STATE/COUNTY 900 CMR REVIEW PROPOSED LANGUAGE

**HCSD (Mary Baker) – Green edits**

* 103 CMR 900.03: Statutory Authority, one of the § will be removed because (d) and (q) are subsections 1. **Agreed**, see revised language below.

“103 CMR 900.00 through 979.00 are issued pursuant to M.G.L. c. 124 §~~§~~ 1(d) and (q) and c. 127 §§ 1A and 1B, and are not intended to confer any procedural or substantive rights not otherwise granted by state or federal law, nor any private cause of action.”

* 103 CMR 900.07: Non-Discriminatory Treatment

No person confined at any county correctional facility shall be denied the equal protection of the law nor shall be subject to discriminatory treatment on the basis ofage, race, color, religion, national origin, sexual orientation, handicap, creed, or gender. **age**

* 103 CMR 900.09: Access to Policy is contained in the latest version of the 103 CMR 900 series (May 2009) and should not be identified as being deleted. **Agreed**. The standard 103 CMR 900.09 Access to Policy is contained in the official version signed by legal and published.
* 103 CMR 901.02: Inspection shall be amended in the following manner:

901.02: Inspection**.**

The Commissioner or designee shall visit and inspect each county correctional facility to determine compliance with 103 CMR 900.00 through ~~979.00~~ **999.00** at least once every six months. ~~The results of the inspection shall be documented in a draft audit report, which shall be sent from the Commissioner to the Sheriff. The draft report shall be followed by the final audit report.~~ **The standards found in 103 CMR 900 County Correctional Facilities – General Provisions are divided into four (4) cycles. Each cycle consists of an initial audit to assess facility operations and to gauge compliance with the applicable standards. The results of the audit shall be documented in a draft audit report, which shall be sent from the Commissioner to the Sheriff. A follow up audit is conducted six months after the initial audit to assess corrective action taken on each noted deficiency from the draft audit report. The results of the follow up audit shall be documented in a final audit report, which shall be sent from the Commissioner to the Sheriff.**

* 901.03: Standard Categories shall be amended in the following manner:

Each standard has a weight of either “required” or “recommended”. Required standards, noted by the term “Required” in text, are directly related to conditions or situations of life, health, and safety of any sentenced individual or **pre-trail pre-trial** detainee housed in a county correctional facility, employees or the public. There are ~~thirty-four (34)~~ **thirty five (35)** required standards and without exception, efforts shall be made to meet and maintain these standards. The remaining standards are recommended and the facility should strive to comply. Every effort shall be made to maintain compliance at the level designated by the standards.

* 901.04: Waivers subsection (4) is being revised to contain the following language: Granted waivers will expire one (1) year from the date of approval and shall be resubmitted by the Sheriff/designee for reconsideration by the Commissioner.

Subsection (4) shall now read, “Granted waivers ~~shall be reviewed at least annually by the Commissioner or designee to determine if conditions and circumstances are still existing to justify the waiver~~ **will expire one (1) year from the date of approval and shall be resubmitted by the Sheriff/designee for reconsideration by the Commissioner.**”

* 901.05: Waiver in the Event of Overcrowding, the last sentence in subsection (2) is being deleted. The sentence reads, “*The duration of such a waiver shall be at the discretion of the Commissioner.*” As stated above, this sentence should be deleted due to the fact that 901.04 is being revised to state that granted waivers remain in effect for one (1) year.

The standard shall now read, “Any Sheriff of any existing, new, or proposed county correctional facility in which increases in inmate population may prevent compliance with one or more sections of 103 CMR 900.00 through 999.00 may apply in writing to the Commissioner for a waiver of such regulations.

(1)   The application for such a waiver shall conform with the requirements set forth in 103 CMR 901.04(2).

(2)   The granting or denial of such a waiver shall be governed by the procedures set forth in 103 CMR 901.04(3). ~~The duration of such a waiver shall be at the discretion of the Commissioner.~~

* 902.01: Definitions

As used throughout the 103 CMR 900 through ~~979.00~~ **999.00,** unless the context otherwise requires, the following words shall have the following meanings.

Additions. A constructed addition that increases the rated capacity of a correctional facility in operation on ~~the effective date of 103 CMR 900.00 through 979.00~~**~~.~~  or after January 1, 1992.**

**Community Release Facility. A county correctional facility that provides housing and programming for participants of Work Release, Pre‑Release, or Alcohol/Addictions Treatment Programs.**

Confidentiality ~~O~~of Records (Inmate, Medical, Personnel). Information concerning an individual staff member or inmate (\****e.g..*:** medical, criminal, legal, application, pay status (not confidential unless employee was the victim of an adjudicated crime or a victim of domestic violence, sexual assault or rape, and has asked for an exemption), classification*.*) that must be secured in a proper fire‑proof cabinet with limited access in order to protect from theft, loss, tampering and destruction. Policy should specify both those persons authorized to use records and the purpose for such use. \***(incorrect throughout)**

**Direct Inmate Contact.** **Staff, who by virtue of their job description, have regular contact with inmates via housing, programming or services.**

**Electronic Consent. For any 900 CMR standard, which requires an inmate’s written signature/consent, an electronic signature shall be acceptable. However, any and all such instances where an inmate’s written signature may be supplanted by an electronic signature must be detailed in the facility’s inmate orientation manual.**

**Massachusetts Sheriffs' Association. ~~Organization of 14 Sheriffs for the counties of the Commonwealth~~.** **Promotes, advocates and supports the office of Sheriff in all fourteen (14) counties of the Commonwealth, to effectuate their cooperative working relationship with one another, to enhance their work as the chief law enforcement officers of the counties, and to advance efforts to unify their efforts in policy development, operations and training while preserving the autonomy of each office**.

* Several standards throughout the 103 CMR 900.00 series include reference to an inmate signifying their consent or receipt by “signing in writing”. It is recognized that **at** least one county has instituted a practice of scanning a readable bar code associated with an individual inmate to act as an electronic signature. DOC legal reviewed this and determined that an electronic inmate signature was valid if there was some form of notification in writing to the inmate explaining that the scanning signified consent, e.g., written notification in the inmate orientation manual that listed the activities or programs where an electronic scan represented their legal signature. Therefore, a definition shall be placed in 103 CMR 902.01 that reads the following: **??????? above, in bold????**

**Definitions:**

The word ‘**written”** should be removed or replaced with ‘recorded’, ‘documented’, etc.

Emergency Escorted Trip. An approved temporary release authorized by the Sheriff/designee from any county correctional facility for the purposes of attending a funeral of a relative or to visit a critically ill relative. Such ~~afforts~~ **efforts** shall be conducted by staff members who have care and custody responsibilities and the transportation requirements shall be ~~consistnt~~ **consistent** with the security level of inmate security.

Inspection. A systematic examination of a facility operation to ensure compliance with statutory regulations, policy and procedures, life safety codes, or professional standards.

Juvenile. Any inmate, detainee, or resident in the custody of the department who has not reached the age of 18.

Prison Rape Elimination Act (“PREA”). Federal legislation (Public Law No. 108-79), enacted in 2003 to provide for the analysis of the incidence and effects of prison rape in federal, state and local institutions and to provide information, resources, recommendations and funding to protect individuals from prison rape.

Pre-Institutional Assessment Information. Information concerning an inmate committed to a county correctional facility to include, but not be limited to, local and state police reports, FBI reports, probation reports, court proceedings, previous commitment documents,~~,~~ medical, mental health and family history.

Qualified Fire Safety Officer/Environmental Health Officer (Safety/Sanitation Specialist). A county correctional facility staff person or persons trained in the application of jurisdictional codes and regulations. The training of the individual may be provided by the applicable jurisdictional agency or other training agency (*e.g*., department of correction training academy or Sheriff’s academy). The individual may receive assistance from the applicable jurisdictional agency in interpretation of and methods of documentation of specific requirements.

**Safety Equipment. Equipment ~~this~~ which includes emergency fire equipment, *i.e.*, portable extinguishers, water supply, alarm systems, sprinkler systems, self-contained breathing apparatuses, gas masks, fans, first aid kits, stretchers and emergency alarms.**

**Work Days. Business days (Monday through Friday) excluding holidays and weekends.**

* 903.04:   Standards Auditor

The Commissioner/designee may designate a person or persons within the Department of Correction **or guest auditors from County Facilities** to act as county correctional standards auditor, who shall be admitted to visit and inspect any county correctional facility as required for the purposes of 103 CMR 900.00 through 999.00.

* 907.02: Program Statement

(1) New Facilities. As soon as practicable after the filing of the letter of intent, the Sheriff/facility administrator and the architect shall develop a facility program statement as part of the preliminary planning phase for construction of a new facility. The program statement shall include, but not be limited to, a description of the following:

1. type of facility needed;
2. maximum rated capacity of facility based on project needs;
3. types of inmates to be housed;
4. inmate movement within the facility and entry and exit from security areas;
5. description of living units;
6. food preparation and serving;
7. intake and booking area;
8. visiting attorney interview area;
9. medical and psychological examination area;
10. activities for exercise and rehabilitation programs;
11. cleaning and laundering area; **and**

**(l) any other physical plant requirement as stipulated by the 103 CMR 900 series or other regulating authority.**

(2)   Renovations. Where renovation, repair or remodeling is contemplated, the program statement may omit description of any of 103 CMR 907.02(1)(a) through (l) unaffected by the contemplated work.

* 907.04: Final Review and Approval

The Commissioner ~~shall~~ **may** review, comment upon, and approve or disapprove all plans for the renovation, remodeling or repair of existing facilities where it is anticipated that such work will cost $200,000 or more, and for the construction of new facilities.

Must remain as “shall”.

* 907.06: Grants-in-aid, Subsidies

The Commissioner shall develop and administer, in cooperation with the ~~County Commissioners and~~ Sheriff/facility administrators, programs of grants-in-aid or subsidies for ~~constriction~~ **construction** or renovation of county correctional facilities, whenever the Commissioner deems it feasible.

* 911.05:   Financial Audit

Written policy, procedure and practice shall provide for an independent financial audit of the facility to be conducted once every three (3) years.

911.07:   Inmate Funds

* 914.02: Selection and Hiring

(3)   Written policy and procedure shall specify that equal employment opportunity exists for all positions. There shall be no discrimination in hiring on the grounds of age, race, color, religion, national origin, sexual orientation, handicap, creed, or gender.

(5) Written policy and procedure shall provide that all employees who have ~~daily~~ direct **inmate** contact ~~with inmates~~ receive a physical examination prior to job assignment. All other employees shall receive a medical screening prior to job assignment. Provisions shall exist for re-examination when necessary.

* 914.05: Minimum Staff Requirements

(2) Written policy, procedure and practice shall require that when both males and females are incarcerated in the county correctional facility at least one male and one female staff member**~~s~~** is on duty at all times.

* 915.02: Emergency Plans Training (Required)

The Sheriff/facility administrator shall ensure that all county correctional facility personnel are trained in the implementation of written emergency plans, to include:

1. Requiring all new employees to be familiar with the written emergency plans prior to permanent work assignment;
2. Requiring a review of all plans as an element of the in-service training program; and
3. **Staff** ~~W~~**w**ork stoppage ~~and riot/disturbance plans~~ are communicated only to appropriate supervisory or other personnel directly involved in the implementation of those plans.

915.03:   Orientation and Training Requirements

(1)   Written policy and procedure shall provide that all new correctional officer personnel receive 160 hours of orientation and training during their first year of employment; forty (40) of these hours shall be completed prior to an officer being independently assigned to a particular post. At a minimum, this training shall cover the following areas:

(a)   security and search procedures;

(b)   use of force regulations and tactics;

(c)   supervision of inmates;

(d)   report writing;

(e)   inmate and staff rules and regulations;

(f)   rights and responsibilities of inmates;

(g)   emergency procedures;

(h)   interpersonal relations;

(i)   social/cultural life styles of the inmate population;

(j)   communication skills;

(k)   first aid and CPR;

(l)   key control;

1. firearms training;
2. PREA;
3. ADA; ~~and~~
4. suicide prevention; **and**
5. **Conflict of Interest**

All correction officers shall be given an additional forty (40) hours of training each year thereafter to include at a minimum: use of force regulations and tactics, emergency procedures, PREA and suicide prevention.

(2)   Written policy and procedure shall provide that the county correctional facility's administrative and managerial staff receive at least forty (40) hours of orientation if they are new to the facility and at least twenty-four (24) hours of management training each year thereafter, which shall include, but not be limited to, the following areas:

(a)   general management and related subjects;

(b)   decision‑making processes;

(c)   labor law;

(d)   employee‑management relations;

(e)   the interaction of elements of the criminal justice system;

(f)   relationships with other service agencies;

(g) suicide prevention;

(h) PREA; ~~and~~

(i) ADA; **and**

**(j) Conflict of Interest**

 (3)   Written policy and procedure shall provide that all new support employees who have direct inmate contact receive eighty (80) hours of orientation and training during their first year of employment. Of these hours, forty (40) shall be completed prior to being independently assigned to a particular job. At a minimum, this training shall cover the following areas:

(a)   security procedures and regulations;

(b)   rights and responsibilities of inmates;

(c)   emergency procedures;

(d)   interpersonal relations;

(e)   communication skills;

1. First Aid and CPR;
2. PREA;
3. ADA; ~~and~~
4. suicide prevention; **and**
5. **Conflict of Interest**

 Support employees who have direct contact with inmates shall receive an additional forty (40) hours of training during each subsequent year of employment to include at a minimum PREA, suicide prevention and ADA.

(4)   Written policy and procedure shall provide that all new clerical/support employees who have minimal inmate contact; receive forty (40) hours of orientation and training during their first year of employment; Twenty-four (24) of these hours shall be completed prior to being independently assigned to a particular job. All clerical/support employees shall be given an additional sixteen (16) hours of training during each subsequent year of employment to include at a minimum PREA, **Conflict of Interest**, and suicide prevention.

(5)   When a county correctional facility maintains an emergency response unit, written policy and procedure shall provide that all assigned personnel have appropriate experience and receive forty (40) hours of relevant training prior to assignment, and at least sixteen (16) of the forty (40) hours of annual training be specifically related to emergency unit assignments.

(6)   All personnel authorized to use firearms shall receive appropriate firearm training. This training shall cover the use, safety, care, and constraints in the use of firearms. All authorized personnel shall be required to demonstrate competency on at least an annual basis.

(7)   All personnel authorized to use chemical agents shall be thoroughly trained in their use and the treatment of individuals exposed to the chemical agent from a qualified instructor at least every two (2) years.

(8)   All security personnel shall be trained in approved methods of defensive tactics and the use of force to control inmates.

(9)   All part‑time staff, consultants, contractual personnel, volunteers and vendors shall receive formal orientation appropriate to their assignments, and shall agree in writing to abide by all facility policies and procedures, particularly those relating to security, the confidentiality of information, suicide prevention, PREA, **Conflict of Interest,** and ADA.

## 916.01:   Information System Guidelines

The Sheriff/facility administrator shall provide guidelines for an organized information system which is part of overall research and decision making. Such guidelines shall include the following:

(1) Written policy and procedure governing:

(a) data collection;

(b) access to data;

(c) retrieval of data;

(d) review of data;

(e) use of data and relativity to both inmate and management (operational) needs;

(f) storage of data;

(g) security of information;

(h) verification of data; and,

(i) adherence to Criminal Offender Record Information Statute (CORI) (M.G.L. c. 6, §§ 167 through 172), and in accordance with relevant requirements imposed by regulations of the ~~Criminal History System Board~~ **Department of Criminal Justice Information Services (DCJIS)** (803 CMR 2.00, General Information.).

* 916.02: Monthly Report of Admissions and Releases

The Sheriff/facility administrator shall maintain a monthly report ~~to the Commissioner~~ **for the Department of Correction** of all admissions and releases~~by the Commissioner~~. **The information is to be maintained in a written or electronic file. This report shall be sent to the Department of Correction as requested.**

* 917.01: General **(Required)**

The Sheriff/facility administrator shall develop ~~guidelines~~ **written policy and procedure** governing the conduct of research. Research shall include, but not be limited to, studies involving the use of interviews, questionnaires, and reviews of case records. It may not include any study which will expose research subjects to the possibility of physical, psychological or other harm as a consequence of their participation in the study. Biomedical **(medical, pharmaceutical, or cosmetic)** research and experimentation using inmate subjects is specifically prohibited**;** ~~under 103 CMR 932.19~~ **however, shall not preclude individual treatment of an inmate based on his/her need for a specific medical procedure which is not generally available**.

* 917.02: Application to Conduct Research
1. The Sheriff/facility administrator or **designee** shall in conformity with the parent agency’s policy**,** review and approve all facility research projects prior to implementation.

(2) The Sheriff/facility administrator or **designee** shall require, at a minimum, that the following information be provided in any application to conduct research in the facility:

1. the name, address, and telephone number of the principal researcher and of all research staff;
2. an endorsement by a recognized research organization, such as a university, private foundation, consulting firm or public agency certifying that the research is for valid scientific, educational, or other public purposes;
3. a summary of the goals of the study;
4. a description of the research design including procedures for data collection, procedures which will be followed to protect inmate privacy, details of any compensation to be paid to inmates; and,
5. when a study requires access to criminal offender record information (CORI), the researcher shall apply for access to the **Department of Criminal Justice Information Services (DCJIS)**~~Criminal History System’s Board~~and shall provide the Sheriff/facility administrator with a copy of the **DCIJS** ~~Criminal History System Board~~’sletter of approval before being allowed to begin the research. (Refer to M.G.L. c. 6, § 173.)

## 917.03:   Conduct of Research

(1) Written policy and procedure shall govern the conduct of research to comply with state and federal guidelines for the use and dissemination of research findings and with accepted professional and scientific ethics. Research involving criminal offender record information (CORI) shall be conducted in accordance with regulations promulgated by the ~~Criminal History Systems Board~~ **Department of Criminal Justice Information Services (DCJIS)**.

(2) All inmates shall be informed that any participation in the research is purely voluntary and shall not affect the terms or length of their confinement.

(3) The researcher shall provide a clear and comprehensible explanation of the study to all potential participants.

(4) The name or other information which might lead to identification of a particular subject may not be used in any report of research results.

## 918.01:   Case Record Management

(1) Written policy and procedure shall be developed governing case record management for inmate records which shall include, but not be limited to, the following:

(a) establishment;

(b) utilization;

(c) content;

(d) security and safety of all inmate case records;

(e) privacy and security of legally privileged or confidential information; and

(f) a schedule for the preservation, retirement or destruction of inactive case records.

(2) All inmate records shall be handled strictly in accordance with the relevant requirements imposed by the regulations of the ~~Criminal History Systems Board~~ **Department of Criminal Justice Information Services (DCJIS)**. (M.G.L. c. 6, §§ 167 through 178; 803 CMR 2.00,General *Information.*)

* 918.02: Access to Records

Written policy and procedure shall identify those persons, **or group of persons,** within the county correctional facility, and other authorized persons, who shall have direct access to inmate records.

* 918.04: Booking and Intake Information

(4) The complete intake record shall be maintained in the inmate’s individual case record and a copy shall accompany the inmate upon transfer to another facility. ~~The transferring county correctional facility shall provide, in writing, known medical and mental health information about the inmate to the receiving facility. The content of this written form shall include, but not be limited to, the following:~~

1. ~~Mental health history/concerns;~~
2. ~~History of suicide attempts;~~
3. ~~Acute medical concerns;~~
4. ~~Names(s) and dosage(s) of current medications;~~
5. ~~Substance abuse history; and~~
6. ~~Allergies/dietary restrictions.~~

~~In circumstances where an emergency transfer is required, such records may be forwarded within 24-hours of transfer.~~

**Above Moved to 932.14?**

* 103 CMR 920.08: Multiple Occupancy Areas

(4)   The rooms shall provide the following:

(a)  ability for continuing observation by staff;

(b)   access to toilet and wash basin with hot and cold running water, a minimum of one (1) operable toilet for every eight (8) females, one (1) operable toilet for every twelve (12) males (1/3 of required toilets may be urinals), and one (1) operable wash basin for every twelve (12) occupants;

(c) access to one (1) operable shower with hot and cold running water for every twelve (12) occupants; in community release facilities, showers shall be available at a ratio of one (1) for every eight (8) occupants;

(d)   natural light;

(e)   beds above floor level; and,

(f)   a storage container for each occupant.

* 103 CMR 920.09: Community Release Housing and 103 CMR 920.10 Medical Spaces and Equipment. The county delegation stated that the two standards referenced above should not be noted as reserved as they are both contained in the latest version of the 103 CMR 900.00 series. In fact, the published version of the 900.00 CMR with legal signature has both of these standards removed from the 918.00 series of standards. In the official version, 920.09 is now titled “Special Management/Isolation Cells”, and standard 920.10 is now titled “Light, Circulation, Temperature, Noise Requirements.
* 103 CMR 920.09: Special Management/Isolation Cells

(1)   The county correctional facility shall provide special management rooms with living conditions that approximate those of the general inmate population. Special management housing units shall provide the following:

(a)    Rooms or cells with a floor area of at least seventy (70) square feet where confinement exceeds ten (10) hours per day (excluding a normal eight (8) hour sleep period) At least 35 square feet of the total space shall be unencumbered. This requirement applies only to renovations and new facilities;

(b)   a bed at above floor level, desk or writing surface and proximate area to sit; and,

(c)   continuous access to the following:

(i).   above‑floor toilet facilities;

(ii).   hot and cold running water; and,

(iii).   natural light.

(2)   Special management rooms shall have doors which provide staff with the ability to observe within the room and inmates with the ability to communicate with staff outside the room.

103 CMR 920. 09 shall not apply to community release facilities.

* 920.10: Light, Circulation, Temperature, Noise Requirements

At least every three **(3)** years~~, an independent,~~ **a** qualified source shall document that all living areas have:

(1) Lighting of at least **twenty** (20) foot candles at desk level and in the personal grooming areas;

1. Circulation of at least ten **(10)** cubic feet of outside or re**-**circulated filtered air per minute;
2. Temperatures appropriate to summer and winter comfort zones; and,
3. Noise levels that do not exceed **seventy** (70) decibels in daytime. Noise level readings shall be documented in the daytime and at night.
* 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. Strip searches shall be conducted by one **(1)** security personnel and a second **(2nd)** 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.*).

In instances involving the use of force, strip searches shall only be video recorded by a member of the same sex as being strip searched.

(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 trained and qualified 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.

 **For legal, see highlighted sections above.**

 **Person not arraigned, cannot strip search**

* 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 **(to include specialty impact munitions/distraction devices)**, 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,

(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 **(to include specialty impact munitions/distraction devices)**, 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 twelve (12) months are issued firearms and ammunition **(to include specialty impact munitions/distraction devices)**;

(6)   Chemical agents shall be issued only to employees authorized by the Sheriff/facility administrator and who have received documented training within the past twenty-four (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 **(to include specialty impact munitions/distraction devices)**, 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)   An ongoing evaluation on the maintenance, repair, and acquisition of security equipment; **Keep ‘annual’, ‘on-going’ is too vague**

(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)

 (3)   The use of firearms, chemical agents, disorder control equipment, restraint equipment (when used other than as a normal precautions during inmate movement, transportation or a direct order given by staff and in which an inmate complies), 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.

* 924.10:   Use of Canines

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

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

(6) Prohibiting the use of canines in the cell extraction process.

* 924.12:   Use of Restraint Equipment

(2) The use of four/five point restraint equipment or a restraint chair to include:

1. prior approval from the facility administrator or designee;
2. medical and/or mental health assessment by the health authority or designee:
3. 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;
4. restrained inmates shall be under constant visual observation by staff; and,

,; and

(iii) after the initial medical and/or mental **health** assessment, the restrained inmate shall be assessed by medical and/or mental **health** staff every two (2) hours, absent any extraordinary circumstances; .

(iv) if an inmate is restrained for greater than eight (8) hours, a mental health assessment must be conducted and documented. In addition, the Sheriff/facility administrator must be contacted and notified of the circumstances, and this shall be documented by staff.

(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.

Time frames differ from MGL and DMH Policy (104 CMR 27.12)

MGL 123, Sec 21:

Restraint of a mentally ill patient may only be used in cases of emergency, such as the occurrence of, or serious threat of, extreme violence, personal injury, or attempted suicide; provided, however, that written authorization for such restraint is given by the superintendent or director of the facility or by a physician designated by him for this purpose who is present at the time of the emergency or if the superintendent or director or designated physician is not present at the time of the emergency, non-chemical means of restraint may be used for a period of one hour provided that within one hour the person in restraint shall be examined by the superintendent, director or designated physician. Provided further, that if said examination has not occurred within one hour, the patient may be restrained for up to an additional one hour period until such examination is conducted, and the superintendent, director, or designated physician shall attach to the restraint form a written report as to why the examination was not completed by the end of the first hour of restraint.

No order for restraint for an individual shall be valid for a period of more than three hours beyond which time it may be renewed upon personal examination by the superintendent, director, authorized physician or, for adults, by a registered nurse or a certified physician assistant; provided, however, that no adult shall be restrained for more than six hours beyond which time an order may be renewed only upon personal examination by a physician. The reasons for the original use of restraint, the reason for its continuation after each renewal, and the reason for its cessation shall be noted upon the restraining form by the superintendent, director or authorized physician or, when applicable, by the registered nurse or certified physician assistant at the time of each occurrence.

No person shall be kept in restraint without a person in attendance specially trained to understand, assist and afford therapy to the person in restraint. The person may by (be) in attendance immediately outside the room in full view of the patient when an individual is being secluded without mechanical restraint; provided, however, that in emergency situations when a person specially trained is not available, an adult, may be kept in restraint unattended for a period not to exceed two hours. In that event, the person kept in restraints must be observed at least every five minutes; provided, further, that the superintendent, director, or designated physician shall attach to the restraint form a written report as to why the specially trained attendant was not available. The maintenance of any adult in restraint for more than eight hours in any twenty-four hour period must be authorized by the superintendent or facility director or the person specifically designated to act in the absence of the superintendent or facility director; provided, however, that when such restraint is authorized in the absence of the superintendent of facility director, such authorization must be reviewed by the superintendent or facility director upon his return.

No later than twenty-four hours after the period of restraint, a copy of the restraint form shall be delivered to the person who was in restraint. A place shall be provided on the form or on attachments thereto, for the person to comment on the circumstances leading to the use of restraint and on the manner of restraint used.

* 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)   The issuance of tools, culinary and or medical equipment shall be noted by the exchange of a chit or by a written or electronic record;

(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.

**924.17 Transportation and Security of Pregnant Inmates**

**In order to maintain appropriate treatment of pregnant and post-partum inmates at the county correctional facility, written policy and procedure shall require and, absent such written policy and procedure, 103 CMR 924.17 requires:**

* 1. **Transportation To/From Medical and /or Court Visits.**

**When transporting pregnant inmates to and from visits to medical providers and court proceedings, a vehicle with seatbelts shall be utilized, and restraints, if any, shall be used as follows:**

**(a) During the second or third trimester, only handcuffs in the front shall be applied.**

**(b) An inmate who is in any stage of labor, as determined by a medical professional, shall not be placed in restraints.**

**(c) During post-delivery recuperation, as determined by the attending physician, only handcuffs in the front shall be applied, except where a correction officer makes a determination, approved by a superintendent, that extraordinary circumstances necessitate greater restraint. The least restrictive restraint necessary to address those extraordinary circumstances shall be used. The type of restraint used and approval process shall be documented.**

**(2) In-hospital Security for Pregnant Inmates.**

**(a) During the second or third trimester, only handcuffs in the front shall be applied.**

**(b) An inmate who is in any stage of labor, as determined by a medical professional, shall not be placed in restraints. One correction officer may remain in the hospital room during delivery or physical examination; however, the correction officer shall, if possible, be female and be situated in a locale respective of the inmate’s privacy.**

**(c) During post-delivery recuperation, as determined by the attending physician, no restraint shall occur unless a correction officer makes a determination, approved by a superintendent, that extraordinary circumstances necessitate restraint, and a medical professional determines that such restraints are not medically contraindicated. The least restrictive restraint necessary to address those extraordinary circumstances shall be used. The type of restraint used and approval process shall be documented.**

 **(d) If the attending physician or nurse treating the pregnant inmate requests that the restraints be removed for a medical reason, the correction officer shall immediately remove all restraints, followed by an immediate verbal notification to a superintendent that is additionally documented in writing.**

**(e) Nothing in this section shall prohibit use of hospital restraints requested by a treating physician for the medical safety of a patient.**

**(3) Use of Leg Irons and Waist Chains**

**(a) Neither leg irons nor waist chains shall be used on an inmate who is pregnant or in post-partum recuperation, as determined by the treating physician.**

 **(4) Extraordinary Circumstances.**

**For the purposes of 103 CMR 924.17, extraordinary circumstances exist where a correction officer makes an individualized determination, with prior approval by a superintendent if practicable, that the inmate presents an immediate, serious threat of hurting herself or others, or that the inmate presents an immediate and credible risk of escape that cannot be reasonably contained through other methods. Absent prior approval, immediate verbal notification of the application of restraints shall be made to a superintendent. If an inmate is restrained, the restraints shall be the least restrictive available and the most reasonable under the circumstances, but in no case shall include leg or waist restraints. Any determination of extraordinary circumstances must be documented in writing in advance of the application of any restraint or, if not practicable, by the conclusion of the correction officer’s shift. The written documentation shall include the reasons the officer determined extraordinary circumstances existed; the kind of restraints used; and the reasons those restraints were considered the least restrictive available and the most reasonable under the circumstances.**

* 926.02:   Management and Inspection of Special Management Units

(4)   Written policy and procedure shall require that staff members in the special management units maintain a permanent 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.

* 926.04:   Programs and Services for Inmates in Segregation

(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. The use of showers and the making of telephone calls shall not be included in the one (1) hour allotted for exercise. When weather permits, this shall include outdoor exercise.

* 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 41 to 80F;

(2)   Refrigerated foods are maintained at 41F or below; and,

(3)   Freezer temperature foods are at 0F or below.

(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

(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 hand washing before returning to work.

* 928.12:   Inspections

(4) Annual inspection of the food service department by the Department of Public Health; and that

(5) If any deficiencies were noted and corrected, documentation of such corrective action shall be available.

Section (4) was separated into two different subsections.

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~~ intellectual disability,** emotional disturbance and chemical dependency; and,

(f) procedures for inmate transfers to appropriate medical facilities or health care providers

* 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 acute medical concerns, mental health history, dental problems, communicable diseases and other infectious diseases;
2. name and dosage of medications taken and special health requirements;
3. use of alcohol and substance abuse history 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 history of suicide attempts; and,
5. other health problems, including allergies/dietary restrictions, 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

(1)   Pursuant to M.G.L. c. 127, § 16, each inmate committed to the facility for thirty 30 days or more shall receive a thorough physical examination. Said examination shall take place no later than 14 days of admission;

* 103 CMR 932.10: General Health Care Services, one of the § will be removed as both (c) and (s) are subsections of M.G.L. c. 124 §1 (c) and (s). **Agreed**, see revised language below.

“(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);

* 932.13:   Mental Health Services

(1)   Written policy and procedure shall require post admission screening and referral for care of mentally ill or disabled inmates whose adaptation to the correctional environment is significantly impaired. This procedure shall provide for referring inmates, who are severely disturbed and/or mentally disabled, for placement in either appropriate non‑correctional facilities or in specially designated units for handling the individual.

* 932.14:   Inmate Transfers

(2)   Written policy and procedure shall provide for health care personnel to evaluate either the inmate or ~~his/her~~ **their** 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.

(3) Upon an inmate’s transfer to another facility, the transferring county correctional facility shall provide, in writing, known medical and mental health information about the inmate to the receiving facility. The content of this written form shall include, but not be limited to, the following:

(a) Mental health history/concerns;

(b) History of suicide attemps;

(c) Acute medical concerns;

(d) Name(s) and dosage(s) of current medications;

(e) Substance abuse history; and

(f) Allergies/dietary restrictions.

* 932.19:   Medical Experimentation and Research (Required)

With the reclassification of 917.01 to “Required”, and the revised language in that standard, the following can be deleted as the same language would be duplicated here.

* 934.01:   Inmate Rights (Required)

(3)   Written policy and procedure shall provide the following:

(a)   that program access, work assignments and administrative decisions are made without regard to inmates' age, race, color, religion, national origin, sexual orientation, handicap, creed, or gender; and,

(b)   equal opportunity to access various programs and work assignments, and involvement in decisions concerning classification status.

 (6) The Sheriff/facility administrator shall comply with all applicable Department of Justice (DOJ), Prison Rape Elimination Act (PREA) standards as evidenced by a current, successful audit conducted by a certified DOJ PREA auditor.

* 934.02:   Grievance Procedures (Required)

Written policy and procedure shall establish an inmate grievance procedure, which shall provide all inmates access to an administrative remedy for redress of legitimate complaints ~~in a confidential manner~~. For the purposes of this standard, confidential manner shall be defined as a grievance form filed or mailed directly to the Facility Administrator, Assistant Facility Administrator, Assistant Deputy Superintendent, or the Facility Institutional Grievance Coordinator, or by depositing the completed form in a locked mailbox or drop box. The drop box shall be opened and the contents collected on a daily basis by ~~either the~~ ~~Institutional Grievance Coordinator~~ ~~or~~ ~~a staff member of Lieutenant or higher rank.~~ **a Facility supervisor**. The inmate grievance process shall include, but not be limited to:

**\*\*\*PREA Grievance can be in any format/manner to any staffperson**

* 103 CMR 936.02: Academic and Vocational Education, the standard requires all educational personal to meet certification requirements as stipulated by the Commonwealth’s Department of Education. M.G.L. Ch. 69 sec. 1H is a five-year renewal certificate for ABE teachers. Therefore, it is already contained in the latest version of the 103 CMR 900.

The county delegation’s contention was that the M.G.L. chapter and section addressing ABE and vocational education licensure should be referenced in the standard so that auditors may reference the M.G.L. when assessing the standard. **Agreed.** The revised language for 936.02 appears below:

(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 Elementary and Secondary Education (MGL ch.69 §1H) or are working toward said certification.

* 940.01:   Admission and Orientation

(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, no later than thirty (30) calendar days from the date of admittance into the facility.

* 940.02:   Property Control

(1)   Written policy and procedure shall specify the personal property inmates can retain in their possession ~~and shall include a process by which the county correctional facility can create a list (on an as needed basis)~~ **of nonperishable commissary items purchased by an inmate**.

(3)   The facility administrator at each county correctional facility shall appoint a property officer who shall maintain inventories and records of all inmate personal property **stored upon intake**, excluding perishable food items purchased through the inmate canteen system.

(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.*). Such procedure shall include, at a minimum, but not be limited to the following:

(a) ~~prior to disposal~~, the inmate shall be notified to arrange for claiming of property. If the inmate still resides at the facility, the inmate shall designate a contact person who shall be notified to claim the property.

(b) If after a period of time, not less than thirty days, the property is not claimed, the facility shall outline a disposal process to include the manner and location of disposal and at least two staff members present upon disposal. This process shall be documented. ~~The thirty day timeframe will not apply only in those instances where the inmate authorizes the facility to dispose of the property immediately.~~

(c) a separate process shall be outlined for the disposal of unclaimed inmate valuables in accordance with M.G.L., Chapter 127, Sections 96A and 96B.

* 942.03:   Minimum Requirements in Classification (Required)

(6)   Inmates shall not be segregated by reasons of age, race, color, religion, national origin, sexual orientation, handicap, creed, or gender

(8) Consistent with M.G.L., c. 258 and M.G.L., c. 6 s. 172 c, there is a system for providing fourteen (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~~ **Department of Criminal Justice Information Services’s (DCJIS)** confidential database (Victim Automation System).

* 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, and reviews; and,

(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 ninety (90) 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.

* 943.02:   Disciplinary Personnel

The Sheriff/facility administrator **or designee** shall appoint a staff member(s) as disciplinary officer(s) to supervise and coordinate the procedures required by 103 CMR 943.00 and the county correctional facility's written plan. The Sheriff/facility administrator **or designee** 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.

103 CMR 943.04: Informal Disciplinary Procedures

(3)   The Sheriff/facility administrator **or designee** 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~~. All such reviews of the reports and the informal resolutions shall be documented.~~

* 943.06:   Procedures for Disciplinary Hearings

~~(2)   Disciplinary hearing proceedings shall provide that~~ (2)   Disciplinary hearing proceedings shall provide that:

(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

(6)   A review shall be conducted ~~and documented~~ of all disciplinary hearings and dispositions by the Sheriff/facility administrator or designee.

## 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, **excluding weekends and holidays**, 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 (7) **business** days from receipt of the decision to submit an appeal in writing; and,

(b)   the appeal shall be decided within five (5) business days of its receipt, and the inmate shall be notified of the results within twenty-four (24) hours, **excluding weekends and holidays,** of the decision.

* 943.08:   Sanctions

(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, § 129C;

(f)   disciplinary detention for a specified period of time; and

(g)   a combination of the above.

## 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 **(10)** days for one **(1)** offense and **thirty (30)** days for all violations arising out of one incident.

(4) Continuous confinement in disciplinary detention for more than **thirty** 30 days requires the review and approval of the Sheriff/facility administrator.

* 944.01:   General Provisions

(2)   Policy and procedure shall prohibit discrimination in inmate work assignments based on age, race, color, religion, national origin, sexual orientation, handicap, creed or gender.

944.02:   Industries Programs

(3) If an industries program exists at the facility, in accordance with M.G.L. c. 127, § 51, the number of inmates employed, the kind and quantity of goods manufactured, the amount of goods sold and monies received shall be conducted in accordance with applicable statutes and the appropriate regulations established by the parent agency or other authority having jurisdiction.

948.03:   Collection and Distribution

(4)   Mail received for an inmate who has been transferred or released from the facility where the mail is received, shall be promptly forwarded to the inmate whenever possible, or returned to the sender. A system for ~~logging~~ **recording** any forwarded and / or returned mail shall be developed and maintained.

* 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:

(7)   the Secretary of the Massachusetts Executive Office of Public Safety and Security;

(8)   the Sheriff of the county in which the inmate is confined;

(10)   any member of the Massachusetts Parole Board or probation officer; and

(11)  any District Attorney of the United States.

 Check with legal on (11).

* 948.06:   Inspection of Privileged Correspondence

(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. Inmates are permitted to send sealed letters to a specified class of persons and organizations, including but not limited to the following: courts; counsel; officials of the confining authority; state and local chief executive officers; administrators of grievance systems; and members of the paroling authority. Staff, in the presence of the inmate, may be allowed to inspect outgoing privileged mail for contraband before it is sealed. Mail to and from this specified class of persons and organizations may be opened to inspect it for contraband and only in the presence of the inmate unless waived in writing, or in circumstances, which may indicate contamination. **Contradictory…Mail to and from may be opened**

* 948.10:   Telephone Privileges

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

(3) The Sheriff/facility administrator shall ensure that a procedure is developed to notify the inmates of the monitoring of inmate telephones. A notice shall be posted next to all inmate telephones indicating that all calls may be monitored and recorded, or a recorded announcement over the telephone that states the same, prior to a telephone call being made.

* 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 and procedure for excluding visitors;

(f)   provisions for special visits; and

(g)   procedure for keeping records of all visitors to facility.

* 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, a statement of expected dress code, and a statement that no weapons are allowed on the facility’s property;

(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.

* 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:

(1)   A visitor shall be required to produce a current photographic identification such as a driver's license or a passport. (Exceptions may be made by the Sheriff/facility administrator or his designee).

(2) (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 Assistant Deputy Commissioner of Correction, Sheriff, 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. No weapon shall be returned to the visitor unless the visitor can show **a** **current** proof of license.

* 103 DOC 950.04: Searches of Visitors, subsection (2) of the standard requires, “A search procedure effective in preventing the smuggling of articles into the facility; which may include, but not be limited to; 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.”

The county delegation’s contention concerning the standard language regarded facilities that only allow non-contact visits for reasons of safety and security. The delegation stated that some non-contact visit rooms are located outside of the secure perimeter and that visitors never enter the facility or come into contact with inmates. The delegations’ comments and concerns were noted as valid and considered; however, the standard language should remain as currently constituted. The rational being that not all county correctional facility’s have similar physical plant construction or all non-contact visits. The language is necessary so that the auditors can assess the requirements’ of the standard as they apply to each county facility. Therefore, if the county allows for non-contact visits only; however, the visits have to be processed into the perimeter of the facility, a search plan effective in reducing contraband would be necessary. The standard’s requirements shall be assessed on an individual and case by case basis to determine the suitability of the search plan as it relates to the construction and operational practice of the facility in question.

950.06:   Special Visits

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

 (a) Visiting attorneys and members of the clergy entering the facility shall be subject to a search. This search shall initially consist of successfully passing through a fixed metal detector or hand-held scanner before being allowed into the facility.

 (b) If the visitor being searched can not successfully pass the fixed metal detector, he/she shall be subject to a search by a hand-held scanner. Failure to successfully passing the hand-held scanner shall require the visitor to a further search to determine the cause of the interference.

 (c) If a further search requires more than the removal of external clothing or accessories, the visitor shall be afforded the opportunity to consent in writing to a pat down search or to leave the institution.

## 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~~ **Department of Criminal Justice Information Services’s (DCJIS)** database (victim certification notification program).

* 952.02:   Work/Educational Release Programs

(1)   In accordance with the requirements of M.G.L. c. 127, §§ 86F and 86G:

(a)   an inmate on work release and ~~his/her~~ **their** 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;

* 103 CMR 952.03: Furloughs**/Emergency Escorted Trips**, DOC legal has advised the PDCU that the word “furlough” cannot be removed from the standard’s language for legal reasons.
* 974.08:   Personal Hygiene

(3)   Water temperature for showering or bathing shall be thermostatically controlledin accordance with 105 CMR 451; and,

* 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) a suitable, clean, flame retardant pillow (unless a mattress with an integrated pillow was issued);

(c)   two clean sheets, a clean pillowcase (if a pillow is issued);

(d)   two clean bath‑size towels; and,

(e)   sufficient clean blankets to provide comfort under existing temperature conditions.