correctional facility shall have an emergency power source capable of providing power to maintain essential lights, power and communications.
- (2) Power generators shall be tested tested quarterly or in accordance with the manufacturer's guidelines.
- (3) All new county correctional facilities shall have an emergency power source capable of providing 100% power for the normal operation of the facility.

973.10: Control, Use, and Storage of Dangerous Materials (Required)

Written policy and procedure shall govern the control, use, and storage of all flammable, toxic, and caustic materials, in accordance with all applicable laws and regulations. The procedures shall include, but not be limited to, the following:

973.10: continued

- (1) Any flammable or combustible work materials shall be used only under staff supervision and shall be locked in a secure fire resistant storage area as approved by the authority having jurisdiction;
- (2) Precautions shall be taken in the use and secure storage of all toxic and caustic substances: any substance that may, through chemical reaction, cause harm to an individual. Use of such substances shall occur only under careful staff supervision; and
- (3) Each county correctional facility shall provide noncombustible receptacles for combustible refuse at appropriate locations throughout the facility's living quarters. Special containers shall be provided for flammable liquids and for rags used with flammable liquids. All receptacles and containers shall be emptied and cleaned daily.

REGULATORY AUTHORITY

103 CMR 973.00: M.G.L. c. 124, § (1), (c), (d) and (q); c. 127, §§ 1A and 1B.

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Docket # 261

THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: 103 CMR 974.00

CHAPTER TITLE: County Correctional Facilities-Sanitation and Hygiene

AGENCY: Department of Correction

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*
To establish standards for the care and custody of all persons committed to any county correctional facility and provisions for enforcement of such standards.

REGULATORY AUTHORITY: M.G.L. c. 124 s. 1(c) & (d) and M.G.L. c. 127 s.1A

AGENCY CONTACT: Kevin A. Anahory PHONE: (617) 727-3300 ext
125

ADDRESS: 70 Franklin Street, Ste. 600, Boston, MA 02110

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

Notified Executive Office of Communities and Development and the Massachusetts Municipal Association on October 9, 2008. No statement of impact was received from either office, thus this regulation was deemed to have no impact.

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: November 21, 2008

FISCAL EFFECT - Estimate the fiscal effect of the public and private sectors.

For the first and second year: _____

For the first five years: _____

No fiscal effect: X _____

SMALL BUSINESS IMPACT - State the impact of this regulation on small business. Include a description of reporting, record keeping and other compliance requirements as well as the appropriateness of performance versus design standards and whether this regulation duplicates or conflicts with any other regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.

No impact on small business is anticipated as a result of this regulation.

CODE OF MASSACHUSETTS REGULATIONS INDEX - List key subjects that are relevant to this regulation:

PROMULGATION - State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number.

Amends 103 CMR 974.00

ATTESTATION - The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency. ATTEST:

SIGNATURE: _____ DATE: 4/30/2009

Publication - To be completed by the Regulations Division

MASSACHUSETTS REGISTER NUMBER: 1130 DATE: 5/15/09

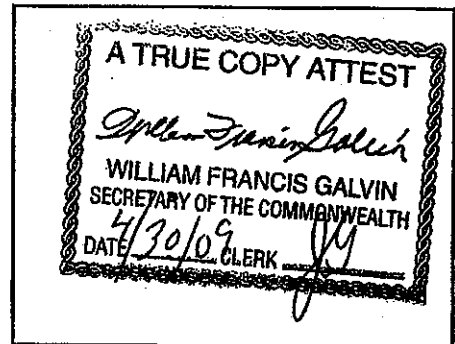
EFFECTIVE DATE: 5/15/09

CODE OF MASSACHUSETTS REGULATIONS

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401 - 404

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103 CMR 974.00: COUNTY CORRECTIONAL FACILITIES -- SANITATION AND HYGIENE

Section

- 974.01: General
- 974.02: Environmental Health Officer (Required)
- 974.03: Interior Cleanliness
- 974.04: Inspection Plans (Required)
- 974.05: Outside Grounds
- 974.06: Insect and Rodent Control (Required)
- 974.07: Liquid and Solid Waste Control (Required)
- 974.08: Personal Hygiene
- 974.09: Clothing
- 974.10: Linens and Bedding
- 974.11: Water Supply (Required)
- 974.12: Tobacco Use Prohibited

974.01: General

Each facility shall comply with applicable regulations of the Massachusetts Department of Public Health, as required by statute, regarding maintenance and sanitation in county correctional facilities.

974.02: Environmental Health Officer (Required)

In accordance with Department of Public Health regulations, each Sheriff/facility administrator shall appoint a qualified environmental health officer to ensure that 103 CMR 900.00 and the regulations of the Department of Public Health (105 CMR) are adhered to and properly monitored.

974.03: Interior Cleanliness

A written housekeeping plan for all areas of the facility's physical plant shall provide for daily housekeeping and regular maintenance, by assigning duties and responsibilities to staff and inmates.

974.04: Inspection Plans (Required)

Written policy and procedure shall govern facility inspection plans and shall include, but not be limited to, the following:

- (1) At least weekly sanitation inspections of all institution areas by a designated qualified employee;
- (2) A comprehensive and thorough monthly inspection of the facility by an environmental health officer;
- (3) At least annual inspections by the Department of Public Health;
- (4) Semi-annual inspections by the Department of Correction Standards Compliance Unit;
- (5) All inspections shall be documented and all inspection reports shall be maintained by the Sheriff/facility administrator or designee; and
- (6) Deficiencies noted in any of the above reports shall be responded to with appropriate plans of action and in accordance with any specified guidelines.

974.05: Outside Grounds

Each county correctional facility shall develop a written plan ensuring that the outside grounds shall be maintained in a neat and orderly condition, in good repair and fit the uses intended.

974.06: Insect and Rodent Control (Required)

Written policy and procedure shall govern the control of vermin and pests. When they exist, such pests shall be exterminated in a manner which is not hazardous to the health of inmates or employees, by a person with appropriate licensing.

974.07: Liquid and Solid Waste Control (Required)

Written policy and procedure shall govern the storage and disposal of all liquid and solid wastes in a manner designed to prevent transmission of disease, creation of nuisance and the breeding of insects.

974.08: Personal Hygiene

Each county correctional facility shall provide the means for inmates to adhere to acceptable personal hygiene practices, including:

- (1) Availability of articles needed for personal hygiene, including, but not limited to, soap, toothpaste or tooth powder, toothbrush, and articles for feminine hygiene;
- (2) Availability of sufficient showers or bathtubs as required by State or local codes;
- (3) Water temperature for showering or bathing shall be thermostatically controlled (minimum 110°F, maximum 130°F); and
- (4) Written policy and procedure shall provide for the availability of hair care services. The Sheriff/facility administrator may charge a reasonable fee not to exceed \$10.00 for any haircut provided.

974.09: Clothing

Written policy and procedure shall provide for the following:

- (1) The issue of clean, suitable and presentable clothing to new inmates, as necessary;
- (2) The issue of all clothing shall be recorded to provide accountability for its use;
- (3) As necessary, the issue of special clothing and protective clothing and equipment (specialized work assignments); and,
- (4) The availability of at least weekly laundering or clothing exchange.

974.10: Linens and Bedding

Written policy and procedure shall provide for the following:

- (1) A standard issue of bedding and linens including:
 - (a) a suitable, clean, flame retardant mattress, to include a mattress with an integrated pillow;
 - (b) two clean sheets, a clean pillowcase, and flame retardant pillow;
 - (c) two clean bath-size towels; and
 - (d) sufficient clean blankets to provide comfort under existing temperature conditions.
- (2) Availability of weekly laundering or exchange of all linens.

974.11: Water Supply (Required)

Each county correctional facility shall provide documentation of certification that the water supply meets all applicable laws or regulations of the governing jurisdiction.

974.12: Tobacco Use Prohibited

Pursuant to M.G.L. c. 270, § 22, smoking is prohibited in the state house or in a public building or in a vehicle or vessel, owned, leased, or otherwise operated by the Commonwealth of Massachusetts or in a political subdivision thereof, or in a space occupied by a state agency or department of the Commonwealth which is located in another building, including a private office in a building or space mentioned in this sentence.

REGULATORY AUTHORITY

103 CMR 974.00: M.G.L. c. 124, § (1), (c), (d), (q) and (r); c. 127, §§ 1A and 1B.

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THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: 103 CMR 979.00

CHAPTER TITLE: County Correctional Facilities-Volunteers and Citizen Involvement

AGENCY: Department of Correction

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*
To establish standards for the care and custody of all persons committed to any county correctional facility and provisions for enforcement of such standards.

REGULATORY AUTHORITY: M.G.L. c. 124 s. 1(c) & (d) and M.G.L. c. 127 s.1A

AGENCY CONTACT: Kevin A. Anahory PHONE: (617) 727-3300 ext
125

ADDRESS: 70 Franklin Street, Ste. 600, Boston, MA 02110

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

Notified Executive Office of Communities and Development and the Massachusetts Municipal Association on October 9, 2008. No statement of impact was received from either office, thus this regulation was deemed to have no impact.

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: November 21, 2008

FISCAL EFFECT - Estimate the fiscal effect of the public and private sectors.

For the first and second year: _____

For the first five years: _____

No fiscal effect: X _____

SMALL BUSINESS IMPACT - State the impact of this regulation on small business. Include a description of reporting, record keeping and other compliance requirements as well as the appropriateness of performance versus design standards and whether this regulation duplicates or conflicts with any other regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.

No impact on small business is anticipated as a result of this regulation.

CODE OF MASSACHUSETTS REGULATIONS INDEX - List key subjects that are relevant to this regulation:

PROMULGATION - State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number.

Amends 103 CMR 979.00

ATTESTATION - The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency. ATTEST:

SIGNATURE: _____ DATE: 4/30/2009

Publication - To be completed by the Regulations Division

MASSACHUSETTS REGISTER NUMBER: 1130 DATE: 5/15/09

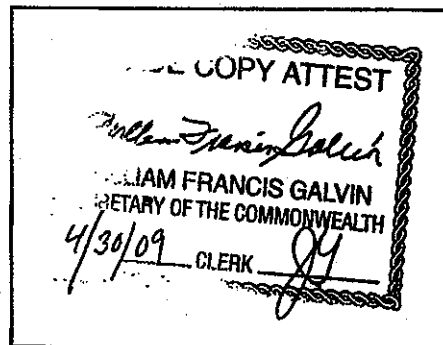
EFFECTIVE DATE: 5/15/09

CODE OF MASSACHUSETTS REGULATIONS

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103 CMR: DEPARTMENT OF CORRECTION

103 CMR 979.00: COUNTY CORRECTIONAL FACILITIES -- VOLUNTEERS AND CITIZEN INVOLVEMENT

Section

979.01: General

979.02: Authority and Responsibilities

979.03: Screening, Selection, and Orientation

979.01: General

In order to foster reintegration of offenders into the community, and augment existing programs, the facility shall establish written policy and procedure for volunteer programs. 103 CMR 979.00 shall not be applicable to jail facilities.

979.02: Authority and Responsibilities

The volunteer plan shall include written policy and procedure governing the following:

- (1) The lines of authority, responsibility, and accountability for the program;
- (2) Goals and objectives of the program;
- (3) Types of services generally offered. Volunteers may perform professional services only when certified or licensed to do so. Documentation of credentials shall be provided;
- (4) Assignment of a staff member to coordinate volunteer activities;
- (5) Approval of all volunteers or volunteer organizations prior to entry into the county correctional facility by the Sheriff/facility administrator or designee; and
- (6) Procedures to curtail, postpone, or discontinue the services of a volunteer or volunteer organization.

979.03: Screening, Selection, and Orientation

The written volunteer plan shall include written policy and procedure specifying:

- (1) Methods for application, screening and selection of volunteers;
- (2) Recruitment of volunteers from all cultural and socioeconomic segments of the community;
- (3) Provisions for an orientation/training program prior to any assignments, to include:
 - (a) lines of authority within the facility, its history, policies, emergency procedures and any other relevant regulations;
 - (b) the role for volunteer programs and the specific duties of each volunteer; and
 - (c) type of inmate population, their needs, attitudes and lifestyles.
- (4) Provisions for volunteers to agree in writing to abide by all county correctional facility policies and regulations, particularly those relating to security and confidentiality; and
- (5) Provisions for identification of volunteers while they are in the county correctional facility.

REGULATORY AUTHORITY

103 CMR 979.00: M.G.L. c. 124, § (1), (c), (d) and (q); c. 127, §§ 1A and 1B.

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