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CERTIFICATE

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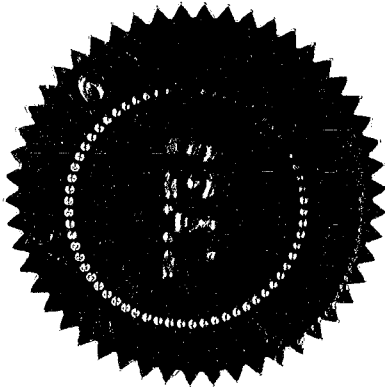
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STATE OF WISCONSIN)
) SS
DEPARTMENT OF CORRECTIONS)

I, Stephen E. Bablitch, Secretary of the Department of Corrections and custodian of the official records of the Department, do hereby certify that the annexed permanent rules relating to jails were duly approved and adopted by this Department on October 12, 1990.

I further certify that this copy has been compared by me with the original in file in the Department and that this copy is a true copy of the original, and of the whole of the original.



SEAL:

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the City of Madison, this 12th day of October, 1990.

Stephen E. Bablitch
Stephen E. Bablitch, Secretary
Department of Corrections

12-1-90

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ORDER OF THE DEPARTMENT OF CORRECTIONS

OCT 17 1990

To renumber DOC 350.07(2), (3), (4) and (7), 350.08(1), (3), (4), (5), (6) and (7), 350.09(1), (2), (3), (4) and (5), 350.10(1) and (3), 350.11(2), (3) and (4), 350.12, 350.13 and 350.14; to renumber and amend DOC 350.07(1), (5) and (6), 350.08(2), (8), (9) and (10), 350.09(4), 350.10(2) and (4), 350.11(1) and (5) and 350.15; to amend DOC 350.05(4)(a) and (b), (6)(b), (d) and (f) and (7)(a) and (d); to repeal and recreate DOC 350.03, 350.05(3) and 350.06; to create DOC 350.07, relating to the design, construction, sanitation, health, safety and security of jails.

Analysis Prepared by the Department of Corrections

This order proposes changes to ch. DOC 350 which concerns standards for jails including requirements for cell size, furnishings, sanitation, fire safety, inmate health care and hygiene, security, disciplinary procedures for inmates, records and reports. These proposed changes were developed in consultation with the Badger State Sheriffs Association. Under current conditions of jail crowding, certain provisions of ch. DOC 350 may jeopardize the security and safety of jails if they do not have adequate staff to implement the requirements. The revisions take into consideration the fiscal impact of jail standards, including the possible impact on staffing requirements, yet retain standards intended to maintain a safe, secure and sanitary environment for jail inmates and staff.

This order proposes the following changes to ch. DOC 350:

- 1) Under the proposed rule, sheriffs may place two persons in a cell if the jail meets specified conditions, including minimum cell space, supervision requirements, separation by classification and adequate time out of cells. These special conditions are required when substantially increasing the number of inmates in a jail in order to provide a humane environment for inmates and a safe environment for inmates and staff.
- 2) The amendments delete requirements for specific numbers of showers, bathtubs, toilets and wash basins. Jails must meet Department of Industry, Labor and Human Relations codes for providing plumbing fixtures.
- 3) The amendments delete square footage requirements for dayrooms located within dormitories or next to dormitories or cells. Each dormitory, cell, except receiving cells and holding rooms, is required to have a dayroom in its immediate vicinity and each dayroom must have tables and seating for the number of inmates that have access to it.
- 4) The amendments delete the specific time limit for the use of holding rooms. Holding rooms may not be used for sleeping purposes as a substitute for cells or dormitories.
- 5) In existing jails, the amendments remove the requirement for a shelf table and seat in each cell.
- 6) In existing jails, the proposed changes allow jails to house Huber law inmates and work release inmates with other inmates of the same security classification.

- 7) For existing jails, the amendments clarify the requirements for locking mechanisms. Existing jails are required to have a remote release to unlock inmates in an emergency such as a fire.
- 8) The amendments remove the requirement that sheriffs provide sheets, pillowcases and blankets in each case of overnight detention. The proposed rules require the sheriff to provide adequate bedding, but leave him or her some discretion not to provide those items in situations where they are not needed or may be unsafe, such as an inmate who is to be released shortly or an inmate who may use the items to attempt suicide.
- 9) The amendments remove the requirement to have a registered dietician review menus annually. The changes require sheriffs to serve nutritionally balanced meals and keep menus for 90 days. The department's regional detention facilities specialists can have the menus reviewed by state dieticians for nutritional adequacy.
- 10) The amendments require jail staff to give inmates toilet articles upon request rather than upon admission. After 24 hours, the jail must notify inmates that they have the right to request certain toilet articles. The amendments delete the requirement to provide shaving materials. Shaving materials can be used as weapons and require staff supervision while in use. Toilet paper and feminine hygiene materials must be available at all times upon request.
- 11) The amendments reduce the number of incidents sheriffs need to report to the department's regional detention facilities specialist. However, the sheriff is required to provide information to the department promptly upon request.
- 12) The amendments eliminate exact time intervals expressed in minutes between inspections. The proposed rules require jail staff to inspect all areas of the jail at frequent and irregular intervals. Inmates with special medical or mental health problems need to be inspected more frequently.
- 13) The proposed rules allow the department to grant an exception to any of the requirements in ch. DOC 350, except that there are no exceptions to the conditions required to permit double celling or to requirements imposed by Wisconsin Statutes. In order to obtain a variance, the sheriff has to show the requirement would cause an unreasonable hardship for the jail and that the variance would provide equivalent or better protection for the health, safety, welfare and rights of inmates and the public.

The Department's authority to renumber, amend, repeal and recreate these rules is set forth in ss. 227.11(2)(a) and 301.37, Stats. The rules interpret ss. 301.03(5), 301.36, 301.37, 302.30 to 302.45 and 303.16, Stats.

SECTION 1. DOC 350.03 is repealed and recreated to read:

DOC 350.03 DEFINITIONS. In this chapter:

(1) "Cell" means a secure room designed and used as a sleeping room for one person confined in a jail, except that when the jail meets the conditions for double celling under s. DOC 350.07, "cell" means a secure room designed as a sleeping room and used for sleeping one or two persons confined in a jail.

(2) "Confinement" means placement in a cell of a person who has been arrested and is awaiting bail or bond posting, arraignment or another legal proceeding listed under ss.48.208 and 48.209, Stats., for juveniles, or s.302.31, Stats., for adults.

(3) "Contraband" means any item not allowed in a jail by the sheriff or by this chapter.

(4) "Dayroom" means an area in a jail which is designed and used as a leisure time area and which is readily accessible to a group of cells or a dormitory or is located within a dormitory.

(5) "Department" means the Wisconsin department of corrections.

(6) "Detention strength" means strong enough to resist damage an inmate could inflict with tools or equipment that would normally be in his or her possession.

(7) "Division" means the division of the department responsible for regulating jails.

(8) "Dormitory" means a room used for sleeping purposes and designed for occupancy by 2 or more persons.

(9) "Holding room" means a secure room in the jail designed for holding more than one inmate of the same sex and security classification as determined by the segregation requirements specified in s.302.36, Stats., for the purpose of processing admissions and releases.

(10) "Huber law inmate" means an inmate granted the privilege of leaving a jail under s.303.08, Stats., or s.973.09, Stats.

(11) "Jail" means a place of confinement operated by a sheriff for the purposes listed under s.302.31, Stats. "Jail" includes a jail as defined under s.302.30, Stats., a state-local shared

correctional facility as defined under s.302.45, Stats., and a county house of corrections as defined under s.303.16 and 303.17, Stats.

(12) "Multi-purpose room" means a room or an area in a jail that is designated for recreational activities, physical exercise or congregate assembly other than visiting.

(13) "Receiving cell" means a secure room designed and used as a sleeping room for one person confined in a jail to segregate the person for admission, release or disciplinary purposes.

(14) "Secure perimeter of the jail" means the secure outer boundaries of a jail.

(15) "Security classification" means a grouping of inmates based on the level of supervision required, the nature of the offense for which the inmate was arrested or of which the inmate was convicted, or other criteria set by the sheriff.

(16) "Sheriff" means the person in charge of jail operations or a designee.

SECTION 2. DOC 350.05(3) is repealed and recreated to read:

DOC 350.05(3) CELLS. (a) This subsection applies to all cells except receiving cells and holding rooms. Requirements for receiving cells are specified under sub.(5) and requirements for holding rooms are specified under sub.(7).

(b) Except if s. DOC 350.07 applies, each cell shall be designed and used for single occupancy only.

(c) Except if s. DOC 350.07 applies, each cell shall have a floor area of at least 54 square feet. The distance between the floor and ceiling may not be less than 8 feet and the distance between opposite walls may not be less than 6 feet.

(d) Each cell shall have:

1. A rigidly constructed metal bed with the frame bracketed to the wall or bolted to the floor or a bed built in masonry construction of a similar strength for each inmate;
2. A detention strength, metal, institution-type wash basin and toilet. The wash basin and toilet may be combined in one unit. The wash basin shall have hot and cold running water;
3. Detention strength light fixtures that shall provide at least 10 footcandles of illumination, 30 inches above the floor. Lights shall have a dimming capability or there shall be a night light to allow for comfortable sleeping; and
4. A detention strength, metal, institution-type mirror that is not removable.

(e) There shall be at least one shower or bathtub in each area where cells are located. There shall be hot and cold running water in the showers and bathtubs and the hot water shall maintain a minimum temperature of 110°F to the mixer. In this subsection, "mixer" means the part of the plumbing system which combines hot and cold water.

SECTION 3. DOC 350.05(4)(a) and (b), (6)(b), (d) and (f) and (7)(a) and (d) are amended to read:

DOC 350.05(4) DAYROOMS. (a) All dormitories and cells, except receiving cells and holding rooms, shall be provided with one or more dayrooms in their immediate vicinity that are accessible to inmates. ~~A dayroom which is not an area within a dormitory shall provide a minimum of 35 square feet for each occupant of the dormitory or the cells which have access to the dayroom and shall have a minimum total space of 70 square feet.~~ If the dayroom is an area within a dormitory, the requirements under sub.(6)(b) apply.

(b) Each dayroom shall have ~~sufficient~~ detention strength tables and seating for the number of occupants of the dormitory or cells that have access to the dayroom.

(6)(b) Each dormitory ~~which does not contain a dayroom~~ shall have a minimum floor area of 35 square feet per occupant, excluding the toilet and shower area. ~~Each dormitory containing a dayroom shall have a minimum floor area of 50 square feet per occupant, excluding the toilet and shower area.~~ Each dormitory shall have a floor to ceiling height of not less than 8 feet.

(d) A secured ~~locker~~ area for ~~clothing and~~ personal property shall be provided for each occupant of a dormitory.

(f) Each dormitory shall provide ~~one shower or bathtub for every 10 occupants, one toilet and one wash basin for every 8~~ adequate showers or bathtubs, toilets and wash basins for the occupants and, ~~in dormitories with male occupants, at least one urinal for each dormitory.~~ Each dormitory shall have hot and cold running water and the hot water shall maintain a minimum temperature of ~~105°~~ 110°F to the mixer. In this subsection, "mixer" means the part of the plumbing system which combines hot and cold water.

(7) HOLDING ROOMS. (a) Holding rooms shall only be used ~~For~~ for admission, release and investigative purposes;. A holding room may not be used as a cell, dormitory or receiving cell ~~an inmate may be placed in a holding room for a period of time not to exceed 4 hours, but only after the decision has been made to admit the inmate to the jail and proper entries have been made in the register of inmates required under s. HSS 350.10(1).~~ Holding rooms shall be located in an area that allows continuous staff observation or electronic video surveillance of inmates. Supervision is subject to the requirements of ss.302.41 and 302.42, Stats.

(d) A detention strength, institution-type wash basin and toilet shall be provided ~~for every 8 occupants and, in holding rooms designated for male occupancy, a urinal shall be provided.~~

SECTION 4. DOC 350.06 is repealed and recreated to read:

DOC 350.06 PHYSICAL ENVIRONMENT OF EXISTING JAILS. (1) This section applies to jails that were constructed before March 1, 1990, and have not been substantially remodeled on or after March 1, 1990.

(2) Except if s. DOC 350.07 applies, each cell shall be designed and used for single occupancy only.

(3) Except if s. DOC 350.07 applies, each cell shall be at least 5½ feet wide and 7½ feet long.

~~(4) Each cell shall provide 400 cubic feet of air space per occupant.~~

(5) (4) Each cell shall contain a rigidly constructed metal bunk with the frame bracketed to the wall or bolted to the floor or a bed built in masonry construction of a similar strength for each inmate, a prison-type wash bowl and a prison-type toilet.

(6) (5) There shall be adequate showers or bathtubs for the inmates. The supply of hot and cold water shall be adequate.

(7) (6) Inmates may be housed in dormitories if the inmates are of the same security classification and properly segregated as required under s. 302.36, Stats. Dormitories may be used for Huber law inmates or other groups by classification. Dormitories shall include sufficient wash basins, toilets and showers.

(8) (7) All windows accessible to prisoners shall be covered with a heavy gauge screen of ¼" mesh or less or a detention screen to prevent passage of contraband. If the window leads to the exterior of the jail or to an area outside the secure perimeter of the jail and the exterior window does not open, the detention screen may be omitted if the window is mounted in a detention strength frame and the pane is security glass of sufficient strength to resist breakage and prevent the passage of contraband.

(9) (8) An approved security door with an observation opening shall be provided for each entrance into the secure perimeter of a jail. The door may not be unlocked except to admit authorized persons and inmates.

(10) (9) A detention strength locking device shall be installed on each security door. Jail sections having multiple cells shall be provided with locking devices so that doors may be unlocked by a remote release located in an area not accessible to inmates.

(11) (10) The exterior of and approaches to the jail shall be well lighted at night to permit observation of persons approaching the building.

SECTION 5. DOC 350.07 is renumbered 350.08 and as renumbered 350.08(1), (5) and (6) are amended to read:

DOC 350.08 SANITATION. All jails shall meet the requirements of ch. HSS 190. In addition:

(1) Inmates assigned to the kitchen who prepare, handle or serve food shall bathe or shower daily;

(5) Mattresses shall be provided where there is a need for overnight detention. Each mattress and each pillow, if used, shall be covered with a fire retardant, waterproof, easy-to-sanitize material. Mattresses and pillows shall be kept in good repair and in a clean and sanitary condition. ~~If mattresses are provided, clean sheets, pillowcases if pillows are used and blankets shall be provided~~ The sheriff shall provide adequate bedding;

(6) Suppliers of mattresses and pillows shall provide evidence to the ~~jail administrator~~ sheriff that the products are fire retardant, waterproof and easy to clean; and

SECTION 6. DOC 350.07 is created to read:

DOC 350.07 DOUBLE CELLING. A jail may use cells for double occupancy if all of the following conditions are met:

(1)(a) In jails that are constructed or substantially remodeled on or after March 1, 1990, to be used for double occupancy, a cell shall have a floor area of at least 70 square feet.

(b) In jails that were constructed before March 1, 1990, and have not been substantially remodeled on or after March 1, 1990, to be used for double occupancy, a cell shall have a floor area of at least 54 square feet.

(2) The county board and sheriff shall determine jointly the adequate staffing needs, including support staff and services, that are required to ensure the health, safety and security of the jail staff and inmates when using cells for double occupancy. The county board and sheriff shall reduce any joint determinations to writing, signed by representatives of the county board and sheriff, and shall file the written joint determination with the department. The written joint determination shall remain in effect until rescinded or amended by mutual written agreement of the county board and sheriff, ; and unless Unless there is adequate staff as agreed upon by the county board and sheriff, double celling may not occur.

(3) Inmates housed in the same cell shall have the same security classification and be properly segregated as required under s. 302.36, Stats.;

(4) Except in an emergency, inmates shall be allowed out of their cells a minimum of 14 hours per day;

(5) At any given time, at least one cell or 15 percent of a jail's total number of cells used for male prisoners, excluding receiving cells and holding rooms, whichever is greater and, at least one cell or 15 percent of a jail's total number of cells used for female prisoners, excluding receiving cells and holding rooms, whichever is greater, may not be used for double occupancy.

(6) Receiving cells may not be used for double occupancy;

(7) When inmates are locked in their cells, jail staff shall physically observe each inmate in all areas of the jail containing double occupancy cells at least once every 60 minutes at irregular intervals;

(8) Each cell used for double occupancy shall have a dayroom in its immediate vicinity that is accessible to inmates. The dayroom shall have detention strength tables and seating for the number of occupants of the cells that have access to the dayroom; and

(9) If a jail uses cells for double occupancy in a housing unit, the dayrooms in that housing unit may not be used for sleeping purposes.

SECTION 7. DOC 350.08 is renumbered 350.09 and 350.09(2), (8), (9) and (10) as renumbered are amended to read:

DOC 350.09(2) The ~~jail administrator~~ sheriff shall provide or secure necessary medical treatment and emergency dental care for inmates in custody.

(8) ~~The jail administrator shall obtain the services of a dietician registered by the commission on dietetic registration of the American dietetic association to review representative menus annually for caloric content, nutritional value and proportions. A copy of the dietician's evaluation shall be made available to the division's regional detention facilities specialist.~~ Inmates shall be served nutritionally balanced meals. Menus shall be kept for 90 days for review. ~~A copy of the dietician's evaluation shall be made available to the division's regional detention facilities specialist.~~ An inmate shall be provided with a special diet if ordered by a physician.

(9) The ~~jail administrator~~ sheriff shall provide an inmate whose clothing has been confiscated with adequate and appropriate clothing, including footwear, for use while the inmate is in custody.

(10) After 24 hours, inmates shall be notified that, upon request, Inmates shall they will be provided with towels and toilet articles sufficient for the maintenance of cleanliness and hygiene, including toothpaste and toothbrush, soap, and comb and toilet paper. Shaving materials and basic Basic feminine hygiene materials and toilet paper shall be provided to inmates upon request. There shall be no common use of toothbrushes, combs, shaving materials or feminine hygiene materials.

SECTION 8. DOC 350.09 is renumbered 350.10 and 350.10(4) as renumbered is amended to read:

DOC 350.10(4) The ~~jail administrator~~ sheriff shall arrange for a fire inspection by the local fire department at least once every 6 months. Documentation of fire inspections shall be included in facility files.

SECTION 9. DOC 350.10 is renumbered 350.11 and 350.11(2) and (4) as renumbered are amended to read:

DOC 350.11 (2) JAIL LOG. Each jail shall have a log which shall include the information required in ss. ~~DOC 350.11(1) and (5), 350.12(5), and 350.14(2)(g) and (3)(k)~~ 350.12(1) and (5), 350.13(5), and 350.15(2)(g) and (3)(k). The log shall be maintained by shift on a daily basis.

(4) REPORTING REQUIREMENTS. (a) The ~~jail administrator~~ sheriff shall notify the division's regional detention facilities specialist within 48 hours after any of the following events occur:

1. An inmate dies; or
 2. An inmate attempts suicide and is admitted to a hospital, not including an emergency room admission or admission for detention and evaluation under ch. 51, Stats., or is provided medical treatment for a life-threatening injury incurred as a result of the suicide attempt;
 - ~~3. An inmate has received an injury and is hospitalized due to the injury;~~
 - ~~4. An inmate escapes or attempts to escape, not including failure to return from a Huber law release under s.56.08, Stats.; or~~
 - ~~5. There is any significant damage to the jail.~~
- (b) Information requested by the division shall be promptly furnished by the jail administrator sheriff.

SECTION 10. DOC 350.11 is renumbered 350.12 and 350.12(1) and (5) as renumbered are amended to read:

DOC 350.12 SECURITY. (1) ~~Jail staff shall physically inspect all areas of the jail occupied by inmates at least once every 60 minutes, except that areas occupied by inmates in administrative confinement, as defined in s. HSS 350.12(1), or in punitive segregation shall be physically inspected at least once every 30 minutes and areas occupied by inmates who have been identified by jail staff as having a special problem, such as mental disturbance, a suicidal tendency or severe alcohol or drug withdrawal, shall be physically inspected at least once every 15 minutes. Jail staff shall conduct inspections at irregular intervals, during the day or night, to ensure that inmates are in custody and are safe. Jail staff shall record each inspection in the jail log, including the time of the inspection and the inspecting staff member's initials. Jail staff shall conduct physical inspections of each inmate in all areas of the jail occupied by inmates at frequent and irregular~~

intervals, during the day or night, to ensure that inmates are in custody and are safe. Inmates who have been identified by jail staff as having a special medical or mental health problem shall be physically observed at more frequent intervals. Each inspection shall be documented.

(5) The ~~jail administrator~~ sheriff shall ensure that ~~jail staff~~ make monthly inspections are made to determine if cell and fire escape locks and doors are in good working order. Each inspection shall be recorded in the jail log.

SECTION 11. DOC 350.12, 350.13 and 350.14 are renumbered 350.13, 350.14 and 350.15.

SECTION 12. DOC 350.15 is renumbered 350.16 and amended to read:

DOC 350.16 EXCEPTIONS. ~~(a)~~ (1) The department may grant a variance to a requirement found in ~~s. HSS 350.05 or 350.06~~ this chapter, except that no variance may be granted for the conditions required to permit double celling under s. DOC 350.07 or for any requirement specifically imposed by Wisconsin Statutes the requirement of single occupancy cells under s. HSS 350.05(3)(b) or 350.06(2) or for the minimum cell space requirement under s. HSS 350.05(3)(c) or 350.06(3).

~~(b)~~ (2) In order to obtain a variance, the ~~jail administrator~~ sheriff shall demonstrate in writing that strict enforcement of the rule would result in unreasonable hardship for administration of the jail and that the variance would provide equivalent or better protection for the health, safety, welfare and rights of inmates and the public.

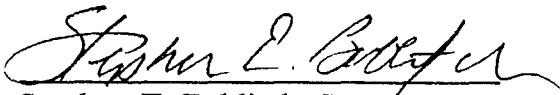
~~(e)~~ (3) The department may impose specific conditions including reasonable time limits on a variance in order to protect the health, safety, rights or welfare of inmates or the public.

(d) (4) Violation of any condition under which a variance is granted constitutes a violation of this chapter. Upon finding that there has been a violation of a condition of the variance, the department may revoke the variance and require strict enforcement of the rule.

The repeal and rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.22(2), Stats.

Wisconsin Department of Corrections

Dated: *October 12, 1990*

By: 
Stephen E. Bablitch, Secretary

Seal:

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