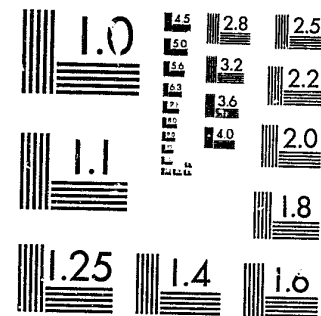


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A STUDY OF THE CURRENT STATUS OF FLORIDA'S COUNTY JAILS

SEPTEMBER 1981

PREPARED FOR
THE FLORIDA COUNCIL ON CRIMINAL JUSTICE

BY

THE BUREAU OF CRIMINAL JUSTICE ASSISTANCE
DIVISION OF PUBLIC SAFETY PLANNING & ASSISTANCE
DEPARTMENT OF VETERAN AND COMMUNITY AFFAIRS
TALLAHASSEE, FLORIDA

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FOREWORD

The following study of Florida jails was completed by staff of the Bureau of Criminal Justice Assistance, Division of Public Safety Planning and Assistance in the Department of Veteran and Community Affairs. The study was undertaken at the request of the Florida Council on Criminal Justice, an advisory body to the Governor made up of leaders in the criminal justice field. The Council recognized the jail issue as a current and important problem facing both state and local government authorities and asked for further information on the status of the jail problem in Florida.

In the first chapter of the study, the jail issue is defined and discussed from a national perspective. In the second chapter, the current conditions of confinement in Florida are reviewed. In the third chapter, the impact of the 1981 revision of the rules governing jails in Florida is assessed in terms of jail conditions, national standards and litigation. In the fourth and final chapter, this information is summarized and a series of recommendations are made on the need for future research and alternative strategies for resolving the jail problems of the next decade.

CHAPTER I
INTRODUCTION TO THE JAIL ISSUE:
A NATIONAL AND STATE PERSPECTIVE

A Study of the Current Status of Florida's Jails begins with a review of the basic definition of the term "jail"; a short overview of jails in the United States; a history of the intervention of the Federal Courts into the issue of prisoner rights; the subsequent development of rules or standards for the operation of state and local correctional facilities; and a summary of the current status of jail rules or standards in Florida.

WHAT IS A JAIL?

In general, a jail is defined as a detention facility, usually administered by a local law enforcement agency or correctional authority, designed to confine persons for a limited period of time. The confinement of an individual may be for the following periods: (1) pending trial; (2) pending sentencing or appeal; (3) pending transportation to another county detention facility, prison, or mental hospital; (4) while being held for another jurisdiction; and (5) while serving a sentence for a misdemeanor or felony conviction, usually of less than a year.¹

THE NATION'S JAILS

On February 15, 1978, the nation's 3493 jails held over 158,000 prisoners according to the National Census of Jails. These jails reported a weekly admission estimate ranging from six to 3,500 with an average of 35 admissions per week per jail. This constitutes a staggering total of 6.3 million commitments to these local jails each year.²

Such figures reflect the transient nature of the local jail population.

...any count of jail inmates present on a single day fails to reveal the inherent instability of jail populations. While two or three years generally constitute the length of stay for a prison generation, jail populations may circulate through the system in two or three months, weeks, or even days. The turnover is so rapid that it is often difficult to obtain reliable data on average lengths of stay. Thus, jail populations are both socially and statistically much less stable than prison populations. For many jails, the change in population between Wednesday and Saturday is probably more significant than the change between 1970 and 1978.³

This high rate of turnover is also aggravated by the composition of the jails' prisoner population. Jails in less urban areas frequently house persons that might be better served through a social service agency. But if no suitable alternative agency exists, these jails may hold "runaway juveniles, public inebriates, material witnesses, persons in safekeeping, federal prisoners, and any number of other residual categories."⁴ The nation's smallest jails, which house less than 10 inmates per jail, make up nearly half of the total number of jails. Yet they house only 4% of the total jail population.⁵ These small jails are the most likely facilities to have a high rate of cell vacancies. The 1978 National Jail Census data shows that the smallest jails (holding 5 or less average daily population) had 1.5 cells vacant for every cell occupied, a 60% vacancy rate.⁶

As the size of the jails increases, the vacancy rate goes down. Jails with over 50 inmates usually have below a 10%

vacancy rate.⁷ Chronic jail overcrowding is most commonly a problem in large urban jails. Over 67,000 prisoners, 45% of the total 1978 jail population, were held in the 130 largest urban jails.⁸ Thus less than 4% of the total jails house 45% of the jail population. Not only are jails crowded by sheer numbers, most of the jail cells or dormitories have less than the 60 square feet per prisoner which is recommended as the minimum by national authorities. "Fully 81 percent of all local prisoners confined in cells lived with less than the minimum standard."⁹ This overcrowding is the most serious problem facing those responsible for the nation's jails. This problem is evidenced in court actions throughout the nation.

The 1978 National Jail Census found that about half of those confined in jails were awaiting trial while slightly less than a third were serving less than one year sentences. The remaining one-sixth of the jail population is awaiting transfer to other state institutions.¹⁰ This growing "transfer" population reflects, in part, the lack of space in state correction facilities as a result of court orders limiting prison populations. The courts are serving as a major catalyst in jail management.

U. S. COURT INTERVENTION IN JAIL ISSUES

Prior to 1970, prisoner rights cases emerging through the federal court system were rare, and statements of judicial policy continually deferred questions of jail conditions as well as prisoner treatment to prison and jail administrators.

Indeed, a "hands off" policy respecting jails, prisons and prison administration had existed in both federal and state judiciaries throughout the United States and its territories during most of its two hundred year history.

During the past decade all of the Constitutional guarantees (especially the First, Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments) having to do with some aspect of jail authority, jail conditions and prisoners' rights, have been dealt with by the U.S. Supreme Court and the U.S. District Courts. Though jail conditions and jail rules or standards may vary greatly from one part of the country to another and, indeed, from one area of a state to another, all courts have the same measure to apply: the requirements of the U.S. Constitution. Court decisions on constitutional issues have provided a sharper focus for defining relationships between jail operations and prisoners' rights. Most recently the key U.S. Supreme Court cases of *Bell v. Wolfish* and *Rhodes v. Chapman*, and the U.S. 5th Circuit Court of Appeals case of *Jones v. Diamond* have been particularly important in clarifying the rights of prisoners. (These points will be discussed in detail in Chapter III.)

It is a frequent practice in prisons and jails for prisoners to address the courts by way of formal complaints alleging various grievances arising out of jail conditions or jail treatment. When the allegations are deemed legitimate, indicating a constitutional deprivation by jail authorities, the complaint is treated as a legitimate claim for which the

prisoner may be ultimately entitled to some form of relief. The complaint may ask for relief from poor jail conditions or for money damages against one or more officials. Correctional officers, jail administrators, the sheriff, and County Commissioners have been targets of these prisoner complaints, either jointly or separately, in their personal or official capacities. These officials are, however, protected by legal precedent from the common law of "good faith" immunity. This places the burden of proving "malicious intent" on the prisoner making the complaint, assuming the officials have not otherwise acted contrary to the complainant's constitutional right. Hundreds of such cases have been filed in Florida during the last decade.

In those cases complaining of jail conditions and demanding changes in those conditions, it is a simple matter for jail administrators to come into court advising that a questioned practice has been changed or that the conditions complained of have been corrected. In a single plaintiff action, the case may then be dismissed as satisfied.

Again, in a single plaintiff action, the case is dropped if the inmate is transferred to another institution, or is no longer, for one reason or another, confined in the jail which was the subject of the individual complaint.

As a result of these problems with single plaintiff suits, the class action naming all the prisoners present and future, has become the vehicle for those prisoners who seek to remedy more than a single occurrence. It is the court certified class

action that has begun to have some long term effect on county jails in Florida.

Since 1975, eleven Florida county jails have been subjected to prisoner class action suits. These suits have hit jails in the major urban areas of the state particularly hard including Jacksonville (Duval County), Orlando (Orange County), Fort Lauderdale (Broward County), and West Palm Beach (Palm Beach County). In less urban areas, Escambia, Lee, Santa Rosa, Leon and Okaloosa county jails are also under class action suits.

In the 1981 decision of Jones v. Diamond, most of the prisoner complaints alleged in various Florida class action suits have been recognized and held to be denials of prisoner constitutional guarantees.

Many thousands of such individual and class action suits have been brought before the federal courts in the last decade. The resulting court orders have been a major impetus toward the development of standards for prisons and jails in the United States.

JAIL STANDARDS

Standards are not new to the nation's corrections community. Standards related to the incarceration of citizens have existed since 1870 when the American Prison Association formulated their "Declaration of Principles." The Wickersham Commission Report in 1931 and the 1967 report of the President's Commission on Law Enforcement and Administration of

Justice made many recommendations for improving the delivery of correctional services.

In recent years, standards for the operation and construction of local detention facilities have been developed by the National Advisory Commission on Criminal Justice Standards and Goals, the American Bar Association, the American Public Health Association, the American Medical Association, and 46 states. All of these sets of standards represent "...a step of permanent significance in moving from admirable rhetoric toward a working blueprint for correction reform with built-in quantitative and qualitative yardsticks of progress."¹¹

Corrections standards serve many purposes. The Crime and Justice Foundation found that the implementation of standards should have the following benefits:

- correctional services and facilities will be upgraded;
- offenders' rights will be protected, and access to treatment services assured;
- costly litigation will be reduced as agencies adopt procedures which conform to current case law;
- public confidence and safety will be improved when services and facilities are accredited;
- professionalism will increase in a field that has grown enormously in size and responsibility;
- opportunities for federal assistance to local programs will be enhanced;
- contributions from medical, public health, architectural, and legal professions will be brought to bear on criminal justice services and facilities;

-personnel utilization and training will be improved;

-correctional budget requests will have additional, objective justification;

-continuous monitoring or upgrading of services and facilities will be institutionalized;

-strengths and needs of the criminal justice system will be identified more readily and;

-improvements in the effectiveness and efficiency of criminal justice services will be achieved.¹²

"Mechanisms for state monitoring of local jails are already in place in six states where the state department of corrections has statutory responsibility for overseeing the management of such facilities."¹³ Florida is one of those six states.

FLORIDA JAIL RULES

Requirement for the promulgation and enforcement of county jail rules (standards) in Florida is contained in section 951.23, Florida Statutes (1979). This law, first adopted in 1967 defines "county jail" as one type of county detention center, and directs the Department of Corrections to adopt rules which provide standards for:

1. Construction, equipment, maintenance and operation of county and municipal detention facilities.
2. Cleanliness and sanitation.
3. The number of prisoners which may be housed per unit of floor space.
4. The quantity, quality and supply of bedding furnished.
5. The quantity, quality and diversity of food served and the manner in which it is served.
6. The furnishing of medical attention and health and comfort items.

7. The disciplinary treatment which may be imposed.

8. The classification of prisoners.

As a result of this statute the Department established Chapter 33-8, Florida Administrative Code, Rules of the Department of Corrections, County and Municipal Detention Facilities.¹⁴ The first set of rules were adopted in 1968, revised in 1971 and repealed in 1975. The rules were again adopted in 1976 following the reorganization of the Division of Corrections, Department of Health and Rehabilitative Services into the Department of Corrections. These rules remained in effect until May 10, 1981 when they were extensively revised.

The latest version of these rules was prompted, in part, by the class action suit, *Arias v. Wainwright*, filed against the Secretary of the Department of Corrections in 1979 on behalf of all jail inmates in the State of Florida. The complaint charged that the Department of Corrections identified the same jail rule violations year after year without taking corrective action. It also charged that the 1976 version of the jail rules did not equate with "minimum constitutional standards."

The primary consequence of revisions to the rules during the 1968 to 1981 interim has been the reduction of local discretion in the delivery of correction services.

Historically, the state has left the administrative decisions related to local jails entirely in the hands of local officials, primarily the Sheriff. In 1968, the State required written documentation of 12 local jail activities. The 1981

revisions require local jails to document 89 activities. The Rules in 1968 were limited in scope and primarily advisory in nature. By 1981, the Rules had been extended to cover most facets of jail operations and had become regulatory in nature.

FOOTNOTES

- ¹Modified from a definition in:
J. M. Moynahan and Earle K. Stewart, The American Jail: Its Development and Growth. Chicago: Nelson-Hall, 1980, p. 4.
- ²Joan Mullen, American Prisons and Jails, Volume I: Summary and Policy Implications of a National Survey. Washington: U.S. Department of Justice, 1980, p. 72.
- ³Ibid., p. 21.
- ⁴Ibid., p. 21.
- ⁵Ibid., p. 74.
- ⁶Ibid., p. 75.
- ⁷Ibid., p. 75.
- ⁸Ibid., p. 73.
- ⁹Ibid., p. 75.
- ¹⁰Ibid., pp. 72-73.
- ¹¹143 F.2nd 443 (CA 6th 1944).
- ¹²Comparative Analysis of Standards for Adult Correctional Facilities, January 1978, prepared by the Crime and Justice Foundation, Boston, Massachusetts, p. xiii.
- ¹³American Prisons and Jails, Volume I, p. 132.
- ¹⁴"Municipal detention centers" exist today only as temporary holding cells for interrogation purposes by municipal investigating officers pending transportation of a suspect to the county jail for booking. Amendment to Article V of the Florida Constitution in 1973 abolished all lower courts except County Courts, leaving city jails without committing magistrates. Since then, city jails have been abandoned or turned over to counties for their use as county detention facilities.

CHAPTER II

THE CURRENT STATUS OF FLORIDA JAILS

This chapter summarizes current confinement conditions in jail facilities in Florida's 67 counties. It will answer such questions as: to what extent do county jails comply with Department of Corrections rules and regulations; which jail problems are related to overcrowding, staffing, construction and management; and what are the costs of on-going jail operations in Florida?

The primary source of this data on confinement conditions was the Florida Department of Corrections (DOC) Jail Inspection Reports For 1979 and 1980. The DOC is the only agency that routinely collects information on the operation, condition or construction of jail facilities. Inspectors from the DOC monitor each jail and, through Jail Inspection Reports, record their findings. (See Appendix I for a sample of the Jail Inspection Report form used in 1979 and 1980). These 1979-1980 Jail Inspection Reports were based on the 1976 version of the Florida rules and regulations governing the jails. (Since the May, 1981 revision of the rules went into effect, this inspection form has changed significantly.)

The 1979-1980 inspection form, based on the 1976 rules, recorded two types of information. Demographic data such as inmate population, jail capacity, staff complement, construction date, and a summary of conditions were reported on page one. The remainder of the form is a narrative report on facility compliance with recommended rules governing confinement conditions.

In total, 254 reports on 91 county jail facilities were

selected for computer analysis. (See Appendix 2 for a sample of the computer form.) This information was supplemented by other DOC reports, interviews with corrections personnel, by the five volume edition of American Prisons and Jails (a National Institute of Justice publication), and by data from the Florida Summary of the 1978 National Jail Census.

The following sections review the resultant analysis of problems of Florida jails: population, physical plant, staffing, conditions of confinements, management and costs of the states' jails in 1979 and 1980.

MAJOR JAIL PROBLEMS

POPULATION: Florida's Jails Are Overcrowded

Jail overcrowding is a serious problem in Florida's county jails. Each of the eleven major jail lawsuits filed against Florida counties included overcrowding as an issue in the "laundry list" of grievances. Research has shown that illness complaints, disciplinary infractions, deaths, suicides, self-mutilation, psychiatric commitments, assault and violence may be associated with overcrowding.¹

Florida, like the majority of the southern states, has a high rate of incarceration in its jails. According to the 1978 National Jail Census, Florida ranked third in the United States in the number of jail prisoners per 100,000 civilian population (120 prisoners per 100,000 civilians). Florida ranked fourth in the actual number of prisoners incarcerated at the local level,

with a 1978 total of 10,246. New York, with double the civilian population, had only 500 more prisoners in local jails.

This high rate of incarceration is one reason that Florida's jails continue to be overcrowded. A recent "one day" census of Florida's jails indicated that this overcrowding is partially due to high rates of incarceration of unsentenced and misdemeanor prisoners.² Reports from county detention facilities indicated they housed the following prisoners:

Offense Category	Sentenced Jail Inmates	Pretrial Jail Inmates	TOTALS
Felons	2,534 (22.3%)	7,035 (61.9%)	9,569 (84.2%)
Misdemeanants	985 (8.7%)	817 (7.1%)	1,802 (15.8%)
TOTALS	3,519 (31.0%)	7,852 (69.0%)	11,371 (100%)

(An additional 341 juveniles were held in these facilities but no information was available on their felony/misdemeanant or sentenced/pretrial status.)

The current rate of 69% unsentenced felons and misdemeanants is 16% higher than data reported from all southern states in 1978.³ Such a significant difference may be indicative of court delays and lack of pre-trial alternatives to incarceration. Sentenced and unsentenced misdemeanants are also a significant part (15.8%) of the jail population. Some states have developed misdemeanor alternatives to incarceration which keep this entire population out of jail. Such efforts are necessary in urban jails under court order for overcrowding, but may not be a daily part of rural jail and court procedures.

According to the 1978 National Jail Census, Florida has 4219 county jail cells, and dormitories. The Florida Jail Study found a range of capacity from the smallest facility with 17 beds to the largest with 846 beds. The total capacity (including beds in special purpose cells) is 13,339. This gives a mean occupation rate of 3.9 inmates per cell, compared to a national average of 3.1.

Of the 91 facilities included in the study, the jail capacity breaks down into the following percentages:

Inmate Capacity	% of Jails
0-25	25%
26-50	13%
51-100	17%
101-200	27%
201-850	16%

The 15 jails with capacities above 201 hold approximately 55% of the total inmate population. The 36 jails with capacities of 50 or less hold only 8% of the total inmate population.

The jail study found:

-Twenty-six (26%) of Florida's county jails exceeded their inmate capacity on at least one day of the month preceding their last 1980 inspection. On the date of the highest prisoner count during that month, these 26 facilities were an average of 33% over their prisoner capacity.

-Thirteen of the 26 overcrowded jails exceeded their inmate capacity on a daily basis by an average of 20%.

-Because of chronic overcrowding, jail population capacities have been set by federal court order in seven of Florida's most populous counties. Five of

those counties continued to reflect major jail overcrowding in their last 1980 inspection report.

-One jail had 391 prisoners over its capacity on at least one day of the month preceding the inspection. Another jail was forced to house its excess population in tents.

-Jail inspection reports frequently cited overcrowding as a direct obstacle to the jails' ability to provide humane, constitutional living conditions. Quotes from those reports indicate:

"Overcrowding has become critical."

"Overcrowding has now reached an alarming, potentially dangerous state..."

"Overcrowding continues to be a serious problem."

"Overcrowding...is a most critical situation at present."

One measure of the extent of jail crowding is a ratio of the average daily population to the bed capacity of the jail (called the jail use rate). This may be somewhat misleading because the term "bed capacity" implies usable bed space. In some facilities there may be beds which do not meet standards or which are used for "special handling" inmates. There may also be inadequate floor space, supervision or services to support the number of beds reported. Most frequently, some portion of the available cell space may be unusable because of plumbing problems or the need for other major repairs. According to a 1977 Minnesota jail study, the optimum jail use rate is between 40 and 60 percent of capacity. The report stated, "Because of day-to-day fluctuations in inmate population, facility maintenance requirements and the necessity to separate different classifications of prisoners, facilities operating at more than

60% of capacity...are probably overcrowded."⁴

Florida, as a whole, operates at 81% of total jail capacity. Individually, the jails varied in the use rate from 13% to 127%. Using 60% as the benchmark for overcrowding, 57 of the 91 jails exceed the maximum use rate. The map on the following page illustrates overcrowding at 60% of capacity in Florida jails.

The Department of Correction, has calculated that the 1981 jail rules revision will reduce the current available number of beds (14,412) by 30% to 10,074. This figure, plus bed space under construction, equals an estimated current capacity of 11,569.⁵

This figure is almost 800 below the state's total current jail population. According to the new rules then, Florida has over 100% jail bed use on a statewide basis.

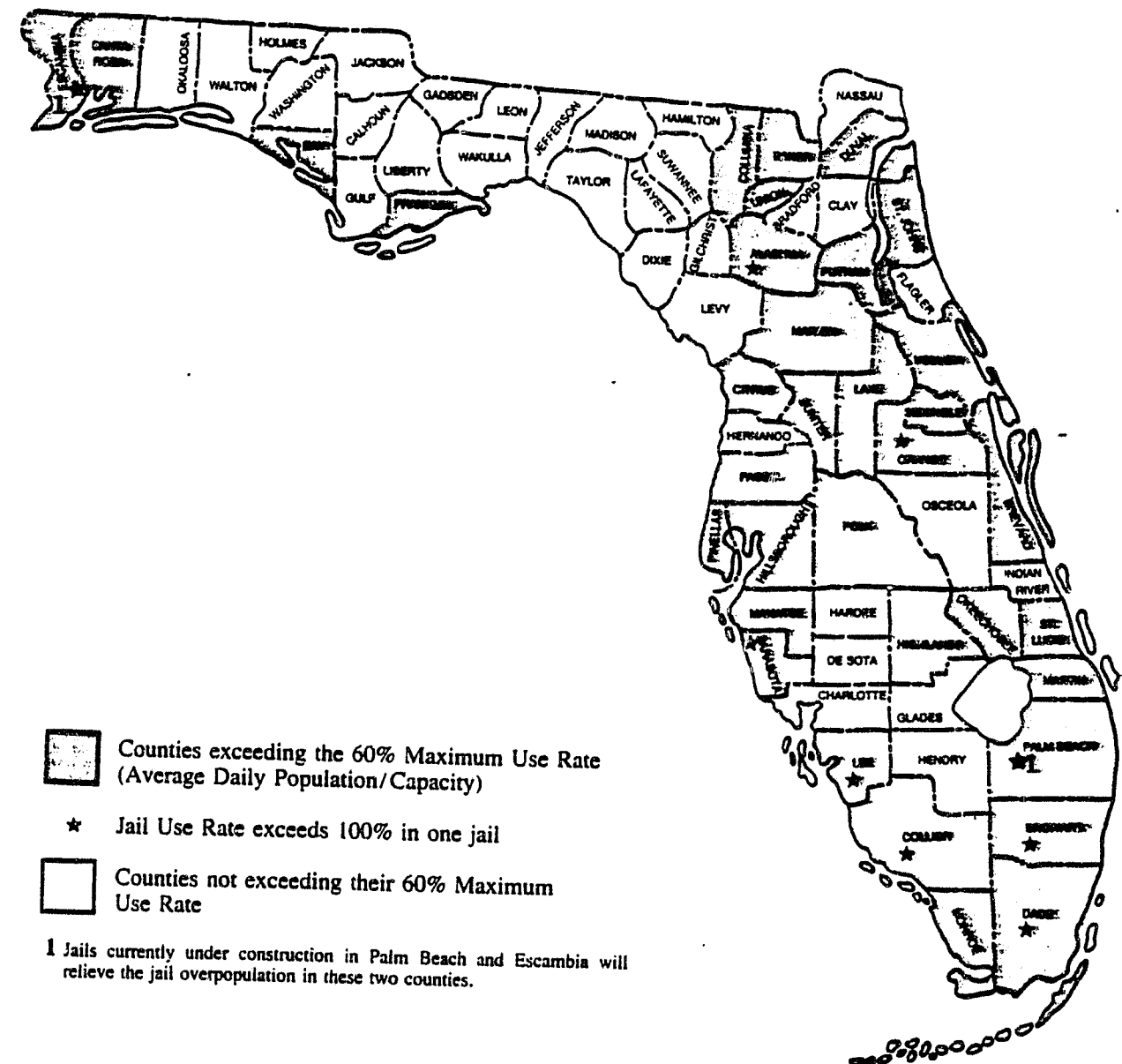
PHYSICAL PLANT: Florida Needs New Jails

Physical plant refers to the structural characteristics of the jail such as design, age, or square feet per prisoner. These are factors which affect the capacity, staffing and maintenance of jail operations.

Most of the correctional organizations involved in writing jail standards have recommended a standard for minimum square footage per prisoner. Both the American Correctional Association Standards and Federal Standards for Corrections recommend 60 square feet per prisoner. Where inmates are confined more than 10 hours a day, they recommend 70 square feet.

MAP 1

FLORIDA COUNTIES WITH FACILITIES EXCEEDING THE 60% MAXIMUM USE RATE



"Other organizations" standards also address minimum space. For example, the National Advisory Commission on Criminal Justice Standards and Goals, Corrections recommends 80 square feet; The National Sheriff's Association, A Handbook on Jail Architecture and The National Clearinghouse for Criminal Justice Planning and Architecture recommend 70 square feet per inmate."⁶

The 1981 revised rules for Florida jails require that cells built after 1976 have a minimum of 63 square feet per prisoner; dormitories must have 80 square feet per prisoner. Jails constructed prior to 1976 must set their capacities using a "factoring process" which considers the amount of time inmates are allowed out of their cells. The number of feet per prisoner is important only where inmates are confined to their cells for lengthy periods.

In 1978 the National Jail Census data showed that Florida was one of six states which reported two-thirds or more of its jail inmates confined in units smaller than those recommended by federal standards. Fifty percent of Florida jail inmates were confined in dormitories with less than the recommended 60 square feet per prisoner. Fifteen percent were sharing a cell which had less than that recommended space. Another seven percent were confined alone with less than 60 square feet of floor space in that cell. "The age of...facilities is a good indicator of physical condition. With some exceptions, older facilities have more physical plant and equipment deterioration which often creates a problem in security and classification capabilities."⁷

The Florida Jail Study found:

-Of the 91 jails in the study, 18% (16) are more than 20 years old; six of these are over 50 years old. Four of the oldest jails have plans for new construction. Only one institution dates from the 19th century (1895) and it is now being replaced with a new facility. Several of the facilities have received some renovation since 1972, but thirty-five have been untouched since they were first constructed. Four of the six oldest jails house more than 100 inmates. Only one has a capacity less than 25.

-Inspection reports for 19 (21%) of the jails indicated an inability to comply with state rules because of structural deficiencies in their facility.

Since 1975, twenty Florida counties have built new jails or added to their present facilities. A total of 3924 beds were added to the total jail capacity from this construction at a cost of almost 80 million dollars.⁸ Forty-five (50%) of the 91 jails have plans for either new construction or renovation of existing facilities according to their latest inspection reports. Twenty-four counties reported they have plans to improve, expand or construct jail facilities in the next two years. These plans would add an additional 6,522 beds to the jail capacity at an estimated cost of 255.6 million dollars or \$39,194 per bed.⁹

STAFFING: Florida's Jails Are Understaffed

Staff availability is an important measure of the quality of prison life. The level of supervisory control, the availability of medical and health care services, the opportunities for structured activities and freedom of movement within the institution are among the dimensions of confinement that are largely conditioned by the number and quality of staff support.¹⁰ The

1979 and 1980 jail inspection reports showed that jails in Florida are operating with an insufficient number of correctional officers.

The 91 jails included in this study had a total complement of 3139 full time staff. Correctional officers account for the largest portion (78%) of the workforce. Administrators and service personnel constitute the remaining 22 percent. Department of Corrections staffing guidelines recommend a minimum of 4.5 correctional officers to cover each inmate supervision post on a seven-day 24 hour basis.

The jail study found:

- Seventy-one of the 91 jails in Florida (78%) reported that they were operating with insufficient staff.¹¹ Inspection reports included such quotes as: "Correctional officers are so short-handed that they usually have to compromise the security and control of the inmates to complete other duties." "Current staff is inadequate to provide proper supervision in this facility."

- The latest inspection reports for 46 of the 91 facilities cite the lack of adequate staff as one of the causes of the institution's failure to comply with Florida's jail rules and regulations.

- Eleven jails have four or less total correctional staff, an inadequate number for full coverage of even one post.

Inmate-to-employee ratios are one limited means of judging the sufficiency of present staffing levels. The National Advisory Commission on Criminal Justice Standards and Goals and the President's Commission on Law Enforcement and Administration of Justice both recommend an ideal inmate-to-corrections officer ratio of one correctional officer for every six inmates.¹² The report from American Prisons and Jails states the median ratio

nationally is five inmates for each corrections officer.¹³ The inmate/staff ratio in Florida jails exceeds the national median of five inmates per correctional officer in 27 (30%) of the 91 facilities. However, many factors must be considered in developing staffing policy, other than ideal inmate/staff ratios. "In considering relative numbers of correctional officers, most corrections standards recommend that the staffing ratio not be determined solely by the size of the inmate population, but also reflect other factors, including legal requirements, goals to be accomplished, character and needs of inmates, and other duties of staff."¹⁴

It is also necessary to have a working knowledge of the facility's physical structure in order to judge the adequacy of staff. It obviously requires more staff to supervise 50 inmates housed on 4 separate wings in low-visibility cells than it does to supervise 50 inmates housed on one floor in open cells.

Housing female prisoners in jails presents special problems for administrators.¹⁵ Case precedent and the 1981 jail rules clearly define the need for female personnel to book and supervise female prisoners on a 24 hour basis.

However, at the time of the last 1980 inspection report, five jails housed a total of 30 female prisoners without employing any female correctional officers. Seven other jails, who had no female prisoners at the time of their inspection, indicated that they have facilities for housing female prisoners but have no female corrections staff. In jails housing female prisoners, 21 had less than the minimum number of 4.5 female

employees per post to supervise these prisoners.

It is not uncommon for local jails to have no full time service personnel.¹⁶ "Full-time service staff are virtually non-existent in facilities with average daily populations of less than 50 inmates."¹⁷

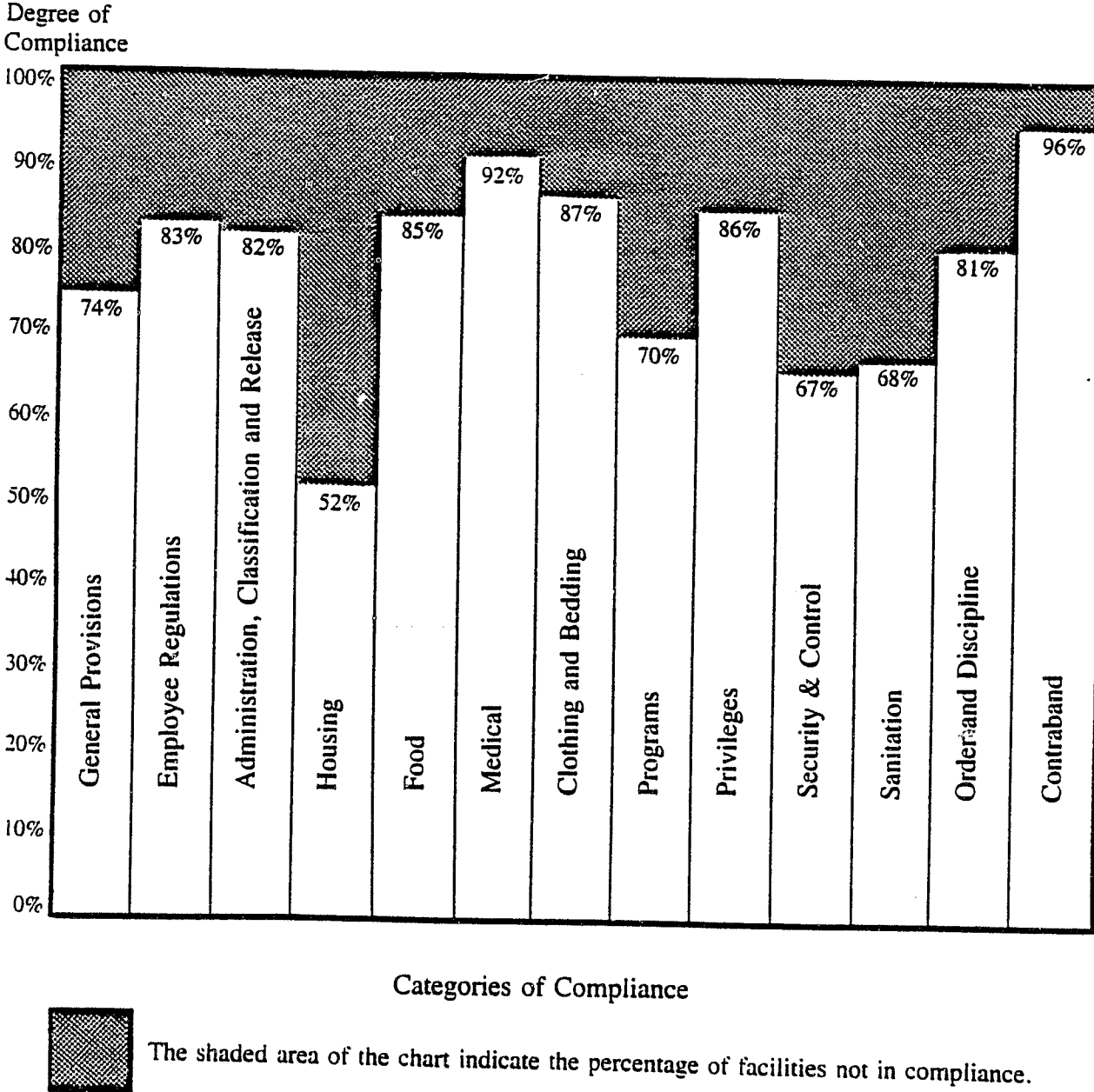
Incarceration in jails for periods up to one year probably allows prisoners less exposure to specialized service staff than if they were in the state prison system for the same period. Such staff may include medical personnel, counselors, or teachers. According to the 1978 Jail Census, most of these service staff in Florida were health care professionals such as nurses or paramedics hired by the larger jails to examine incoming prisoners.

Little evidence was available on other jail staffing problems such as low salaries, inadequate training, and high turnover of personnel. These issues are alluded to in jail inspection reports through such comments as "of primary concern is the inadequacy of trained staff." These staffing issues will require further research.

OVERALL CONDITIONS: Florida Jails Were Not In Compliance With The Jail Rules In 1979 and 1980.

The narrative data concerning jail conditions found in the 1979 and 1980 jail inspection reports is summarized in Chart I. The chart shows the overall levels of compliance in the thirteen major inspection categories. In the next chapter, these conditions and levels of compliance will be analyzed in greater detail.

CHART I
STATEWIDE LEVELS OF COMPLIANCE
WITH THE JAIL RULES (1979-80)



Actual level of compliance is based on current jail inspection reports (1976 rules).

JAIL ADMINISTRATION: Florida's Jail Administrators Need Management Training.

Chart 2 goes on to list each of the categorical areas of the jails' rules in order of their percentage of non-compliance. Specific problems identified in the 1979-1980 inspection reports are then identified in each categorical area. Four general problem areas are also identified by the letters C, S, M, O which refer to the need for: construction/renovation (C); additional staff (S); management strategy/training (M); or reduction of overcrowding (O).

As Chart 2 shows, most of the specific problems cited in the inspection reports during this period could be partially resolved through improved management practices. Lack of documentation or written policies and procedures is noted as a specific problem in eight of the thirteen categories. Jails with the most management problems were also the most likely to lack written policies and procedures. Written validation of policies and regular reporting of on-going activities and problem areas are all important management strategies and are essential to a successful defense in jail related litigation. Managers who lack such procedures should receive training and technical assistance to remedy this deficiency in their operation.

A recent statement from the U.S. Department of Justice pointed to the importance of management training in corrections:

Corrections today finds itself faced with serious challenges. Court intervention into correctional operations, overcrowding, insufficient public funding to allow substantial improvement or change, high staff attrition, political pressures, and ever-increasing case-loads combine to create formidable problems.

CHART 2
SPECIFIC AND GENERAL PROBLEMS
UNDERLYING CONDITIONS OF CONFINEMENT (1979-80)

CATEGORICAL AREAS	PERCENT NON-COMPLIANCE	SPECIFIC PROBLEMS IDENTIFIED IN 1979-80 INSPECTIONS	GENERAL PROBLEM AREAS INDICATED			
1. HOUSING	48%	a. Inadequate lighting and ventilation..... b. Poor maintenance..... c. Improper separation and supervision of juveniles and "special handling" inmates. d. Unclean fixtures.....	C	S	M	O
2. SECURITY AND CONTROL	33%	a. Lack of documented security inspections.... b. Inadequate key and tool control..... c. Lack of emergency equipment and evacuation plans..... d. Lack of documented regular prisoner counts.	C	S	M	M
3. SANITATION	32%	a. Lack of good housekeeping practices..... b. Unsanitary fixtures, housing areas..... c. Lack of documented routine sanitation inspections..... d. Ineffective vermin control programs.....	S	S	M	O
4. PROGRAMS	30%	a. Lack of indoor and outdoor programs..... b. Lack of work/study programs..... c. Lack of rehabilitative programs.....	C	S	M	M
5. GENERAL PROVISIONS	26%	a. Lack of written policies and procedures.... b. Lack of available, posted inmate and visitor rules.....			M	M
6. ORDER AND DISCIPLINE	19%	a. Lack of posted rules of prohibited conduct for prisoners..... b. Lack of documented, formal disciplinary committee or committee actions..... c. No written policies clearly defining the function of a disciplinary committee.....	S		M	M
7. ADMISSION, CLASSIFICATION, RELEASE	18%	a. Inadequate records maintenance..... b. Lack of written classification system and procedures..... c. Lack of written admission, release procedures..... d. No available staff person trained in classification procedures..... e. Female prisoners not admitted by a female employee.....	S		M	M
8. EMPLOYEE REGULATIONS	17%	a. Corrections officers are not certified.... b. Use of force actions are not documented.... c. Special incident reports are not filed.....	S	S	M	M
9. FOOD	15%	a. Poor organization, sanitation of food preparation area..... b. Improper storage of food and cleaning compounds..... c. Cyclic menu not used..... d. No security system for kitchen utensils.... e. Food preparation, delivery not supervised..	C	S	M	M
10. PRIVILEGES	14%	a. Lack of outdoor exercise..... b. No commissary privileges..... c. Lack of adequate indoor activities.....	C	S	M	O
11. CLOTHING AND BEDDING	13%	a. Use of non-fire retardant mattresses..... b. Inadequate provision of clean clothing and linens.....	S		M	
12. MEDICAL	8%	a. No written contract with physician..... b. No documentation of sick calls or medical attention including administering medication..... c. Inadequate separation and supervision of sick, injured, suicidal or alcoholic prisoners..... d. Improper storage of drugs.....	S	S	M	O
13. CONTRABAND	4%	a. Inadequate search and inspection procedures b. Lack of staff education in contraband control.....	S		M	O

KEY: C - CONSTRUCTION/RENOVATION NEEDED M - MANAGEMENT SOLUTION/TRAINING NEEDED
S - ADDITIONAL STAFF NEEDED O - OVERCROWDING, NEED TO REDUCE POPULATION

Due to the serious neglect of corrections in the past, coupled with inadequate funding, few administrators and managers working in the field have the training and skills necessary to manage a local correctional system or even stay abreast of changing requirements, much less move the system forward. Training for correctional managers continues to be one of the most critical needs of corrections.¹⁸

The development and implementation of jail policies and procedures is mandated by the new 1981 rules. In addition, sixty-seven percent of the new rules specifically require a management response in order to comply. The Florida Sheriffs Association has already proposed the development of a model policies and procedures manual based on these 1981 rules. Such a manual, in conjunction with a possible voluntary training program for jail administrators, could prove to be the key to compliance with these management related rules and regulations. Such a manual and associated training for jail administrators involves the least costs while doing the most to improve each jail's overall compliance rating. This is an important contribution to the future management of Florida's jails.

COSTS OF CONFINEMENT: Florida Jails Need Alternative Funding Sources.

Budgeting responsibility for Florida's county jails resides in the county sheriff's office except in Dade, Volusia, and Alachua Counties. Those three counties administer their jail budgets through a county Department of Corrections. Each county has its own method of reporting the costs of local corrections. In many counties jail costs are subsumed in the total sheriff's office budget and are not reported separately. While costs of

food, clothing and other prisoner's necessities may be detailed in these budgets, jail staffing costs are often hidden under the regular sheriff's office staffing budget. This is particularly true when local corrections officers have dual assignments as sheriff's office staff (such as dispatchers). Lack of consistency in reporting jail budgets works greatly to the disadvantage of jail administrators and planners who might wish to review such data in order to assess local needs and costs in comparison to other jails in the state.

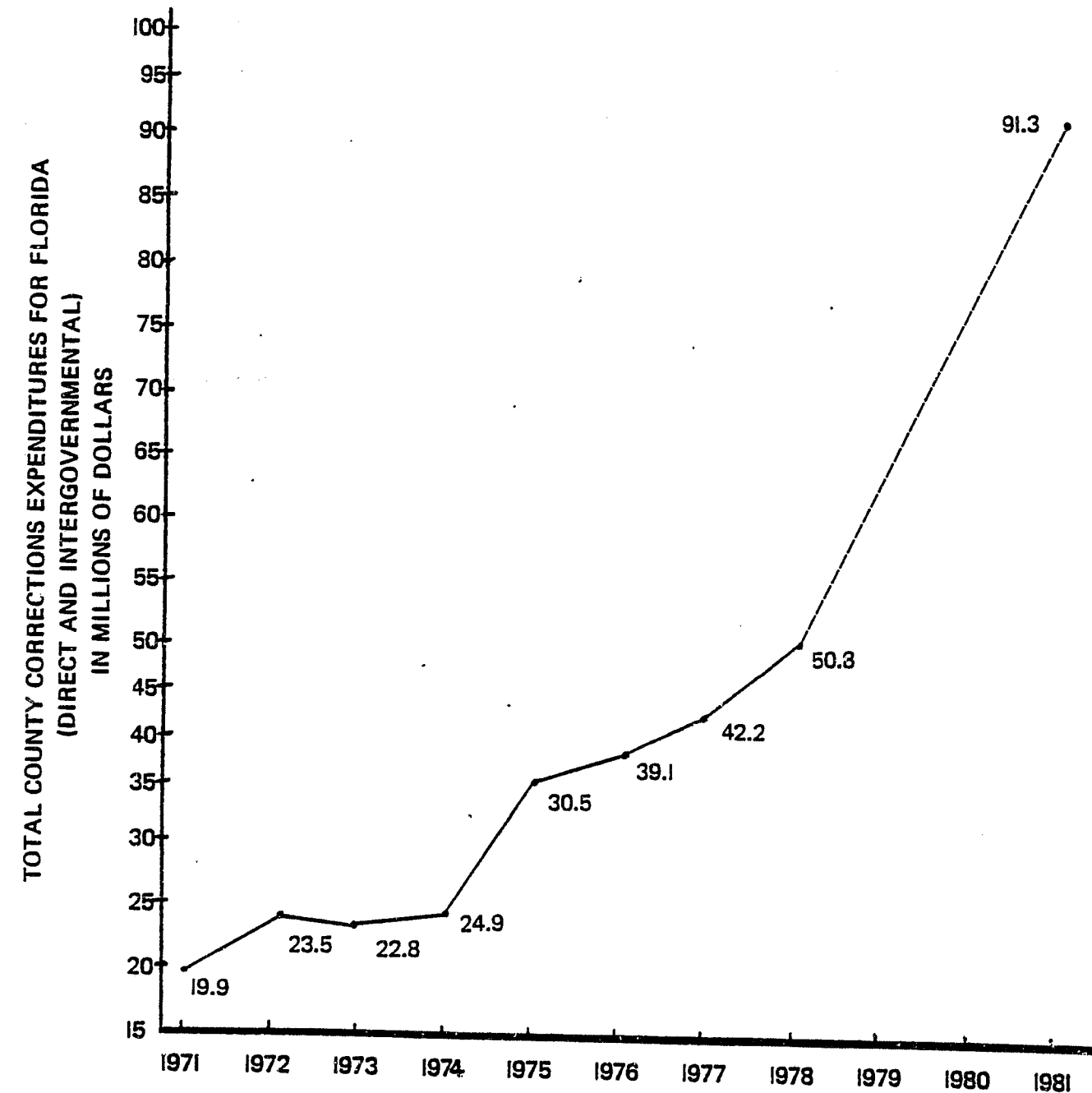
A few sources of statewide jail budget data do exist. There are, however, no comprehensive sources of data which include current fiscal data as well as data on jail populations, staffing ratios, and other key statistics. The readily available sources of statewide fiscal data include:

1. Local Government Financial Report for Florida, 1978-1979, published by the Bureau of Local Government Finance, Florida Department of Banking and Finance. (Note that the 1980-81 version has no specific law enforcement data.)
2. Expenditure and Employment Data for the Criminal Justice System, 1978 and Trends in Expenditure and Employment Data for the Criminal Justice System, 1971-1977, both published by the Bureau of Justice Statistics and the Bureau of the Census, Washington, D.C.
3. A March 1981 Telephone Survey of Jail Administrators and Sheriffs conducted by the Florida Sheriffs Association.

In Addenda 1 following this chapter, the data contained in these sources is reviewed and evaluated in detail.

Despite the limitations of the preceding sources, fiscal data can be used to demonstrate the rising costs of operating the state's jails. Chart 3 shows the changes in direct corrections expenditures from 1971 through 1981 using a combination of

CHART 3



— Indicates estimated increases in Florida county corrections expenditures between 1978 and 1981. Estimated 1981 budget of 91 million dollars is based on data from the Florida Sheriffs Association, March 1981 telephone survey. The latter figure excludes Jacksonville-Duval County which is not included in the 1971-1978 data.

data from federal statistics and the Florida Sheriffs Association. The chart clearly shows the 357% increase in corrections expenditures in Florida since 1971. Given such factors as continuing lawsuits, inflation, growing arrest and incarceration rates, and the implementation of the state's new jail rules, it is likely this rapid escalation of jail costs will continue in the next decade.

Using the latest Florida Sheriffs Association budget data and the latest Department of Corrections jail population census, the average costs of confinement were projected for three different sizes of local jails. Both sets of data were collected on a county summary basis, not on a jail by jail basis. The size of a county's largest facility was used as the determining factor in whether the county would be ranked as a large, medium or small sized jail system. Explanations of the criteria for these rankings follow.

OPERATING COSTS OF FLORIDA JAILS - 1980
(Source: Florida Sheriffs Association)

Size of the Jail System (by County)	Total 1980 Operating Budgets (% of total)	Total Jail Prisoner Population (% of total)	Prisoner Cost Per Year/Day (Average)
Large System (main jail over 200 population)	\$77,076,646 (75%)	8,776 (71%)	\$8,783/24.06
Medium System (main jail with 51-199 population)	\$20,475,255 (20%)	2,960 (24%)	\$6,917/18.65
Small System (main jail less than 50 population)	\$4,763,120 (5%)	578 (5%)	\$8,241/22.58
TOTAL OPERATING COSTS OF FLORIDA JAILS - 1980	\$102,315,021 (100%)	12,314 (100%)	\$8,309/22.76

The statewide total jail costs per prisoner average out to \$8,309 per year or \$22.76 per day. Given the major fluctuations in the weekly, monthly, or seasonal jail populations, this figure may be somewhat higher than the actual per prisoner costs.

The 67 counties were divided into three sizes according to the current inmate population figures based on the February 27, 1981 jail census summary conducted by the Department of Corrections (based on their jail inspection reports). Large systems had at least one detention facility holding over 200 prisoners. There are eleven counties with large jail facilities including Brevard, Broward, Dade, Duval, Escambia, Hillsborough, Orange, Palm Beach, Pinellas, Polk, and Volusia Counties. Only Brevard County has a single jail holding over 200 prisoners. The rest of these large counties have more than one jail.

Large systems contained 71 percent of the total prisoner population and had 75 percent of the total statewide county jail budget. Their average cost per prisoner per year was \$8,782 or \$24.06 per day. This was slightly more expensive than the current state prison per day cost of \$22 per prisoner. However, the jail inspection data is always collected during the week when jail populations are at their lowest. Accounting for the weekend rise in jail population, the costs per prisoner would be below the state prison average. Large systems had the highest overall compliance with the 1976 jail rules of the three categories.

Medium systems had at least one facility holding at least

51 prisoners, but not more than 199 at the time of the last DOC inspection (based on February 27, 1981 data). There are 24 Medium Systems including Alachua, Bay, Calhoun, Charlotte, Collier, Columbia, Gadsden, Highlands, Indian River, Lake, Lee, Leon, Manatee, Marion, Martin, Monroe, Okaloosa, Osceola, Pasco, Putnam, St. John's, St. Lucie, Sarasota, and Seminole Counties.

Medium Systems had 20% of the total jail budget and held 24% of the prisoners. Their average cost per prisoner was \$6,917 per year and \$18.95 per day. This significantly lower cost per prisoner reflects the lower administrative and special services costs in Medium Systems. These jails are less likely to be overcrowded than those in Large Systems. However, they are more likely to have wider-ranging compliance problems than their larger counterparts.

Small Systems had at least one facility which held less than 50 prisoners at the time of the last DOC Inspection. There are 32 Small Systems including Baker, Bradford, Calhoun, Citrus, DeSoto, Dixie, Flagler, Franklin, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Hernando, Holmes, Jackson, Jefferson, Lafayette, Leon, Liberty, Madison, Nassau, Okeechobee, Santa Rosa, Sumter, Suwannee, Taylor, Union, Wakulla, Walton and Washington Counties.

Small Systems have 5 percent of the total county jail operating budget and 5 percent of the total prisoner population. They spend \$8,241 per prisoner per year or \$22.58 per day. These jails are least likely to have the funding resources to renovate or repair their aging facilities. Their jails are

likely to be in the most serious condition unless they have recently built a new facility. There are more jails out of compliance in Small System Counties than in either of the other two categories, although the degree of non-compliance may not be as severe as that of medium sized systems.

FUTURE COSTS OF CONFINEMENT IN FLORIDA COUNTY JAILS

As the next chapter will explain, Florida county jails are facing a more stringent set of jail standards which will be enforced by the Department of Corrections. These standards will undoubtedly increase both operating and construction costs. Local jails are planning space for an additional 6,522 beds to be constructed in the next five years at a projected cost of \$255,622,600.¹⁹

While these new construction projects will temporarily help to relieve overcrowding and poor housing conditions, they will not resolve all the problems of the jails. As an Ohio judge noted:

The popular and simplistic idea is (that) the important source of the (jail) problems is the purely physical one...but the evidence clearly demonstrates that if a beautiful brand new jail were built and operated the way the present jail is operated, there would be little improvement in the differences at first, and what improvement there was would very rapidly disappear.²⁰

Corrections professionals have shown that new construction is almost always followed by population increases of nearly equal size within two years.²¹ The crucial factor in new jail construction is not available space, but a policy commitment to

limit capacity to what the jail can legally handle. Such a policy commitment is not just an administrative decision of local law enforcement. It must become an integral part of the entire local criminal justice system: a working agreement between law enforcement, the courts, and parole agencies to set viable capacity limits and compensate when those limits have been reached. Both pre-trial and post-trial alternatives to imprisonment must be viable choices to be considered in every jurisdiction.

Even with such a policy commitment, construction and renovation will be needed to meet the per prisoner space and housing requirements of the 1981 rule revisions. Current DOC estimates show that the cost of the 6,522 proposed new beds is \$39,194 per bed. With construction costs rising at over ten percent per year, it is feasible to project a construction cost of over \$100,000 per bed by the end of the decade.

These escalating costs will force local county governments to look for alternatives to new construction including: (1) additions to current facilities; (2) renovation of existing facilities; (3) regionalization of jails, especially in rural areas; and (4) acquisition and renovation of non-prison facilities. The latter possibility holds great potential in urban areas where the great majority of misdemeanants and felons sentenced to less than one year in jail do not need maximum security facilities. They represent the lowest security risk in the incarcerated population. Maximum security facilities are the most expensive kind of jail construction. Medium and minimum security facilities should be used to house nonviolent offenders

wherever possible. The construction or purchase and renovation of lower security facilities for sentenced prisoners with low security risk would help to reduce the overcrowding problems at a lower cost.

Construction or renovation of existing facilities will never completely solve the problems of jail overcrowding. Each county must make a decision to support a comprehensive corrections policy which sets firm jail capacities which meet new state standards. Such a policy, combined with good jail management practices, and a feasible set of alternatives to incarceration will provide the courts and law enforcement with the tools necessary to protect society while they are meeting the constitutional requirement for the treatment of jail prisoners.

FOOTNOTES

- ¹American Prisons and Jails, Volume III, p. 39. Also see the Effect of Prison Crowding on Inmate Behavior, McCain, Cox, Paulus (1980); Jail Overcrowding and Pretrial Detention, U.S. Dept. of Justice (1980).
- ²Data was collected in early 1981 in part by the Governor's Task Force on Criminal Justice System Reform as reported in their May 1981 Task Force Report entitled Florida's Criminal Justice System - A Statistical Overview, pp. 33-34, 84-91. This data was revised with two additional county jails added to the original 91 covered by the jail study.
- ³American Prisons and Jails, Volume II, p. 36.
- ⁴Governor's Commission on Crime Prevention and Control, State of Minnesota, A Study of the Local Secure Facilities in Minnesota, 1977, p. 95.
- ⁵"Needs and Financial Data on Local Correctional Facilities Bond Program" prepared by the Department of Corrections, March 1981, Attachment 1. The capacity statistics cited in the report at 14,412 are significantly higher than capacity cited from our county facilities summary. It is possible that some urban municipal jail beds are included in this data. Rounding off of capacity figures, on a county by county basis, accounts for the 10,974 figure (as opposed to 10,888 by direct deduction of 30% from 14,412).
- ⁶American Prisons and Jails, Volume III, p. 40.
- ⁷Governor's Commission on Crime Prevention and Control, State of Minnesota, A Study of the Local Secure Facilities in Minnesota, p. 63.
- ⁸"Needs and Financial Data on Local Correctional Facilities Bond Program" prepared by the Department of Corrections, March 1981, Attachment 4.
- ⁹"Needs and Financial Data on Local Correction Facilities Bond Program" prepared by the Department of Corrections, March 1981, Attachment 3.
- ¹⁰Thomas Henderson, Randall Guynes, Robert Grieser, Strategies For Implementing Jail Standards/Inspection Programs, Institute for Economic and Policy Studies, Inc., 1981, p. 107.
- ¹¹This is consistent with the national perspective among correctional officers and administrators: American Prisons and Jails, Volume III, p. 94, reported that 76% of local correctional officers interviewed during site visits did not believe their facility had enough guards to maintain safety and security.

- ¹²U.S. Dept. of Justice, National Institute of Justice, American Prisons and Jails, Volume III: Conditions and Costs of Confinement, October, 1980, p. 94. American Prisons and Jails, Volume III, p. 110, qualified this ratio by stating:
"Although this ratio was used by the President's Commission, the report commented: 'The desirable ratio of custodial personnel to inmates depends upon the institutions's program and the type of inmates involved. No standard ratio exists, nor are data available which would allow an estimate of the average ratio needed.' President's Commission on Law Enforcement and Administration of Justice, Task Force Report on Corrections, 1967, p. 96."
- ¹³American Prisons and Jails, Volume III, p. 97.
- ¹⁴American Prisons and Jails, Volume III, p. 94.
- ¹⁵See K. Burkhart, Women In Prison (1913); J. Eyman, Prisons For Women: A Practical Guide to Administration Problems (1971); Singer, Women and the Correctional Process; "The Sexual Segregation of American Prisons," 82 Yale L.J. 1229 (1973).
- ¹⁶Service personnel include employees other than administrators or correctional officers (e.g. doctors, nurses, treatment specialists, program specialists).
- ¹⁷American Prisons and Jails, Volume III, p. 100.
- ¹⁸U.S. Department of Justice, "Request for Proposals," Fiscal Year 1982, July 1981.
- ¹⁹Needs and Financial Data on Local Correctional Facilities Bond.
- ²⁰Jones v. Wittenberg, 330 F. Supp. 707,712 (1971).
- ²¹American Prisons and Jails, Volume III, p. 146.

CHAPTER II, ADDENDUM I

JAIL COSTS: REVIEW OF MAJOR DATA SOURCES

1. Local Government Financial Report for Florida, 1978-1979.

Each county and municipality in Florida is required by Section 218.32 of the Florida Statutes to submit an annual financial report to the Bureau of Local Government Finance in the Department of Banking and Finance. This report is due within 180 days of the close of the fiscal year. This data is published yearly as the Local Government Financial Report (LGFR).

Fiscal data on Florida's county corrections expenditures is included in each LGFR. These expenditures are included under the category of "Detention and/or Corrections" which is defined as:

A public safety expenditure category to record the cost of confinement of prisoners, sentenced or otherwise, and rehabilitation of offenders, whether the costs are incurred directly or paid to another local unit for provision of services."(p.969)

In 1978-1979, Florida county governments expended a total of \$49,131,669 in the category of Detention and/or Corrections according to this report. This figure includes expenditures for corrections in Miami-Dade County and Jacksonville-Duval County.

Comparative evidence suggests that these corrections expenditures are severely underreported in the LGFR. Fifteen of Florida's 67 counties reported zero corrections expenditures in 1978-1979, although all fifteen had county jails in operation during this period. Six counties reported less than \$1,000 in total corrections expenditures. Nine counties reported less than \$10,000. Although these thirty counties reported a total

corrections expenditure under \$100,000 in 1978-79, these same counties reported a total annual operating budget of 8.5 million dollars in March 1981. (See the section on the Florida Sheriff's Association Telephone Survey for further details.)

Without some effort to upgrade the quality of corrections data collected by the LGFR, this data has limited utility for planning and comparison purposes. The Florida Sheriff's Association is now encouraging local jail administrators to keep separate budgets for their jail costs and expenditures. If local officials follow this recommendation in the coming years, the quality of local corrections expenditures data available should improve.

2. Expenditure and Employment Data for the Criminal Justice System, 1978 and Trends in Expenditure and Employment Data for the Criminal Justice System, 1971-1977

These two publications of the federal government are published annually, but there is usually at least a three year time lag between the year the data is collected and the date of publication. These two publications include data totals on local corrections expenditures for both county and municipal governments. They do not publish data on each county or municipality. Instead, they include statistics from the largest county and municipal governments in the state to supplement their statewide totals. For Florida, these reports cover the 18 largest counties and the 14 largest cities.

The Expenditure and Employment Data for the Criminal Justice System (EEDCJS), 1978, defines "Corrections" as:

Jails, prisons, reformatories,
detention homes, halfway houses,
and the like, holding adults or
juveniles beyond arraignment
(usually for more than 48 hours).(p.433)

This definition goes on to include probation and parole agencies, non-residential treatment programs for adults and juveniles, and alcohol and narcotics programs if administered by a corrections agency.

This broad definition of corrections slightly inflates the total expenditures beyond the scope of the adult detention facilities covered in this report. Wherever possible, the corrections statistics used here will be taken from the category of "Correctional Institutions" which more accurately reflects the local jail expenditure and employment data at the county level. According to the EEDCJS, direct current expenditures for corrections were \$53,996,000 in 1978-79 for the 67 Florida counties. The latter statistic was modified to include the city of Jacksonville which has a consolidated municipal-county corrections system. This figure is sufficiently close to the total found in the Local Government Financial Report to suggest a similar level of underreporting. This underreporting may again be attributed to staffing costs hidden in the sheriff's office budget. Such costs would inadvertently be covered under the category of "police protection" rather than under "corrections." Trends in Expenditures and Employment... is a summary of the EEDCJS report and has similar reporting problems.

3. March 1981 Telephone Survey of Jail Administrators and County Sheriffs conducted by the Florida Sheriffs Association

The only current 1981 budget information available for this study was collected in March by the Florida Sheriffs Association (FSA). The Sheriffs Association called each county sheriff and asked for an estimate of the current costs of operating their county jail system. The counties reported a cumulative budget figure almost double the levels reported for the 1978 fiscal year in the LGFR and the EEDCJS. A total 1981 jail operating expense of \$102,315,021 was reported for all 67 counties. This figure is 108 percent higher than the Local Government Financial Report corrections summary for 1978 of \$49,131,669. It is 89.5 percent higher than the \$53,996,000 Expenditure and Employment Data figure for 1978. This huge increase may be the result of the following three factors:

- a. Since the local corrections data was collected in 1978, counties in Florida have added an additional 2797 beds to their total jail bed capacity. This represents at least a twenty-four percent increase in the available jail capacity. A commensurate increase in operations costs would be expected. Increased jail law-suits since 1978 have been a major impetus to this new construction.
- b. Double digit inflation in each of the intervening years has pushed costs up over 30 percent while reducing the value of tax dollars by an equal amount. Such inflation would rapidly increase jail operating costs since 1978.

- c. The arrest rate in Florida increased almost 20% between 1978 and 1980, a trend which is expected to continue. This factor would also have an effect on the numbers of prisoners being processed through and retained by the local jail system. In addition, FSA operating cost data may more accurately reflect the actual staff costs of the jails in the smaller jurisdictions.

CHAPTER III

SUMMARY AND ANALYSIS OF CRITICAL LEGAL
FACTORS AND THE IMPACT OF THE 1981 JAIL RULES

In this chapter, the focus of the jail study shifts to the thirteen categories of the Florida jail rules which establish the standards governing conditions in the state's county jails. In the first part of the chapter these thirteen categories are reviewed and weighted according to their potential legal jeopardy based on review of past litigation. In the second part of the chapter, these thirteen categories are analyzed in depth, detailing the correlation of the 1976 rules with the 1981 revised rules, national standards, and litigation which has impact upon each of them. This analytical section is designed to familiarize local corrections specialists with the current legal status of the standards governing Florida jails.

CONDITIONS OF CONFINEMENT: SUMMARY OF CRITICAL FACTORS

Each of the thirteen categories in the rules has received varying degree of attention from the courts and national standards establishing bodies. For instance, the necessity for provision of medical services has been clearly established by the Supreme Court. The rules governing Contraband, on the other hand, have been less critical as requirements for jail operation. Based on a review of their legal status and significance, each of the thirteen categories was assigned a numerical value from 1 to 4 indicating its criticality. (Refer to sections on Law and Case Notes under each category for further legal details.) The most critical is indicated by 4; the least critical by 1. The categories and their assigned critical values are:

1. General Provisions	1
2. Employee Regulations	1
3. Administration, Classification, Release	4
4. Housing	4
5. Food	2
6. Medical	4
7. Clothing	2
8. Programs	3
9. Privileges	2
10. Security and Control	4
11. Sanitation	3
12. Order and Discipline	3
13. Contraband	1

The critical value of four indicates that the greatest legal jeopardy is faced with problems in the areas of (1) Administration, Classification and Release; (2) Housing; (3) Medical; and (4) Security and Control. Prisoner health and safety are the most likely to be affected by problems in those four crucial areas. The critical value of three indicates areas of important legal claims, but without the potential for life and death crises presented in the preceding four areas. Programs, Sanitation, as well as Order and Discipline, are assigned the critical value of three. Problems with Food and Privileges are assigned the less critical value of two. General Provisions, Employee Relations and Contraband are the least legally jeopardizing areas of the rules. They are assigned the lowest critical value of one.

The critical number assigned in the previous section was used as a multiplying factor for current levels of non-compliance with each of these rule categories. The resultant non-compliance factor values were calculated in points which are then used to rank these categories according to their future potential for legal jeopardy. The future potential impact of these critical legal issues on the Florida jail scene is projected in Chart 4:

CHART 4
CRITICAL LEGAL FACTORS AFFECTING
FUTURE NON-COMPLIANCE WITH THE JAIL RULES

Rule Category	Critical Factor #	Multiplied by	Percent of 1979-80 Non-compliance	Total Non-compliance Value	Critical Rank
Housing	4	X	48%	= 192 points	1st
Security and Control	4	X	33%	= 132 points	2nd
Sanitation	3	X	32%	= 96 points	3rd
Programs	3	X	30%	= 90 points	4th
Administration, Classification and Release	4	X	18%	= 72 points	5th
Order and Discipline	3	X	19%	= 57 points	6th
Medical	4	X	8%	= 32 points	7th
Food	2	X	15%	= 30 points	8th
Privileges	2	X	14%	= 28 points	9th
Clothing and Bedding	2	X	13%	= 26 points	10th
General Provisions	1	X	26%	= 26 points	10th
Employee Regulations	1	X	17%	= 17 points	11th
Contraband	1	X	4%	= 4 points	12th

Housing is by far the most crucial problem facing the states' jails. It is severely aggravated by overcrowded conditions and deteriorating facilities. Once the problems of overcrowding and deterioration are resolved through sentencing alternatives, construction and renovation, the remaining issues can be resolved through improved management practices and additional funding of operating costs for additional staff and programs.

As the following detailed analysis of the jail rules notes, the 1981 rule revision requires the Department of Corrections to set a timetable for the enforcement of the standards set by those rules. As a result of these rule changes, the DOC is expected to conduct more comprehensive inspections. The new 1981 inspection report form indicates that compliance with specific rules must be well documented. Any evidence of non-compliance will require jail personnel to submit a plan to resolve the problem areas within a specified period.

As of December 1981, the first round of jail inspections based on the new rules was already underway. As a result of those inspections, the DOC has requested the Attorney General's office to file enforcement proceedings against county jail operators in four Florida Counties: Lafayette, Monroe, Orange and Brevard. As our previous projections anticipated, the major problem in the latter three jails is overcrowding. The Lafayette County facility had few prisoners but was plagued with severe deterioration of the jail facility itself.

CONDITIONS OF CONFINEMENT: ANALYSIS OF THE THIRTEEN CATEGORIES AND THE IMPACT OF THE 1981 RULES

In the second part of the chapter, the factors impacting on these thirteen categories are detailed with special emphasis on court decisions which have affected each categorical area.

Part A of each categorical analysis is an abstract of the 1976 Jail Rules. The abstract presents only those rules which are mandatory. In the interest of brevity and clarity these rules have been paraphrased and grouped according to subject matter. Appendix 3 provides a complete version of the 1976 jail rules.

Part B of each categorical analysis is a brief review of the level of compliance/non-compliance with the rules by county detention facilities statewide. In addition, the primary reasons for non-compliance are identified.

Part C includes the mandatory requirements of the 1976 rules as compared to those of the 1981 rules. Differences are noted and the implications of those differences are assessed in general terms. Appendix 4 provides a complete version of the 1981 rules.

Part D of each analysis presents an overview of applicable law and case notes based on review of federal and state litigation.

Part E in each analysis compares Florida's Rules and Regulations with the American Correctional Association's Standards for Adult Local Detention Facilities. A numerical statement indicates the degree to which the Florida Rules agree in principle with the ACA Standards.

JAIL RULE ANALYSIS

1. GENERAL PROVISIONS: Section 33-8.02

A. 1976 RULES ABSTRACT

- (1) Requires annual inspection by DOC for compliance/non-compliance with the rules and F.S. 951;
- (2) Facilities must immediately report serious unusual incidents which occur; incidents requiring investigation shall be investigated by the DOC and a report filed.
- (3) The DOC shall certify the proper housing capacity for each facility;
- (4) Each facility shall supplement DOC rules with rules applicable to the local facility;
- (5) Rules governing prisoner and visitor conduct shall be posted or made available.

B. COMPLIANCE STATUS WITH 1976 RULES

Inspection reports collectively indicated 74% compliance statewide with the General Provisions by county facilities. Twenty-six percent were found to be in non-compliance, primarily due to a failure to issue written policy and procedures and/or to post inmate/visitor rules.

C. 1981 REVISIONS ANALYSIS

The inspection process has been significantly altered by the revision to this section of Florida's County Jail Rules. The Department of Corrections is now required to inspect local detention facilities twice annually. Violations of the rules are now categorized as either an "aggravated violation" or "other." An

aggravated violation, (a condition or practice which appears to pose a substantial or immediate danger to life, health or safety of one or more prisoners or staff), must be corrected immediately. All other citable violations shall be corrected or the Officer-in-Charge shall submit a corrective action plan specifying the corrective action to be taken, the timetable for correction, and resources to be used. The plan shall be submitted within 30 days following notification of citable violations. In the event the violations are not corrected within 30 days of the deadline provided in the corrective action plan, the Secretary, if he deems court action necessary, shall notify the Officer-in-Charge of his intentions to seek injunctive relief as provided by law.

The 1981 administrative revisions mandate the development of local policy and procedures, and enumerate what must be covered by those directives as well as what records must be maintained.

Overall, Section 33-8.02 clearly indicates local agencies will be held accountable for the use of effective management techniques. The rules clearly define the State's expectation of comprehensive records, policies and procedures. The rules effectively reduce local management discretion. Such a reduction should result in a greater degree of statewide standardization of records, policies and procedures utilized by local

agencies. By mandating minimal management requirements, the State is requiring increased local management knowledge by Sheriffs, Jail Administrators and Supervisors. This in turn will require additional pre-service and in-service training of all corrections personnel. Local officials will have to carefully plan increased allocation of resources and devise timetables for correcting deficiencies in their jail operations. The costs associated with these requirements, while minimal in comparison to overall jail operating costs, will nonetheless, require jail administrators to increase allocations for administration and training.

D. LAW AND CASE NOTES

Perhaps the most significant litigation influencing the revision on May 10, 1981 of Rules and Regulations for Florida's jails (F.A.C. 33-8) was the class action suit of *Arias v. Wainwright*. This suit was filed in May 1979 in the U.S. District Court (Northern District of Florida) in Tallahassee, on behalf of all present and future prisoners in Florida's jails. Among other complaints, this suit alleged failure of the 1976 Rules to provide constitutional standards or adequate inspection procedures.

Promulgation by the Florida Department of Corrections of the 1981 Rules has led to negotiation of a partial settlement agreement subject to court approval. Not settled in the agreement are issues such as

satisfaction of constitutional requirements of the rules or possible future amendments of the rules.

The agreement imposes a deadline of twelve months for correction of non-aggravated violations. The deadline may be extended 60 days beyond the twelve months if the Department makes a written finding that local officials will correct the violation within the 60 day extension. If the violation has not been corrected by the expiration of the extended deadline, the agreement requires the Department to seek appropriate relief pursuant to Florida Statutes 951.23(3) and (4). In those instances in which major construction is necessary to correct a violation, the Department may grant a reasonable extension of time, not to exceed twenty-four months.

In the event an aggravated violation is not corrected immediately, *Arias v. Wainwright* stipulates the Secretary will seek appropriate relief pursuant to the above noted statute within seven days of receiving notice of such violation.

In effect, the anticipated settlement in *Arias v. Wainwright* will require all jails to comply with all rules and regulations within approximately three years of the order approving the settlement.

E. ACA STANDARDS

A comparison of the ACA Standards and the Florida Rules and Regulations indicates Florida's Rules agree in

principle with nine of the twenty-six ACA standards relating to administration, organization and management. Florida's General Provisions Rules and Regulations agree in principle with most of the substantive American Correctional Association Standards. However, the rules do not address those organizational and consultation standards addressed by ACA.

2. EMPLOYEE REGULATIONS: Section 33-8.03

A. 1976 RULES ABSTRACT

- (1) Each employee shall be provided a copy of DOC and local rules and regulations;
- (2) No employee shall report for duty under the influence of drugs or alcohol; use profane or abusive language in supervising a prisoner; abuse a prisoner in any manner; trade, barter or accept gifts from any prisoner, his friends or family; introduce into or remove any article from the detention facility without authorization; furnish any legal advice or recommend any attorney or bondsman; carry any weapon into secure areas except as authorized; or have any facility keys in his possession except those issued and authorized;
- (3) Employees will make a written report on all unusual incidents that occur during a tour of duty;
- (4) No employee shall use physical force on a prisoner except to prevent escape, prevent injury to a person or property, to quell a disturbance, or when a prisoner exercises physical resistance to a lawful command. A written report shall be prepared whenever physical force is used. An investigation shall be conducted whenever physical force is used on a prisoner. Reports of violence and resulting investigations shall be maintained.
- (5) Records indicating employee compliance with Correctional Standards Certification shall be maintained.

B. COMPLIANCE STATUS WITH 1976 RULES

Inspection reports collectively indicated 83% compliance statewide with Employee Regulations by county facilities. Seventeen percent were found to be in non-compliance, primarily due to corrections officers not being certified, use of force actions not being documented, and special incident reports not being filed.

C. 1981 REVISIONS ANALYSIS

Overall, this section does not institute any change to the 1976 rules. They state the obvious prohibitions of employee conduct. Most importantly, this section sets the parameters within which physical force may be applied to the person of a prisoner. Complete, accurate reports by the rules, are the best defense against unwarranted accusations. Maintenance of such reports will save the administrator considerable time and effort when the inevitable lawsuit or accusation surfaces.

D. LAW AND CASE NOTES

Correctional officers, staff officers, jail administrators, the sheriff, and county commissioners have been targets of prisoner complaints, either jointly or separately, in their personal or official capacities, or both.

Correctional officers may not use physical force as punishment, but may use it for the purpose of controlling one or more inmates, as necessary, to subdue and to protect themselves or others from injury.¹ The

criteria for liability of the officer would be whether more force was used than reasonably necessary in maintaining order in the jail routine, subduing inmates, and protecting themselves or others from injury.² The concept of physical force as punishment, during flare-ups of violence by one or more prisoners, is prohibited by the Fourteenth Amendment requirement of due process rights. Hence, the use of excessive force would tend to show an intent to punish, which would be actionable in damages for the injuries received by a prisoner under section 1983 of the Civil Rights Act as a deprivation of Fourteenth Amendment due process rights.³

As public officers, the sheriff, jail administrators and county commissioners have been accorded "good faith" immunity founded in the common law, in actions under section 1983.⁴

In the "good faith" exercise of discretion, officers and officials are charged with knowledge of "clearly established" constitutional rights of prisoners, in effect at the time a questioned exercise of discretion or action is taken.⁵ An official's action must be in harmony with constitutional requirements. Additionally, in order to claim this "good faith" immunity the action may not be taken with "malicious intention"⁶ directed toward the prisoner.

This shield of "good faith" immunity from liability accorded to public officers, allows a degree of protection

in the performance of public duties not available to individuals as private citizens.⁷ Thus, a prisoner plaintiff, in an action for damages, under s.1983, must be able to prove more than ordinary negligence. That is, the plaintiff must prove that the officer or official acted toward the plaintiff with "malicious intention," or that the act of the defendant officer was contrary to plaintiff's "clearly established" constitutional rights as they were judicially recognized at the time the defendant acted.⁸

Failure of a prison official to return money or personal property to which a prisoner is lawfully entitled is a deprivation of property in violation of the due process clause of the Constitution. This is actionable under s.1983 as a deprivation of personal liberty.⁹ A jury verdict of \$12,000 was affirmed by the 5th Circuit Court of Appeals against a jailer and the arresting officer. The jailer admitted that the officer administered a physical beating to the prisoner in his presence and the jailer made no effort to prevent the beating from taking place.¹⁰

E. ACA STANDARDS

Comparison of ACA Standards and the Florida Rules and Regulations indicate Florida's Rules agree in principle with only two of the forty-three ACA standards relating to personnel, training and staff development. Florida's Rules agree in principle with those of the ACA regarding

employee code of ethics and employee training during the first year of employment.

3. ADMISSION, CLASSIFICATION AND RELEASE: Section 33-8.04

A. 1976 RULES ABSTRACT

- (1) Reasonable care shall be taken to ensure that the admission of any prisoner is in accordance with established rules, regulation and legal authority.
- (2) Each prisoner will be searched at the time of admission.
- (3) Newly admitted prisoners who may be in immediate danger from other prisoners or who pose a threat to facility personnel or other prisoners shall be segregated or placed under direct supervision.
- (4) Unconscious or seriously injured prisoners will not be admitted.
- (5) Prisoners shall be admitted and processed by an employee of like gender.
- (6) A booking record shall be maintained on each prisoner. Information shall include full name, aliases, age, DOB, date admitted, race, height, weight, last known address, name and address of next of kin, marital status, religion, health insurance, offense, attorney, transporting and receiving officer, personal property inventory.
- (7) Fingerprints are to be taken as required by law.
- (8) All persons charged with or convicted of a felony shall be photographed.
- (9) All prisoners shall be accorded telephone privilege at the time of admission.
- (10) Each prisoner shall be classified as soon as possible following admission.
- (11) A personal record shall be maintained on each prisoner containing information such as name, aliases, booking number, commitment authority, booking record, medical information, classification and progress reports, disciplinary reports, temporary absences, fingerprints, photograph, detainers, personal property records, date and conditions of

release, authority for release and signature of releasing employee.

- (12) Positive identification must be made of all prisoners being released.
- (13) A prisoner's personal property must be verified in the prisoner's presence. The prisoner and releasing employee shall sign and date the release record which shall be placed in the prisoner's personal record.

B. COMPLIANCE STATUS WITH 1976 RULES

Inspection reports collectively indicate 82% compliance statewide with the Admission, Classification and Release Rules. Eighteen percent of the facilities were found to be in non-compliance primarily due to inadequate record maintenance, a lack of a written classification system and procedures, a lack of written admission and release procedures, the unavailability of staff trained in classification procedures, and female prisoners not being admitted and processed by female employees.

C. 1981 REVISIONS ANALYSIS

As a result of the revisions to the rules for Admission, Classification and Release, local officials may find it necessary to hire additional personnel. This is particularly true for those facilities which do not now employ female correctional officers. Additional personnel may be required by some facilities to comply with the rules regarding constant supervision of juveniles and the use of medical staff for the performance of body cavity searches. The revisions relating to

classification will require at least minimal training for the designated classification officer. Additional administrative effort will be required to develop written admission, classification and release procedures.

D. LAW AND CASE NOTES

For inmates' constitutional protection from unreasonable searches within the institution, including body cavity searches, see case discussion under Contraband, Section 33-8.14.

Constitutional rights of inmates in jails have recently been restated in Jones v. Diamond¹¹ to mandate the establishment of a reasonable classification system by jail operators. In such a system, offenders who are likely to be violent and dangerous and those who are suffering from contagious diseases must be separated from the general population. Pre-trial detainees must be classified and separated from convicted prisoners "to the extent security and space requirements permit." Any exception to the separation of pre-trial detainees from convicted prisoners must be 'reasonably related to the institution's interest in maintaining jail security' or based on physical facilities limitations which do not permit their separation.¹²

Whatever classification system is adopted, such system may not be made the basis for racial segregation.¹³

The criteria for distinguishing between a pre-trial

detainee and a convicted prisoner was stated in Bell v. Wolfish to be the proscription of punishment prior to conviction of the pre-trial detainee. However, the Supreme Court also held in the same case that "restrictions" of pre-trial detention do not constitute "punishment," if they are rationally related to a legitimate non-punitive governmental purpose, and do not appear excessive in relation to the governmental purpose. Pre-trial detainees and convicted prisoners must submit equally to the principle that incarceration requires a mutual accommodation between institutional needs of the facility and constitutional rights of the prisoner. The goals of institutional security, order, and discipline "may require limitation or retraction of the retained constitutional rights of both convicted prisoners and pre-trial detainees."¹⁴

As to the use of trusty status inmates for supervision of other inmates, see case discussion under Security and Control, Section 33-8.11.

E. ACA STANDARDS

Comparison of the ACA Standards and the Florida Rules and Regulations indicate Florida's Rules agree in principle with thirteen of the fourteen ACA Standards relating to Admission, Classification and Release. However, as a matter of practical procedure, the ACA Standard regarding separation of inmates from the general population during the admission process is observed by most Florida jails.

4. HOUSING: Section 33-8.05

A. 1976 RULES ABSTRACT

- (1) Male and female prisoners must be housed separately by sight and sound.
- (2) Juveniles committed by court order shall be housed in single occupancy cells separate from adults.
- (3) Prisoner housing shall be racially integrated.
- (4) Housing will be well lighted, ventilated and clean.
- (5) Walls of living quarters shall not be defaced.
- (6) Lavatories, water closets and floor drains shall be maintained in proper working order.
- (7) Utility closets and corridors shall be clean and free of clutter.
- (8) A prisoner locator system shall be maintained.
- (9) Employees who enter a detention area housing prisoners of the opposite sex must be accompanied by an employee of the same sex as the prisoner.

B. COMPLIANCE STATUS WITH 1976 RULES

Inspection reports collectively indicated 52% compliance statewide with the housing rules. Forty-eight percent were found to be in non-compliance primarily due to inadequate lighting, ventilation, and poor maintenance.

C. 1981 REVISIONS ANALYSIS

Overall, this section will require jail administrators to pursue an aggressive policy of upgrading housing conditions. The revisions to this section effectively limit local discretion in defining what constitutes adequate housing facilities. Some jails may require extensive renovation and major capital expenditure

in order to meet the criteria established for lighting, ventilation, and plumbing facilities. The designation of an area for detoxification, especially if designed specifically for that purpose, may require some limited capital expenditure. Maintenance of plumbing fixtures, in addition to other routine maintenance, may require additional personnel since plumbing and other fixtures are frequently abused by prisoners.

D. LAW AND CASE NOTES

The Fifth Circuit Court of Appeals has approved on a case by case basis the use by District Courts of an injunctive order to set the maximum housing capacity for a Florida jail¹⁵ and a Mississippi jail.¹⁶ The U. S. Supreme Court in Hutto v. Finney¹⁷ approved a District Court order setting a maximum limit on the number of persons to be confined at any one time in a prison isolation cell. Jones v. Diamond permitted exceptions to the maximum capacity limitation in the affected facility for stated brief intervals on a proper showing of grave public emergency. Such approval and exceptions lends authority to the various District Court orders setting jail capacity limits in nine counties in Florida.¹⁸ These, and District Court orders affecting facilities in other counties,¹⁹ generally mandate numerous aspects of housing conditions as well as limiting the capacity of the affected facility.

E. ACA STANDARDS

Comparison of the ACA Standards and the Florida Rules and Regulations indicate Florida's Rules agree in principle with twenty-three of forty ACA Standards relating to the physical plant. While the Florida Rules do not specifically address eighteen of the ACA Standards, they do imply agreement with those Standards. One notable exception is the recommendation of 70 square feet per single occupancy cell. Prior to the latest edition of the ACA Standards (April 1981) Florida's Rules exceeded the ACA Standard of 60 Square feet for single occupancy cells by 3 square feet.

5. FOOD: Section 33-8.06

A. 1976 RULES ABSTRACT

- (1) Food service operations, the food served, equipment and sanitation shall meet Health Program Office, DHRS Standards.
- (2) Food service operations shall be supervised by a trained civilian employee.
- (3) All prisoners shall be provided three substantial, wholesome and nutritious meals daily.
- (4) Modified diets will be provided prisoners as requested by medical staff.
- (5) A record of menus served, by date, shall be maintained for at least six months.
- (6) All employees and prisoners assigned to food service or who prepare/serve food shall meet Health Program Office, DHRS standards.
- (7) The Officer-in-Charge shall conduct and record regular inspections of the food service area.
- (8) Food supplies shall be stored in a locked, clean, vermin free, well ventilated room.

- (9) Food delivery to prisoners must be supervised by civilian employees.
- (10) Appropriate food containers and utensils will be provided.
- (11) Utensils and leftover food shall be removed from cells and day rooms immediately after meals.
- (12) All food service deliveries shall be inspected by employees for contraband.
- (13) A security and inventory control system shall be maintained on all food preparation knives and cleavers.
- (14) An adequate number of fire extinguishers for Class A, B, or C fires shall be strategically located in the food preparation area.

B. COMPLIANCE STATUS WITH 1976

Inspection reports collectively indicated 85% compliance statewide with the Food Service Rules. Fifteen percent of the facilities were found to be in non-compliance primarily due to poor organization and sanitation of the food preparation area, improper storage of food and cleaning compounds, cyclic menu not being used, the lack of a security system for kitchen utensils, and the lack of civilian employee supervision of food preparation.

C. 1981 REVISIONS ANALYSIS

The primary emphasis in changes made to food service rules has been to mandate those items which were only recommended by the 1976 rules. As a result, food service supervisors will have to pay closer attention to the planning and delivery of food services. Additional storage rooms may be necessary in some facilities. Some

additional costs may be incurred as a result of the new rule prohibiting the serving of sandwich meals more than once per day. Food as a disciplinary or reward tool has also been eliminated. The documentary requirements imposed by the 1981 Rule changes will allow the jail administrator and other interested parties to review information and costs related to the delivery of food services.

D. LAW AND CASE NOTES

"The Constitution requires that prisoners be furnished reasonably adequate food."²⁰ The Court, however, admitting that some constitutional deprivation existed in a diet consisting "mainly of starch and carbohydrates with few vegetables or fruits" refused to intervene with that jail's menu. Earlier, the Fifth Circuit Court of Appeals, in *Smith v. Sullivan*,²¹ had said, "A well balanced meal, containing sufficient nutritional value to preserve health, is all that is required," thereby refusing to require a specific menu.

E. ACA STANDARDS

Comparison of ACA Standards and the Florida Rules and Regulations indicate Florida's Rules agree in principle with twelve of the fifteen ACA Standards related to food service. Florida's Rules are silent on the subject of modified diets for religious practices, and availability of toilets and wash basins in the vicinity of the food preparation area and the use of budgeting, purchasing and accounting practices.

6. MEDICAL: Section 33-8.07

A. 1976 RULES ABSTRACT

- (1) A contract or letter of agreement will be executed providing appropriate physician and hospital care for prisoners.
- (2) Each prisoner shall be observed on a regular basis and medical treatment provided as per physician instruction.
- (3) Prescribed medications must be specifically approved by medical authority and administered in accordance with physician instruction.
- (4) A medical log of all prescribed medication received and dispensed will be maintained.
- (5) All ingestion of medication by prisoners will be observed by the dispensing employee.
- (6) All drugs, hypodermic needles, and syringes shall be securely stored and a current inventory maintained.
- (7) Written reports shall be maintained on all lost or missing medication and/or medical equipment.
- (8) Mentally ill prisoners shall be accorded services consistent with Florida Statutes and/or court orders.
- (9) Twenty-four hour supervision shall be provided prisoners with suicidal tendencies or those who have seizures.
- (10) A prisoner shall not be deprived of clothing, bedding or other comfort items except as necessary to protect the prisoner from injury to himself, others or to prevent destruction of property. Such deprivations shall be documented.
- (11) A record will be maintained on each prisoner who requires medical attention.
- (12) Standard first aid supplies shall be available on the premises at all times.
- (13) Prisoners shall be determined to be medically fit prior to being assigned to work details.

B. COMPLIANCE WITH 1976 RULES

Inspection reports collectively indicated 92% compliance statewide with the Medical Rules by detention facilities. Eight percent were found to be in non-compliance primarily due to the lack of a written contract with a physician, no documentation of sick call or medical attention, inadequate separation and supervision of sick, injured, suicidal or alcoholic prisoners, and the improper storage of drugs.

C. 1981 REVISIONS ANALYSIS

The practical effect of changes to the rules relating to the delivery of medical services will be the requirement, except for the smallest of jails, of on-site availability of medical personnel. At a minimum, jail administrators will be required to develop policies and procedures for the delivery of medical services. Costs associated with medical services will undoubtedly increase, especially for those jails which do not presently have the capability to deliver comprehensive medical services.

D. LAW AND CASE NOTES

"An inadvertent failure to provide adequate medical care does not constitute 'an unnecessary and wanton infliction of pain'," in violation of the Eighth Amendment prohibition of cruel and unusual punishment, according to the case of Estelle v. Gamble.²²

Medical malpractice or negligence by a physician in diagnosing or treating a medical condition does not become a constitutional violation merely because the patient is a prisoner²³ (Estelle v. Gamble).

In order to state a cognizable claim under section 1983 for deprivation of medical care, a prisoner must allege acts or omissions by jail authorities sufficiently harmful to indicate deliberate or callous indifference to serious medical needs of the prisoner.²⁴

Another test of the adequacy of medical attention by constitutional standards is whether or not the standard maintained was "barbarous" or was "repugnant to the conscience of mankind."²⁵

One episode of gross misconduct against a background of general attentiveness to medical needs of prisoners may constitute a violation of an inmate's civil rights under s.1983 if the one incident amounts to deliberate indifference, or something more than (1) an inadvertent failure, (2) a medical judgment call, or (3) an accident.²⁶

As stated under s.1983, one cause of action is for deliberate indifference to serious medical needs of a prisoner whether the indifference is manifested by a prison doctor's response to the prisoner's medical needs, or by correctional officers in intentionally denying or delaying access to medical care, or intentionally interfering with medical treatment once prescribed.²⁷

E. ACA STANDARDS

Comparison of the ACA Standards and the Florida Rules and Regulations indicate Florida's Rules agree in principle with sixteen of the thirty-three ACA Standards related to Medical and Health Care Services. Although Florida's Rules are silent on seventeen of the ACA Standards, many of them are addressed implicitly.

7. CLOTHING AND BEDDING: Section 33-8.08

A. 1976 RULES ABSTRACT

- (1) Prisoners will be provided a mattress, mattress cover, sheets and blankets.
- (2) Sheets, mattress covers and clothing shall be laundered weekly.
- (3) Indigent prisoners without shoes shall be provided them.
- (4) Prisoners assigned to work shall be provided shoes and clothing appropriate to the type of work and prevailing weather.

B. COMPLIANCE STATUS WITH 1976 RULES

Inspection reports collectively indicate 87% compliance statewide with the Clothing and Bedding Rules. Thirteen percent were found to be in non-compliance primarily due to the use of mattresses which were not fire retardant and inadequate provision of clean clothing and linen.

C. 1981 REVISIONS ANALYSIS

The 1981 Rule Revisions related to bedding and clothing made mandatory recommendations made in 1976

regarding fire resistant mattresses and the issue of clean clothing and personal items to prisoners held beyond first appearance. The 1981 rules also prohibit the deprivation of clothing, bedding, or comfort items except as required to prevent the prisoner from inflicting injury to self, others or property.

These rules seek to ensure that necessary linens, clothing and comfort/grooming items are issued to prisoners and are maintained in a sanitary condition. Compliance with these rules may require some additional expenditure of funds especially for large institutions. The twice weekly laundry requirement may require some facilities' laundry service to provide services comparable to commercial size operations. In those instances, considerable costs may be incurred, especially where facilities opt to issue jail clothing.

D. LAW AND CASE NOTES

The "deprivation of basic elements of hygiene" has consistently been regarded as an act in violation of constitutional guarantees.²⁸ "...confinement of naked persons... without any hygienic materials, any bedding, adequate food or heat, without opportunity for cleaning either themselves or the cell, and for longer than twenty-four hours continuously, is constitutionally forbidden under the Eighth Amendment."²⁹ District Court orders in ten counties in Florida mandate various clothing and bedding requirements for jails affected by the orders.³⁰

E. ACA STANDARDS

Comparison of ACA Standards and the Florida Rules and Regulations indicate Florida's Rules agree in principle with five of the eight ACA Standards related to bedding and clothing. Florida's Rules are silent on the ACA Standards which call for recording of clothing and bedding issue, in-house supply of clothing, linen and bedding, and cleaning/storage of prisoner's personal clothing.

8. PROGRAMS: Section 33-8.09

A. 1976 RULES ABSTRACT

- (1) Mail to prisoners shall be inspected for contraband, but not censored.
- (2) Indigent prisoners will be supplied with writing materials and postage to correspond with their attorney, courts and immediate family.
- (3) Mail may be denied only for probable cause. Such denial and the reason(s) therefore shall be documented. The affected prisoner shall be notified of mail rejection. The author shall be afforded the opportunity to protest the rejection.
- (4) Rules and regulations shall provide for visits with prisoners by their family, pastor and others with a legitimate need.
- (5) Visits shall be denied only for probable cause. The reason for denial shall be recorded and the record maintained on file.
- (6) Attorneys, probation officers, medical officers, psychiatrists and psychologists may meet privately with prisoners. Such conversations shall not be monitored.
- (7) All visitors shall register prior to visits.
- (8) Written rules and regulations shall specify the number and maximum time of visits as well as when and how often visits may be permitted.

- (9) Except as authorized by Statute, non-sentenced prisoners cannot be required to work except to keep their immediate housing area clean.
- (10) Prisoners shall not normally be required to work more than 6 days per week, 10 hours per day nor more than 60 hours per week. Prisoners shall not normally work on Sunday except food service workers.
- (11) Prisoners shall not leave the detention facility grounds or assigned work area without authorization and/or supervision.

B. COMPLIANCE STATUS WITH 1976 RULES

Inspection reports collectively indicated 70% compliance statewide with the Program Rules by county facilities. Thirty percent were found to be in non-compliance primarily due to lack of indoor/outdoor program opportunities, the lack of work/study programs, and the lack of rehabilitation programs.

C. 1981 REVISIONS ANALYSIS

The rules regarding mail clearly define the circumstances which may result in the denial of mail privileges. In effect, the 1981 rules reinforce the concept of mail as a "right" rather than a "privilege." The prohibition on restricting the volume of mail sent or received may require the expansion of "mail room services" by some facilities.

The 1981 rule change requiring each prisoner to have the opportunity for two hours of visiting per week may create scheduling problems for those institutions with limited visitation space. The new rules encourage contact visitation. In the event contact visitation

becomes a requirement, related security and scheduling problems will be exacerbated.

The work related rule permitting "spending money" payment to prisoners performing minor work around the facility may require limited additional administrative effort. Medical costs associated with the requirement for physician clearance of prisoners assigned to structured work programs may increase.

The 1981 rule change requiring the officer-in-charge to make maximum use of programs available through local community resources will require considerable administrative effort and could lead to significant expenditures of personnel time and effort.

D. LAW AND CASE NOTES

Jones v. Diamond (1981)³¹ restated the law of the Fifth Circuit for handling of prisoners' mail, by referring to that court's prior decision of Guajardo v. Estelle (1978).³² The constitutional requirements specified there were as follows: with the exception of correspondence providing the inmate with access to the press, courts, licensed attorney, parole officer or probation officer, censorship and rejection of both outgoing and incoming mail is permissible where correspondence (a) seriously violates mail rules, (b) contains plan for contraband or disruption of jail operation, (c) is objected to by a recipient, (d) violates U.S. penal code respecting use of the mails, (e) is

published material not mailed by a publisher, supplier or bookstore, (f) describes the manufacture of weapons or drugs, or contains information whose sole purpose is to teach the creation of strikes and riots in jails.

Additionally, in the case of published material which "encourages deviate, criminal sexual behavior" censorship may be made only after (1) review of the material by an administrator, and his fact determination that the material is detrimental to rehabilitation, (2) the inmate is given notice of review determination, (3) the inmate is given reasonable opportunity to challenge the determination in a hearing before a disinterested officer other than the original censor or reviewer, and (4) the inmate is given a final determination.

As noted previously, special considerations must be given to prisoner's access mail to the press, courts, etc. Mail addressed by the inmate to the press, courts, licensed attorney, parole officer or probation officer, may not be opened or read except on a warrant issued for the probable cause "that the contents are being used to violate the law or threaten security of the jail."

Mail addressed to the inmate from members of this category may be opened and inspected (but not read) only in the presence of the inmate. Process or delivery of mail may be delayed long enough to verify the special category claimed for an editor, reporter, attorney, etc. addressed by, or corresponding with, the inmate.

On the subject of contact visitation for pre-trial detainees, Jones v. Diamond has ruled for the Fifth Circuit, stating, "what we require is an evidentiary hearing to which the Bell v. Wolfish due process standard may be applied." The "due process" standard of Bell v. Wolfish refers to the rationale used by the Supreme Court in differentiating between pre-trial detainees and convicted prisoners in the light of constitutional guarantees - the court declaring that because of the personal liberty right of the fourteenth amendment, a pre-trial detainee could not be "punished" prior to conviction upon due process and that restraints of incarceration escape the designation of "punishment" only when they are rationally related to non-punitive governmental interest, such as security, order and management of the institution.

Thus, the court in Jones v. Diamond, deducing that denial of contact visitation would be a restraint on the personal liberty of a pre-trial detainee, concluded that such denial could only be permitted as a "restraint reasonably related to the institution's interest in maintaining jail security."

The court required an evidentiary hearing to determine whether, for "security reasons applicable either to all detainees or only to particular individuals," the denial of contact visitation would constitute a permissible restraint.

U.S. District Court orders now in effect in several counties in Florida, have required jail operators to provide inmates with daily access to local and long distance telephone use. The orders generally prohibit monitoring of inmate calls except where monitoring is done in accord with state and federal regulations or statutes.

E. ACA STANDARDS

Florida's rules and regulations agree in principle with four of the ten ACA Standards related to work programs; seven of the eight related to mail; six of the seven related to visiting; and one of the eight ACA Standards related to programs. The differences are primarily in detail rather than substantive intent.

9. PRIVILEGES: Section 33-8.10

A. 1976 RULES ABSTRACT

- (1) A detention facility commissary may be operated if it is properly controlled.
- (2) The officer in charge must approve all items to be sold as well as the prices and special conditions governing such sales.
- (3) Some form of indoor activity shall be provided for prisoners.

B. COMPLIANCE STATUS WITH 1976 RULES

Inspection reports collectively indicate 86% compliance statewide with the Privileges Rules by county facilities. Fourteen percent were found to be in non-compliance, primarily due to lack of outdoor exercise opportunities, the absence of commissary privileges, and

the lack of indoor activities such as television, radio, reading materials or games.

C. 1981 REVISIONS ANALYSIS

The 1981 rules require the establishment of procedures for prisoner access to commissary/canteen items. In effect the rules require, except for the smallest of jails, the establishment of an in-house commissary. This will require increased administrative effort, the expenditure of limited capital and significant allocation of personnel time resources.

The 1981 rules require that sufficient space, equipment and staff be provided to permit both individual and group activities. These requirements may require considerable capital expenditure and the hiring of additional personnel by some facilities.

The 1981 rules also require all facilities to provide reading or library services. The cost to a facility to develop such services will be largely dependent upon the facility's ease of access to community library services, and to what extent the facility provides access to law library materials.

D. LAW AND CASE NOTES

A prison regulation similar to the jail provision limiting the amount of cash an inmate may carry, and confiscating any excess discovered, was recently upheld in *Sullivan v. Ford*³³ where \$2,197.40 in cash was found hidden in a prisoner's personal effects (talc can).

The 1981 Fifth Circuit decision of *Jones v. Diamond* was equally divided on the issue of whether there is a constitutional right to outdoor recreation or exercise. Since the District Court had denied prisoner's demands for this relief, the denial was allowed to stand as the present law of the Fifth Circuit.

This regulation entitled "Privileges" takes up the subject of library or reading service. It should be noted that one alternative suggested by the U.S. Supreme Court in 1977 in *Bounds v. Smith*³⁴, for providing prisoners with access to the courts (required by the Sixth Amendment to the U.S. Constitution), was the provision of a law library that would "assist inmates in the preparation and filing of meaningful legal papers." In lieu of an "adequate" law library, the court suggested the provision of "adequate assistance from persons trained in the law."

The recent Fifth Circuit Court of Appeals case of *Cruz v. Hauck* (1980)³⁵ has held that a jail law library without any assistance in its use cannot suffice to provide "access to the courts" for all the prisoners (especially the illiterate and non-English speaking inmates). The court suggested either some type of paralegal librarian, a sufficient number of "writ-writers" from the jail, or access to counsel. The court also suggested that 2 or 3 hours per week may be inadequate to do meaningful legal research, and that a large jail library should have available, all District Court cases

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1 OF 2

published in the Federal Supplement, beginning about 1960 to present.

E. ACA STANDARDS

Florida's Rules and Regulations agree in principle with three of the four ACA Standards related to recreation, exercise and library services. Florida's rules are in agreement with the ACA Standards regarding the establishment and operation of a commissary.

10. SECURITY AND CONTROL: Section 33-8.11

A. 1976 RULES ABSTRACT

- (1) The Officer-in-Charge shall conduct and record a general inspection of the facility at least weekly.
- (2) All cells, cell blocks and other quarters shall be inspected at least once each day and once during each night and deficiencies noted.
- (3) A key control system recording the location of each key and lock will be maintained.
- (4) A complete inventory of all keys shall be maintained.
- (5) A written report of malfunctioning locks, broken or lost keys must be submitted immediately to the Officer-in-Charge.
- (6) Prisoners shall not handle security keys.
- (7) Emergency keys shall be maintained as approved by the Officer-in-Charge and the Prison Inspector.
- (8) Employees shall receipt for all keys drawn.
- (9) Detention facility keys shall not be duplicated except as authorized.
- (10) Recorded prisoner counts shall be conducted four times daily at six hour intervals. Such counts shall be recorded and signed by the employee/ranking employee responsible.

- (11) Prisoners, except trustees, shall be constantly and directly supervised when outside secure areas.
- (12) All tools, hypodermic needles and syringes, knives, meat saws and cleavers shall be inventoried, securely stored and controlled.
- (13) All persons entering or leaving a detention facility must be positively identified.
- (14) Prisoners shall be frisked/searched each time they leave or enter secure areas and at such other times and places as deemed necessary.
- (15) Firearms and ammunition shall not be taken into the detention facility except as authorized.
- (16) A secure weapons depository will be established and used.
- (17) The ranking employee on duty shall have ready access to all keys.
- (18) All facility locks shall be functional at all times.
- (19) Both gates of a security facility shall be closed at all times except when moving prisoners, in which case only one gate shall be open at one time.
- (20) When an employee enters prisoner quarters, another employee must be outside the secure area controlling exits and communications.
- (21) Employees entering secure areas will not carry perimeter security keys or keys which provide access to any other secure area.
- (22) Chemicals must be securely stored and used only under direct employee supervision.
- (23) Emergency plans will be maintained to cover escape, attempted escape, fire, riot, and natural disasters.

B. COMPLIANCE STATUS WITH 1976 RULES

Inspection reports collectively indicated 67% compliance statewide with Security and Control Rules and Regulations by county facilities. Thirty-three percent

were found to be in non-compliance primarily due to the lack of documented security inspections, inadequate key and tool control, the lack of emergency plans and equipment including fire exits, and the lack of documented regular prisoner counts.

C. 1981 REVISIONS ANALYSIS

The 1981 Rules regarding security and control are much more detailed. They will require considerable expenditure of administrative effort in the development of precise policies and procedures. Capital expenditure for the construction of appropriate fire exits may be necessary for some facilities. Increased administrative and supervisory effort will be required to meet prisoner and inventory control requirements. Additional custodial personnel may be required by some facilities to meet the State's expectation of a safe and secure facility.

D. LAW AND CASE NOTES

The Supreme Court case of Bell v. Wolfish (1979) contains a full discussion of the many prior holdings by the same court, limiting the rights of individuals under incarceration where this is necessary, for the purposes of security and control of the institution. In applying these same restrictions to pre-trial detainees, the court stated:

"There must be a mutual accommodation between institutional needs and objectives and the provisions of the Constitution that are of general application" (quoting

Wolff v. McDonnell see footnote 42.) This principle applies equally to pre-trial detainees and convicted prisoners. A detainee simply does not possess the full range of freedoms of an unincarcerated individual. Maintaining institutional security and preserving internal order and discipline are essential goals that may require limitation or retraction of the retained constitutional rights of both convicted prisoners and pretrial detainees. 'Central to all other corrections goals is the institutional consideration of internal security within the corrections facilities themselves.' (quoting from Pell v. Procunier see footnote 54). Prison officials must be free to take appropriate action to ensure the safety of inmates and corrections personnel and to prevent escape or unauthorized entry ... the problems that arise in the day to day operations of a corrections facility are not susceptible of easy solutions. Prison administrators, therefore, should be accorded wide-ranging deference in the adoption and execution of policies and practices that, in their judgment, are needed to preserve internal order and discipline and to maintain institutional security."

In 1977, the Supreme Court had relieved prison administrators of the burden of showing affirmatively that a prisoner's union would be detrimental to proper penological objectives, or would constitute a present danger to security and order. This was accomplished by deferring to the "informed discretion" of the officials, and placing the burden on the prisoner's union to show that the official restrictions were unreasonable.³⁶

Jones v. Diamond (1981), in order to protect prisoners from a "reign of terror" from the "constant threat of violence and from sexual assault", ordered the

District Court to require adequate supervision by correctional officers rather than by "trusty" inmates. In 1974, the Fifth Circuit Court of Appeals held that allegations in a prisoner complaint that prison officials failed to protect the plaintiff from attack by another prisoner was sufficient to state a cause of action based on cruel and unusual punishment in violation of the Eighth Amendment, and denial of equal protection under the Fourteenth Amendment.³⁷

In *Williams v. Edwards*,³⁸ the court recognized that institution officials must provide enough officers to "assure a constitutional level of inmate safety," and approved an order requiring the presence of two officers in open dormitories at all times.

Similarly, in *Smith v. Sullivan*,³⁹ the Court of Appeals upheld the district court's order requiring that a correctional officer visit each inmate-occupied area once an hour, that one correctional officer be present on each jail floor at all times, and that a communications system be established whereby any prisoner could call for help from an officer at any time and receive the same within a few minutes.

E. ACA STANDARDS

Florida's Security and Control Rules agree in principle with thirty-five of the fifty-seven ACA Standards related to Safety, Emergency Procedures, Security and Control. The ACA Standards are more

detailed in their requirements of written policies and procedures than are the Florida Rules and Regulations.

11. SANITATION: Section 33-8.12

A. 1976 RULES ABSTRACT

- (1) Sanitation standards shall conform to applicable standards of the Health Program Office, DHRS.
- (2) All prisoners who do not have health and comfort items shall be furnished soap, toothbrush, toothpaste, towels and shaving equipment. Shaving equipment may be issued on a controlled basis.
- (3) The Officer-in-Charge shall conduct a formal sanitation inspection at least once each week. Substantial deficiencies shall be recorded and corrected.
- (4) Routine visual inspections of the facility shall be conducted.
- (5) Walls shall be kept clean.
- (6) Toilets, urinal, sinks and basins shall be cleaned daily.
- (7) Windows, sills and screens shall be clean and kept in good repair.
- (8) Prisoners shall not store perishable food or other potentially unsanitary items in their quarters.
- (9) Employees will be responsible for sanitation and housekeeping.
- (10) Prisoners shall be required to bathe twice weekly.
- (11) Barber services will be made available to prisoners.

B. COMPLIANCE STATUS WITH 1976 RULES

Inspection reports collectively indicated 68% compliance statewide with Sanitation Rules and Regulations by county facilities. Thirty-two percent were found to be in non-compliance primarily due to

inadequate housekeeping practices, unsanitary fixtures, ineffective vermin control, and the lack of documented sanitary inspections.

C. 1981 REVISIONS ANALYSIS

The 1981 sanitation rules differ very little from those of 1976. The primary change is the requirement for an established preventative maintenance program. This may require facilities to hire or contract for additional maintenance personnel. Additional custodial supervisory personnel may be necessary to ensure proper supervision of inmate cleaning details.

D. LAW AND CASE NOTES

Unsanitary conditions have generally been only a part of the institutional practices the courts have looked at in deciding whether the totality of conditions of an institution require the enforcement of constitutional standards on the jail administration.⁴⁰

Unsanitary conditions such as disease infested mattresses, the absence of hygienic materials for bathing, vermin, insects, accumulations of filth, garbage and trash have been cited as contributing to an overall unconstitutional condition and practice, amounting to cruel and unusual punishment of prisoners or punishment per se of pre-trial detainees.⁴¹

E. ACA STANDARDS

Florida's Rules and Regulations agree, in principle, with seven of the ten ACA Standards related

to sanitation. Florida's rules are silent on the issue of liquid and solid waste disposal, thermostatically controlled water temperature, and certification of the facility water supply.

12. ORDER AND DISCIPLINE: Section 33-8.13

A. 1976 RULES ABSTRACT

- (1) Rules and regulations governing the conduct and discipline of prisoners shall be posted, or made available.
- (2) Discipline shall not be capricious nor in the nature of retaliation or revenge.
- (3) Corporal punishment of any kind is prohibited.
- (4) Disciplinary action shall be taken as soon after the fact as possible.
- (5) The Officer-in-Charge shall establish uniform policy and procedures for guidance of a disciplinary committee, and procedures and limits for disciplinary actions authorized for minor rule infractions.
- (6) Disciplinary action other than verbal reprimand must be written.
- (7) Prisoner privilege loss must be approved in writing by the Officer-in-Charge and maintained on file.
- (8) The loss of mail privileges shall not be used as a disciplinary action unless the infraction is mail related.
- (9) Depriving a prisoner of food and/or clothing is not to be used as a disciplinary action.
- (10) Disciplinary reports will include the date of infraction, place and time of infraction, date of report, specific charge, details of infraction, witnesses names (as security considerations allow), actions taken by employee, and reporting employee signature.
- (11) An investigation will be conducted to reasonably verify an alleged violation. The investigating

afternoon. The prisoner's condition and attitude shall be noted in writing, signed and placed in the prisoner's file.

- (25) The time and date a prisoner is placed in and released from segregation will be recorded and filed.

B. COMPLIANCE STATUS WITH 1976 RULES

Inspection reports collectively indicated 81% compliance statewide with the Rules of Order and Discipline by county facilities. Nineteen percent were found to be in non-compliance primarily due to a lack of posted rules of prohibited conduct for prisoners, the absence of a formal disciplinary committee, the lack of documented committee actions, and the absence of policies defining the function of the disciplinary committee.

C. 1981 REVISIONS ANALYSIS

The 1981 revisions clearly outline the structure and process to be followed in administering discipline, _____ as well as the limitations of disciplinary action. As a result, some detention facilities will have to significantly increase their administrative efforts as they relate to the establishment and maintenance of discipline. Additional personnel will most likely be required by some facilities to meet these expectations.

D. LAW AND CASE NOTES

The accommodation of competing interests in prisoner cases is discussed in Wolff v. McDonnell.⁴²

"Of course, as we have indicated, the fact that prisoners retain rights under the Due

Process Clause in no way implies that those rights are not subject to restrictions imposed by the nature of the regime to which they have been lawfully committed ... In sum, there must be mutual accommodation between institutional needs and objectives and the provisions of the Constitution that are of general application.

The Court further stated:

We have often repeated that the very nature of due process negates any concept of inflexible procedures universally applicable to every imaginable situation."...Consideration of what procedures due process may require under any given set of circumstances must begin with a determination of the precise nature of the government function involved as well as of the private interest that has been affected by governmental action.

Smith v. Organization of Foster Families for Equality and Reform,⁴³ stated:

Identification of the specific dictates of due process generally requires consideration of three distinct factors: first, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

The two Supreme Court decisions which defined the due process procedures required in disciplinary proceedings for major misconduct are Wolff,⁴⁴ and Baxter v. Palmigiano.⁴⁵

Wolff held that prisoners could not be punished for serious misbehavior without first being granted a due

process disciplinary hearing. Before setting forth the minimum requirements for a hearing, the Court noted that "Consideration of what procedures due process may require under any given set of circumstances must begin with a determination of the precise nature of the government function involved as well as of the private interest that has been affected by governmental action." The Court distinguished prison disciplinary hearings from parole revocation proceedings:

Prison disciplinary proceedings, on the other hand, take place in a closed, tightly controlled environment peopled by those who have chosen to violate the criminal law and who have been lawfully incarcerated for doing so ... Guards and inmates coexist in direct and intimate contact. Tension between them is unrelenting. Frustration, resentment, and despair are commonplace. Relationships among the inmates are varied and complex and perhaps subject to the unwritten code that exhorts inmates not to inform on a fellow prisoner.

The Court noted that it was necessary to structure disciplinary proceedings against this background. Since disciplinary hearings "involve confrontations between inmates and authority and between inmates who are being disciplined and those who have charged or furnished evidence against them, retaliation is much more than a theoretical possibility; and the basic and unavoidable task of providing reasonable personal safety for guards and inmates could be a stake." Another consideration is the likelihood of confrontations at hearings and escalating personal antagonisms that adversely affect the

correctional process. The Court noted that some prisoners may be incorrigible and would merely disrupt and exploit the disciplinary process for their own ends.

The Court concluded that, when charged with a major misconduct, a prisoner is entitled to advance written notice of the claimed violation, a written statement by the fact finders as to the evidence relied upon, and the reasons for the disciplinary action taken. An inmate who faces disciplinary proceedings should be allowed to call witnesses and present documentary evidence in his defense unless this would be unduly hazardous to institutional safety or correctional goals. Prison officials must have the necessary discretion to keep the hearing within reasonable limits and refuse to call any witnesses who might create a risk of reprisal, or undermine authority as well as limiting access to other inmates for purposes of collecting statements and compiling other documentary evidence.

Confrontation and cross-examination are generally not required. The Court declined to hold that prisoners have the right to either a retained or an appointed counsel, although an illiterate inmate should be free to seek the aid of a fellow inmate or help from the staff.

Preiser v. Rodriguez⁴⁶ held that an action seeking an injunction to restore good time credit must be brought as habeas corpus rather than a civil rights action under section 1983. Wolff v. McDonnell stated: "Preiser

expressly contemplated that claims properly brought under Section 1983 could go forward while actual restoration of good time credit is sought in state proceedings." The court could determine the validity of the procedures employed for imposing sanctions such as loss of good time and could enter a declaratory judgment as a predicate to a damage award. The Court noted that some injunctive relief, such as an injunction against enforcement of invalid prison regulations, could be granted. Only an injunction restoring good time credits is foreclosed by Preiser. Wolff held that the loss of good time credits is a sufficient loss of "liberty" to entitle the prisoner to a due process hearing.

McGinnis v. Royster,⁴⁷ held that a prisoner is not denied equal protection under the Fourteenth Amendment if he is denied a good time credit for the period he was incarcerated in a county jail before he was sentenced. The fact that the jails do not have a significant rehabilitation program, provided a rational basis for declining to give prisoners good time credit for their pretrial jail detention period.

Meachum v. Fano⁴⁸ and Montanye v. Haymes⁴⁹ held that a prisoner is not entitled to a due process hearing prior to a transfer to another institution, even though the conditions in the second institution may be more disagreeable, where state law does not condition the right to transfer upon the occurrence of misconduct.

When state officials possess the authority to make discretionary transfers, the prisoner does not have a "liberty" interest in remaining in a particular institution and, therefore, he does not have the right to a due process hearing.

The district court in *Bruce v. Wade*,⁵⁰ had improperly dismissed plaintiff's complaint insofar as it alleged that defendants intentionally and improperly transferred plaintiff to another jail where he was subjected to inhumane conditions of confinement. Plaintiff's allegation that the transfer was made as a disciplinary measure distinguished the case from *Meachum* and *Montaye*. Referring to these two cases the court stated:

Thus the Court left undisturbed the indication in *Wolff* that disciplinary measures which represent a change in the conditions of confinement and are normally imposed by the institution only for particular acts of misconduct give rise to procedural due process requirements. Liberally reading Bruce's allegations as *Haines* requires, we cannot say he will be unable to show that the transfer to the Tarrant County cell amounted to such a disciplinary measure."

Meachum and *Montaye* were followed in *Franklin v. Fortner*,⁵¹ where the court held that transfer from a minimum to a medium security institution did not require notice or a hearing.

E. ACA STANDARDS

Florida's Order and Discipline Rules agree in principle with fifteen of the twenty-two ACA rules related

to Special Management Inmates (Segregation). Florida's rules are silent on the issue of administrative segregation, due process and review. In addition, the ACA Standards address telephone privileges for segregated inmates as well as selection criteria for segregation staff.

13. CONTRABAND: Section 33-8.14

A. 1976 RULES ABSTRACT

No person shall introduce or cause to be brought into or upon the property of a detention facility, or give to any prisoner, any article of contraband; or give to any prisoner anything which is not specifically authorized by detention facility directive, or which has not been specifically authorized by the Officer-in-Charge.

B. COMPLIANCE STATUS WITH 1976 RULES

Inspection reports collectively indicate 96% compliance statewide with the Contraband Rules by county facilities. Four percent were found to be in non-compliance, primarily due to inadequate search and inspection procedures and the lack of staff education in contraband control.

C. 1981 REVISIONS ANALYSIS

There were no substantial changes in the 1981 rules related to contraband other than the requirement for the establishment and posting of a list of items which prisoners may have in their possession.

D. LAW AND CASE NOTES

The Fourth Amendment prohibits unreasonable searches of both convicted prisoners and pretrial detainees. "The

test of unreasonableness under the Fourth Amendment is not capable of precise definition or mechanical application. In each case it requires a balancing of the need for the particular search against the invasion of personal rights that the search entails. Courts must consider the scope of the particular intrusion, the manner in which it is conducted..., and the justification for initiating it."⁵²

In the Supreme Court case quoted above, the Court permitted the jail administration to conduct random searches without notice to detainees or permission of detainees to observe the room or cell search. In the same case, the court permitted strip searches, including visual body cavity searches of detainees after each contact visit from outside the facility. The Court noted that stringent requirements would have to accompany any intrusion into the body (as in the taking of blood sample for alcoholic content in *Schmerber v. California*).⁵³

E. ACA STANDARDS

The Florida Rules and Regulations agree in principle with those ACA Standards related to the control of contraband.

FOOTNOTES

¹Georgia v. Evans, 633 F2d 413, (CA5, 1980).

²Ibid.

³Ibid.

⁴Bryan v. Jones 530 F2d 1210 (CA5, 1976).
Procunier v. Navarette, 434 U.S. 555, 98 S.Ct. 855 55 L Ed 2d 24, (1978).
Taylor v. Nichols, 558 F2d 561 (CA 10 1977);
see also 42 USC S.1988 as to trial law to be used in the absence of laws of U.S. in section 1983 cases.

⁵Procunier v. Navarette, supra note 4.

⁶Wood v. Strickland 420 US 308, L Ed 2d 214, 95 S Ct 992, (1975).

⁷Ibid.

⁸Procunier v. Navarette, supra note 4.

⁹Fox v. Sullivan 539 F2d 1065 (1976).

¹⁰Harris v. Chancellor 537 F2d 203 (1976).

¹¹Jones v. Diamond 636 F2d 1364 (1981).

¹²Jones v. Diamond, supra, quoting Bell v. Wolfish 441 U.S. 520, 60 LEd.2d 447, 99 S.Ct. 1861.

¹³Jones v. Diamond, supra note 11; Lee v. Washington, 390 U.S. 333, 88 S.Ct. 994, 19 L.Ed.2d 1212 (1968).

¹⁴Bell v. Wolfish, supra note 12.

¹⁵Miller v. Carson, 563 F2d 157 (1977), see also Miller v. Carson 563 F2d 741 (1977).

¹⁶Jones v. Diamond, (earlier panel hearing), 594 F2d 997 (CA5, 1979).

¹⁷Hutto v. Finney, 437 U.S. 678, 57 L Ed 2d 522, 985 Ct 2565.

- 18Carruthers v. Stack, Case #76-6086-CIV-WMH (Broward)
Bridges v. Sandstrom, Case #74-994-CIV-J-S. 563 F2d 741 (1977)
(Duval).
Mitchell v. Untreiner, PCA 75-145, 421 F. Supp 886 (76),
(Escambia).
Flowers v. Wanicka, Case #80-2-CIV-FTM-H (Lee).
Blackman v. Willie, Case #80-808F-CIV-ALH (Palm Beach).
Davis v. Roberts, Case #75-411-CIV-TGC (Pinellas).
Tucker v. Lewis, PCA 77-0500 (Santa Rosa).
Black v. Cansler, Case #78-291-ORL-CIV-Y (Volusia).
- 19Thomas v. Katsaris, TCA 77-0853 (Leon).
Davis v. Adams, PCA 79-0405 (Okaloosa).
- 20Jones v. Diamond, supra note 11.
- 21Smith v. Sullivan, 553 F2d 373 at 380 (1977).
- 22Estelle v. Gamble, 429 US 97, 50 L Ed 2d 251, 97 S Ct 285.
- 23Ibid.
- 24Ibid.
- 25Bass v. Sullivan, 550 F2d 229, Cert denied, 98 S Ct 195, 434.
US 864, 54 L Ed 2d 138 (CA5, 1980).
- 26Murrell v. Bennett, 615 F2d 306 (CA5, 1980).
- 27Estelle v. Gamble, supra note 22.
- 28See Campbell v. Beto, 460 F2d 765, 768 (CA5, 1972) and cases
cited therein.
Gates v. Collier, 501 F2d 1291 (CA5, 1974).
- 29Gates v. Collier, supra note 28.
- 30See, generally, Florida District Court cases listed under
Housing Section 33-8.05.
- 31Jones v. Diamond, supra note 11.
- 32Guajardo v. Estelle, 580 F2d 748 (1978).
- 33Sullivan v. Ford, 609 F2d 197 (CA5, 1980).
- 34Bounds v. Smith, 430 US 817, 97 S Ct 1491, 52 L Ed 2d 72.
- 35Cruz v. Hauck, 627 F2d 710.
- 36Jones v. Carolina Prisoner's Labor Union 433 US 119, 53 L Ed 2d
629.

- 37Parker v. McKeithan, 488 F2d 555, see also Gates v. Collier 501
52d 1291 (CA5 1974).
- 38Williams v. Edwards, 547 F2d 1206 (CA5 1977).
- 39Smith v. Sullivan, 553 F2d 373 (CA5 1977).
- 40See Jones v. Diamond, supra note 11.
- 41See Jones v. Diamond, supra note 11; Hutto v. Finney, supra
note 17.
Gates v. Collier, supra note 28.
- 42Wolff v. McDonnell, 418 US 539, 94 S Ct 2963, 41 L Ed 2d 935
(1934).
- 43Smith v. Organization of Foster Families for Equality and
Reform, 431 US 816, 97 S Ct 2094, 53 L Ed 2d 14 (1977).
- 44Wolff v. McDonnell, supra note 42.
- 45Baxter v. Palmigiano 425 US 308, 96 S Ct 1441, 47 L Ed 2d 810
(1976).
- 46Preiser v. Rodriguez, 441 US 475, 93 S Ct 1827, 36 L Ed 2d 439
(1973).
- 47McGinnis v. Royster, 410 US 263, 93 S Ct 1055, 35 L Ed 2d 282
(1973).
- 48Meachum v. Fano, 427 US 215, 96 S Ct 2532, 40 L Ed 2d 451
(1976).
- 49Montanye v. Haymes, 427 US 236, 96 S Ct 2543, 49 L Ed 2d 466
(1976).
- 50Bruce v. Wade, 537 F 2d 850 (CA5, 1970).
- 51Franklin v. Fortner, 541 F 2d 494 (CA5 1976).
- 52Bell v. Wolfish, supra note 12.
- 53Schmerber v. California, 384 US 757, 16 L Ed 2d 908, 86 S Ct
1826 (1966), blood sample taken by physician.
- 54Pell v. Procunier 417 US 817, 41 L Ed 2d 495, 94 S Ct 800.

CHAPTER IV
CONCLUSIONS AND RECOMMENDATIONS
FROM THE JAIL STUDY

In this study we have reviewed both the condition of Florida's county jails and the impact of court decisions and standards on these jails. The study revealed that there is no typical county jail. However, the great majority share the common problems of being overcrowded, understaffed, inadequately financed and unable to comply with state regulations governing their operation. The evidence shows that a lack of good correctional management practices aggravates these conditions. New funding sources for the support of both operating and capital costs of the jails is desperately needed to solve these problems.

The study confirmed that Florida needs new jails. In addition to the need to renovate antiquated facilities, new jails are already required to house a rising prisoner population. However, the number of new jails required will depend upon how successful local correctional agencies are in developing alternatives to incarceration in jail facilities.

All of these problems will be exacerbated by the enforcement of the new (1981) Department of Corrections rules for county detention facilities. As previously noted, these rules are significantly more stringent than the 1976 rules and require a more detailed and exacting inspection process. Undoubtedly, all jails will experience a significant reduction in their compliance ratings as a result of these rule changes.

Florida has the tools to create an acceptable system of jails. The state is fortunate to now have a set of standards which meet basic constitutional considerations and the power to

enforce those standards. The remaining problems of overcrowding, understaffing, and poor conditions of confinement can all be resolved through increased funding and better jail management.

The Florida Sheriff's Association is taking a major step toward improving the management of Florida jails through their planned development of a Model Jail Policy and Procedure Manual. This Manual, and a voluntary follow-up program in policy and procedure development in any particular jail, will provide a blueprint for good correctional practice in each jail facility, regardless of its resources.

In combination with this technical assistance from the Sheriff's Association, the jails will require major capital and operations funding assistance. The current jail budget burden is pressing hard on local resources. The federal budget is still uncertain with regard to assistance in capital improvement grants for corrections at the local level. Local officials are calling on the state to fill the funding gap between uncertain federal support and growing local jail needs.

As part of the state's response to this need, the Governor proposed that the 1981 legislature support a 350 million dollar bond issue to support local corrections construction. Other 1981 legislative proposals included the funding of jail construction through State General Revenue Funds or through an increase in the state sales tax. None of these proposals were successfully adopted in the last session.

The Florida Sheriff's Association's effort to improve jail management through policy and procedure assistance should help Sheriffs and Jail Administrators to protect themselves from managerially related prisoner lawsuits. The Department of Corrections' revised 1981 jail rules should also result in a reduction of jail suits which cite the state as responsible for conditions in the jails. The reduction of state liability to this type of suit will result only if the state follows through on its improved inspection and enforcement guarantees contained in the new rules. If both the sheriffs and the state are protected from some kinds of litigation, a greater burden of the legal responsibilities for jail conditions will fall on County Commissioners. It is the County Commissioners who may have sufficient political influence with the state's legislators to persuade them to deal with the funding needs of local jails through state action. In the intervening years before this political process can be completed, the legal pressures on the jails will continue.

The U.S. Supreme Court has spoken definitely on prisoner rights guaranteed by the Constitution. It is now up to the U.S. District Courts to enforce the constitutional interpretations laid down in Supreme Court decisions. But these decisions are always in a state of continual reinterpretation.

Only this year the Court stated in *Rhodes v. Chapman* "no static test can exist by which courts determine whether conditions of confinement are cruel and unusual, for the Eighth Amendment must draw its meaning from the evolving standards of decency that mark the progress of a maturing society."¹

The jail study reviewed a wide range of the available data on jails in Florida. Some major gaps exist in that data. These gaps should be closed in order for local officials and the legislature to realistically evaluate the needs of Florida jails. First, there is no adequate statewide summary of jail budget data. The Florida Sheriff's Association has already encouraged local Sheriffs to submit separate budget materials for their jail operations. The Department of Corrections may wish to include such budgets in their inspection requirements. The Department of Banking and Finance should also receive such separate data as part of their county budget data summary each year. Since the latter document already has a category for local county corrections costs, it might be possible to improve the quality of data which is being collected under that designation.

Second, there is a continued need for further analysis of the impact of the new jail rules at the local level. The Bureau of Criminal Justice Assistance will be working with the Department of Corrections to computerize the data from the new inspection process. Future analysis of the data should provide much greater detail on the real conditions of the jails in Florida. This computer summary has the potential to form a basis for an Annual Report on Florida's Jail Conditions. In conjunction with accurate budget data, these statistics would make an important contribution to our continuing knowledge of the status of the local jails. Such information would be helpful in later analyzing the potential for regional jails, for

community correctional facilities, for short term sentences and other statewide alternatives.

The decline in Law Enforcement Assistance Administration (LEAA) grants from the federal government is beginning to have an impact on programs throughout the criminal justice system. The jails have relied on these federal dollars indirectly. The development of pre-trial alternatives to incarceration, post-trial alternatives to incarceration, and methods to improve the speed and efficiency of the courts were all supported by LEAA dollars. There is no comprehensive picture of how many of these programs have been continued or discontinued at the local level. Neither has there been an impact assessment on the effect of the loss of such programs on the jails. There is a real need for information about the status of such programming in Florida. Such a study would be of major importance in future jail legislation as well as support from the state for alternatives to incarceration in local jails.

RECOMMENDATIONS

1. There must be a reconsideration of state and local funding alternatives to provide the financial base for resolving local jail problems. Jail populations and operating costs continue to increase while the value of local tax revenues decrease. The counties are turning to the state for assistance in resolving this dilemma.

2. A model policy and procedures manual for local jails should be developed. The Florida Sheriff's Association has proposed development of a model policy and procedures manual for the administration of the state's local jails. The development of such a manual should prove to be a valuable administrative tool for local jail administrators.

3. Alternatives to incarceration and alternatives to secure detention should be fully considered by local officials prior to embarking on major jail construction projects. The problems faced by those charged with the responsibility for administering local jails cannot be solved by construction alone. As an Ohio judge noted: "The popular and simplistic idea is (that) the important source of the (jail) problems is the purely physical one...but the evidence clearly demonstrates that if a beautiful brand new jail were built and operated the way the present jail is operated, there would be little improvement...and what improvement there was would very rapidly disappear."

4. There should be an annual statewide collection and summary of jail cost data from each county. Counties are not required by law to provide separate cost accounting for their jails. Sheriffs and jail administrators should be encouraged to separate such costs in order to reflect the encroaching costs of the jail operation on the total law enforcement budget. A summary of these costs should be made available to state and local decision makers.

5. There is a continuing need to summarize data on the impact of the new 1981 jail rules. The Department of Corrections Inspection Reports based on the new rules will shortly begin to generate new and more detailed data on the conditions of the state's jails. The DOC, however, has no mandate to summarize and report such data. This information, in conjunction with the aforementioned budget data, could be combined into a prototype for an "Annual Status Report of Florida's Jails."

6. There should be a survey of current jail staffing needs and problems. Data on salaries for local correctional officers, staff turnover and the training status of these employees will provide important clues to staffing problems in the State's jails.

FOOTNOTES

¹Rhodes v. Chapman, 101 S. Ct. 2392, 1981.

APPENDICES

APPENDIX I

Florida Department of Corrections
Jail Inspection Report Form
(Based on the 1976 Rules)

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STATE OF FLORIDA
DEPARTMENT OF CORRECTIONS
INSPECTION REPORT OF COUNTY AND MUNICIPAL DETENTION FACILITIES

FACILITY: _____ TYPE OF FACILITY: _____
MAILING ADDRESS: _____ CITY: _____
COUNTY: _____ ZIP CODE: _____ TELEPHONE: _____
AGENCY HEAD: _____ DETENTION ADMINISTRATOR: _____
DATE(S) AND TIME OF INSPECTION: _____ INSPECTOR: _____

POPULATION AT DATE OF INSPECTION	MALE	FEMALE	TOTAL
1. <u>FELONS</u>			
a. Sentenced			
b. Non-Sentenced			
2. <u>MISDEMEANANT</u>			
a. Sentenced			
b. Non-Sentenced			
3. Juveniles Held Under Court Order			
4. TOTALS			

5. DURING THE PAST MONTH
 a. Highest Count _____
 b. Lowest Count _____

6. USABLE BED CAPACITY BY CATEGORY AS FOLLOWS:
 a. Adult Female _____
 b. Juvenile Female _____
 c. Other (Special Use) _____
 d. Adult Male _____
 e. Juvenile Male _____
 f. TOTAL CAPACITY _____

7. DATE FACILITY WAS CONSTRUCTED: _____
8. DATE OF LAST RENOVATION: _____
9. ARE THERE PLANS FOR NEW CONSTRUCTION OR RENOVATION? YES NO
10. DO YOU HAVE SUFFICIENT STAFF TO OPERATE THE FACILITY? YES NO

PRESENT STAFF	MALE	FEMALE		MALE	FEMALE
a. Administrative	_____	_____	d. Medical	_____	_____
b. Correctional	_____	_____	e. Maintenance	_____	_____
c. Food Service	_____	_____	f. Volunteer	_____	_____

11. AN EXIT INTERVIEW WAS HELD WITH: _____ TITLE: _____
12. A COPY OF THIS COVER SHEET AND AUDIT REPORT WAS RECEIVED BY: _____
13. SUMMARY: _____

PAGE 2

INSPECTION
CONTINUATION SHEET

FACILITY: _____ INSPECTOR: _____

33-8.02 - GENERAL PROVISIONS IN COMPLIANCE: _____ NOT IN COMPLIANCE: _____

33-8.03 - EMPLOYEE REGULATIONS IN COMPLIANCE: _____ NOT IN COMPLIANCE: _____

33-8.04 - ADMISSION CLASSIFICATION
& RELEASE IN COMPLIANCE: _____ NOT IN COMPLIANCE: _____

33-8.05 - HOUSING IN COMPLIANCE: _____ NOT IN COMPLIANCE: _____

33-8.06 - FOOD IN COMPLIANCE: _____ NOT IN COMPLIANCE: _____

33-8.07 - MEDICAL IN COMPLIANCE: _____ NOT IN COMPLIANCE: _____

33-8.08 - CLOTHING & BEDDING IN COMPLIANCE: _____ NOT IN COMPLIANCE: _____

PAGE 3

INSPECTION
CONTINUATION SHEET

FACILITY: _____ INSPECTOR: _____

33-8.09 - PROGRAMS IN COMPLIANCE: _____ NOT IN COMPLIANCE: _____

33-8.10 - PRIVILEGES IN COMPLIANCE: _____ NOT IN COMPLIANCE: _____

33-8.11 - SECURITY & CONTROL IN COMPLIANCE: _____ NOT IN COMPLIANCE: _____

33-8.12 - SANITATION IN COMPLIANCE: _____ NOT IN COMPLIANCE: _____

33-8.13 - ORDER & DISCIPLINE IN COMPLIANCE: _____ NOT IN COMPLIANCE: _____

33-8.14 - CONTRABAND IN COMPLIANCE: _____ NOT IN COMPLIANCE: _____

APPENDIX 2
JAIL INSPECTION REPORT
COMPUTER FORMAT

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JAIL INSPECTION REPORTS
Computer Format

1. Facility	----
2. Type of Facility	---
3. County	---
4. Date of Inspection (Month/Year)	--/--
5. Date Facility Constructed or Renovated	-----
6. Plans for New Construction?	Y N NA
<u>Population at Date of Insp.</u>	
Felon	
7. Adult Sentenced Males	-----
8. Adult Sentenced Females	----
9. Adult Non-Sentenced Males	-----
10. Adult Non-Sentenced Females	----
Misdemeanants	
11. Adult Sentenced Males	-----
12. Adult Sentenced Females	----
13. Adult Non-Sentenced Males	-----
14. Adult Non-Sentenced Females	----
Juveniles	
15. Males	----
16. Females	---
<u>Count During Past Month</u>	
17. Highest Count	-----
18. Lowest Count	-----
<u>Population Capacity</u>	
19. Adult Female	----
20. Adult Male	-----
21. Other (Including Juveniles, Special Handling)	----
22. Sufficient Staff to Operate?	Y N NA
<u>Present Jail Staff</u>	
23. Administrative Males	----
24. Administrative Females	----
25. Correctional Males	----
26. Correctional Females	---
27. Medical Males	---
28. Medical Females	---
29. Food Service Males	---
30. Food Service Females	---

Page 2
Food Service Cont'd.

31. Maintenance Males	---
32. Maintenance Females	---
100. GENERAL PROVISIONS	C NC
101. Rules governing conduct posted/available	Y N NA
102. Rule translations available	Y N NA
103. Local written rules formulated	Y N NA
104. Local written rules updated yrly	Y N NA
105. Prison inspectors notified re special situations	Y N NA
106. Facility adheres to capacity set by DOC	Y N NA
107. Sufficient staff to comply	Y N NA
108. Other	Y N NA
200. EMPLOYEE REGULATIONS	C NC
201. Is employee has received/red copy of DOC rules	Y N NA
202. Employees conduct consistent w/ security	Y N NA
203. Employees generally follow guidelines of DOC rules	Y N NA
204. Employees make written reports of unusual incidents	Y N NA
205. Excessive force used only as necessary for security; written report notes its use	Y N NA
206. Written reports of violations by employees if filed	Y N NA
207. Written p/p available	Y N NA
208. Correctional staff certified	Y N NA
209. Other	Y N NA
300. ADM., CLASS., RELEASE	C NC
301. Written p/p guide adm., etc.	Y N NA
302. Prisoners searched when admitted	Y N NA
303. Prisoners dangerous to self/others segregated/supervised	Y N NA
304. Injured persons not admitted	Y N NA
305. Female admits female prisoners	Y N NA
306. Record compiled on ea prisoner; includes data specified by DOC	Y N NA

Page 3
Adm., Class., Release cont'd., Code _____

307. Fingerprints taken	Y	N	NA
308. Photographs made	Y	N	NA
309. Phone calls permitted/documented	Y	N	NA
310. Prisoner searched/examined for lice/bathed	Y	N	NA
311. Classification system used	Y	N	NA
312. Written p/p guide release, etc.	Y	N	NA
313. Illness/injury attended to by medically trained personnel	Y	N	NA
314. Personal property provisions including documentation	Y	N	NA
315. Sufficient space to allow adequate classification	Y	N	NA
316. Sufficient staff to comply	Y	N	NA
317. Classification officer or trained personnel available to classify	Y	N	NA
318. Other	Y	N	NA
400. HOUSING		C	NC
401. Males/females separated by sight/sound	Y	N	NA
402. Juveniles properly separated	Y	N	NA
403. Prisoners separated as specified by DOC rules	Y	N	NA
404. Special handling prisoners separated/supervised	Y	N	NA
405. racially integrated	Y	N	NA
406. Housing lighted, ventilated	Y	N	NA
407. Housing clean, free of debris	Y	N	NA
408. Sinks, toilets, drains in good repair	Y	N	NA
409. Closets, corridors free of clutter & clean	Y	N	NA
410. Prisoners have access to dayroom	Y	N	NA
411. Record of prisoner location kept	Y	N	NA
412. Lockers available	Y	N	NA
413. Male escorted by female into female housing area & vice versa	Y	N	NA
414. Sufficient staff to comply	Y	N	NA
415. Sufficient space to comply	Y	N	NA
416. Walls not defaced or in need of maintenance	Y	N	NA

Page 4
Housing cont'd., Code _____

417. Written p/p available	Y	N	NA
418. Other	Y	N	NA
500. FOOD		C	NC
501. Meets HRS Health Program Stds.	Y	N	NA
502. If contracted, HRS Stds. met	Y	N	NA
503. Food preparation supervised by civilian or trained employee	Y	N	NA
504. Community resources used	Y	N	NA
505. 3 nutritious meals served daily	Y	N	NA
506. Modified diets available when directed by medical	Y	N	NA
507. 30-day cyclic menu prepared	Y	N	NA
508. Record of menus kept for 6 mos.	Y	N	NA
509. Employees/prisoners assigned to food service meet HRS Stds.	Y	N	NA
510. OIC inspects food service area and documents	Y	N	NA
511. Food supplies properly stored	Y	N	NA
512. Cleaning compounds stored separate from food	Y	N	NA
513. Employee supervises food deliv.	Y	N	NA
514. Prisoners fed in common area	Y	N	NA
515. Food served at appropriate temp.	Y	N	NA
516. Accounting system maintained for utensils	Y	N	NA
517. Special control procedures used for sugar, yeast, etc.	Y	N	NA
518. Control/inventory of knives, etc	Y	N	NA
519. Fire extinguishers located in prep., cooking area	Y	N	NA
520. Sufficient staff to comply	Y	N	NA
521. Written p/p available	Y	N	NA
522. Other	Y	N	NA
600. MEDICAL		C	NC
601. Agreement/contract w/physician available/documented	Y	N	NA
602. OIC observes sick/injured regularly and documents	Y	N	NA
603. Medications administered at physicians direction	Y	N	NA

Page 5
Medical cont'd., Code _____

604. Medical log maintained	Y	N	NA
605. Employee witnesses prisoner intake of medicine	Y	N	NA
606. Drugs, etc. properly stored & inventoried	Y	N	NA
607. Medication shortages reported	Y	N	NA
608. Mentally ill persons properly handled/supervised	Y	N	NA
609. Suicidal prisoners properly supervised	Y	N	NA
610. Documentation maintained on deprivation of clothing, etc. due to medical reasons	Y	N	NA
611. Records maintained on prisoner medical attention	Y	N	NA
612. Alcohol/drug prisoners separated/supervised	Y	N	NA
613. First aid supplies available	Y	N	NA
614. Sick/injured prisoners not worked	Y	N	NA
615. Written p/p available	Y	N	NA
616. Community resources used	Y	N	NA
617. Sufficient staff to comply	Y	N	NA
618. Provisions for emergency medical are available	Y	N	NA
619. Other	Y	N	NA
700. CLOTHING & BEDDING		C	NC
701. Prisoners furnished mattress, sheets, etc.	Y	N	NA
702. Sheets, etc. laundered 1/wk.	Y	N	NA
703. Blankets available as needed	Y	N	NA
704. Blankets cleaned frequently	Y	N	NA
705. Mattresses fire-resistant	Y	N	NA
706. Mattresses in good repair/clean	Y	N	NA
707. Clean clothing furnished	Y	N	NA
708. Clothing laundered 2/wk.	Y	N	NA
709. Shoes/slides provided as needed	Y	N	NA
710. Working prisoners provided proper attire	Y	N	NA
711. Sufficient staff to comply	Y	N	NA
712. Written p/p available	Y	N	NA
713. Other	Y	N	NA

Page 6
Code _____

800. PROGRAMS		N	NC
801. Community resources used	Y	N	NA
802. Volunteers familiarized w/rules	Y	N	NA
803. Mail properly handled	Y	N	NA
804. Writing materials furnished as needed	Y	N	NA
805. Interception of mail documented	Y	N	NA
806. Visitation permitted	Y	N	NA
807. Denied visits documented	Y	N	NA
808. Attorney/client privilege adhered to	Y	N	NA
809. Visitors required to register	Y	N	NA
810. Written p/p available	Y	N	NA
811. Prisoner work program used	Y	N	NA
812. Work/study releases separated	Y	N	NA
813. Indoor exercise available	Y	N	NA
814. Outdoor exercise available	Y	N	NA
815. Rehabilitation programs estab.	Y	N	NA
816. Sufficient staff to comply	Y	N	NA
817. Visitor rules posted	Y	N	NA
818. Other	Y	N	NA
900. PRIVILEGES		C	NC
901. Commissary available	Y	N	NA
902. Commissary food not competitive w/food programs	Y	N	NA
903. Prisoner money controlled	Y	N	NA
904. List of items for sale available to prisoners	Y	N	NA
905. Profit does not exceed 15%	Y	N	NA
906. Commissary expenses paid from profits	Y	N	NA
907. Profits used for prisoner welfare	Y	N	NA
908. Commissary regularly audited	Y	N	NA
909. Stock inventories maintained	Y	N	NA
910. Indoor activity available	Y	N	NA
911. Television/radio available & properly controlled	Y	N	NA
912. Outside recreation available	Y	N	NA

Page 7

Privileges cont'd., Code _____

913. Reading material available Y N NA
 914. Designated recreation officer on staff Y N NA
 915. Telephone privileges available Y N NA
 916. Written p/p available Y N NA
 917. Sufficient staff to comply Y N NA
 918. Sufficient space to comply Y N NA
 919. Other Y N NA

1000. SECURITY AND CONTROL C NC
 1001. OIC conducts general inspection weekly/documents Y N NA
 1002. Calls, etc. inspected daily & nightly Y N NA
 1003. Security deficiencies documented Y N NA
 1004. Key control system used Y N NA
 1005. Emergency keys available Y N NA
 1006. Active key board maintained Y N NA
 1007. Recorded prisoner counts made & documented 4 times/24 hr period Y N NA
 1008. Tool control system maintained Y N NA
 1009. Delegated employee responsible for tools Y N NA
 1010. Inventory of tools kept Y N NA
 1011. Tools properly identified Y N NA
 1012. Tools/knives, etc. secured Y N NA
 1013. Outside tools accounted for Y N NA
 1014. Emergency equipment in service-able condition Y N NA
 1015. Outside persons properly identified Y N NA
 1016. Prisoners searched on return to facility from outside Y N NA
 1017. Firearms restricted from premise Y N NA
 1018. Written p/p available Y N NA
 1019. Security vestibule operational Y N NA
 1020. Communications center secured & access restricted Y N NA
 1021. Chemicals secured Y N NA
 1022. Emergency plans maintained Y N NA
 1023. Perimeter security maintained Y N NA

Page 8

Security & Control cont'd., Code _____

1024. Sufficient staff to comply Y N NA
 1025. Sufficient space to comply Y N NA
 1026. Other Y N NA

1100. SANITATION C NC
 1101. Sanitation meets HRS Stds. Y N NA
 1102. Health/comfort items furnished Y N NA
 1103. OIC makes sanitation inspection weekly & documents Y N NA
 1104. Clutter eliminated Y N NA
 1105. Floors, cell bars, walls clean Y N NA
 1106. Garbage emptied regularly Y N NA
 1107. Toilets, sinks, etc. clean Y N NA
 1108. Windows, etc. clean/in good repair Y N NA
 1109. Perishables not stored in cells Y N NA
 1110. Prisoners assigned housekeeping duties Y N NA
 1111. Prisoners bathe regularly Y N NA
 1112. Barber services available Y N NA
 1113. Vermin control program used Y N NA
 1114. Mattresses/blankets sanitized regularly Y N NA
 1115. Written p/p available Y N NA
 1116. Sufficient staff to comply Y N NA
 1117. Other Y N NA

1200. ORDER & DISCIPLINE C NC
 1201. Conduct/discipline rules posted Y N NA
 1202. Disciplinary committee/procedures used Y N NA
 1203. Corporal punishment prohibited Y N NA
 1204. Written p/p available Y N NA
 1205. Disciplinary action conforms to DOC rules Y N NA
 1206. Food not used for discipline Y N NA
 1207. Segregation cells well lighted, ventilated, equipped, etc. Y N NA
 1208. Disciplinary reports properly processed Y N NA

Page 9

Order & Discipline cont'd., Code _____

1209. Disciplinary reports reviewed by OIC Y N NA
 1210. Prisoners in segregation clothed, bathed 2/wk, provided health/comfort items Y N NA
 1211. Segregated prisoners checked regularly by medical person & documented Y N NA
 1212. OIC sees/talks to segregated prisoners morning/evening & documents Y N NA
 1213. Time/date prisoner segregated & released documented Y N NA
 1214. Sufficient staff to comply Y N NA
 1215. Other Y N NA

1300. CONTRABAND C NC
 1301. Written p/p available Y N NA
 1302. Measures taken to insure contraband control Y N NA
 1303. Sufficient staff to comply Y N NA
 1304. Other Y N NA

APPENDIX 3
1976 RULES
OF THE DEPARTMENT OF OFFENDER
REHABILITATION, CHAPTER 33-8
COUNTY AND NUMICIPAL DETENTION FACILITIES

RULES
OF THE
DEPARTMENT OF OFFENDER REHABILITATION
CHAPTER 33-8
COUNTY AND MUNICIPAL DETENTION FACILITIES

33-8.01 Definitions
33-8.02 General Provisions
33-8.03 Employee Regulations
33-8.04 Admission, Classification and Release
33-8.05 Housing
33-8.06 Food
33-8.07 Medical
33-8.08 Clothing and Bedding
33-8.09 Programs
33-8.10 Privileges
33-8.11 Security and Control
33-8.12 Sanitation
33-8.13 Order and Discipline
33-8.14 Contraband
33-8.15 Minimum Construction Standards
33-8.16 Notice of Proceedings and Proposed Rules

33-8.01 Definitions. For the purposes of this chapter:

(1) "Department" means the Department of Offender Rehabilitation.

(2) "Secretary" means the Secretary of the Department of Offender Rehabilitation.

(3) "Detention Facility" means a municipal or county jail, stockade, prison camp and every other place used by a municipality or a county for the detention of prisoners charged with or convicted of either a felony, misdemeanor or a municipal offense.

(4) "Prisoner" means a person who is lawfully detained in a detention facility.

(5) "Officer-in-Charge" means the Sheriff, Chief of Police, or Correctional Administrator if the operation of a detention facility is his responsibility. The Sheriff, Chief of Police, or Correctional Administrator may designate a person to be the Officer-in-Charge of a detention facility.

(6) "Employee" means any person employed by a detention facility and any other person who provides custodial services or supervises prisoners, including but not limited to the Sheriff, Chief of Police, Correctional Administrator, Warden, Superintendent, Captain, Correctional Officer or Correctional Counselor.

(7) "Prison Inspector" means those persons who are designated Prison Inspectors and Investigators by the Secretary of the Department of Offender Rehabilitation.

(8) "Inspection" means an examination and evaluation by Prison Inspectors of the operation of a detention facility to determine if the rule and regulations in Administrative Rule, Chapter 33-8 are being complied with.

(9) "Should" when used in lieu of will, shall or must is not a mandatory enforceable rule but it is reportable. However, "Should" denotes a correctional practice that is desirable and conducive to good prisoner management and alerts local governments to make a concerted effort to achieve.

Specific Authority 20.315, 951.23 FS. Law Implemented 951.23 FS. History—New 10-8-76.

33-8.02 General Provisions.

(1) These rules and regulations have been adopted by the Department and filed with the Department of State pursuant to applicable Florida Statutes. Amendment or repeal of any provision herein is within the discretion of the Secretary.

(2) Rules and regulations governing the conduct of prisoners and visitors shall be posted, or made available, so they will be appropriately visible to all prisoners and visitors to a detention facility. In cases where the prisoner is unable to read or comprehend English, appropriate translation must be made available.

(3) Prison Inspectors employed by the Department of Offender Rehabilitation are charged with the duty of inspecting the detention facilities of the State. The Prison Inspectors shall inspect for compliance with applicable rules and regulations of the Department and Florida Statutes.

(4) The Prison Inspectors will be directly responsible to the Chief Prison Inspector who shall coordinate and supervise their work throughout the State. Prison Inspectors may enter any detention facility in this State at any time and shall be immediately admitted to such place upon request for such admittance, and may confer privately with any employee or prisoner.

(5) Upon completing an inspection of any detention facility, the Prison Inspector shall after discussion with the Officer-in-Charge, make a full and complete report on such forms as shall be required by the Department of Offender Rehabilitation. One copy of the report shall be filed with: the Department of Offender Rehabilitation; the Clerk of the Circuit Court of the county where the inspection is made; any municipal report to the City Commission of the municipality; and the Sheriff, Chief of Police or Correctional Administrator; and as many others as the Department of Offender Rehabilitation shall require. These reports shall at all times be open to inspection in the Office of the Clerk of the Circuit Court, and shall be matters of public record and subject to inspection by the public at any time. The officer-in-Charge shall have an opportunity to file an official response contemporaneous with the filing of the Department of Offender Rehabilitation's inspection report. Copies of said response may be sent to other deemed appropriate by the Officer-in-Charge.

(6) The nearest available Prison Inspector shall be immediately notified by the Officer-in-Charge of a detention facility of all incidents concerning:

- (a) Prisoner deaths;
- (b) Serious injuries to prisoners or employees;
- (c) Escapes involving three or more prisoners;
- (d) Escapes, regardless of number, where violence was involved, hostages were taken, guns or other weapons were used;
- (e) Strikes involving three or more prisoners;
- (f) Riots;

(g) Any other serious or unusual circumstances that occur.

(7) Upon receiving notice of any such incident set forth in (6) above, the Prison Inspector shall confer with the Chief Prison Inspector and if a special Department of Offender Rehabilitation investigation is required, the Prison Inspector shall proceed to the detention facility and conduct an investigation, and shall submit an independent report to the Department of Offender Rehabilitation. A copy of said report shall be submitted to the Officer-in-Charge. A response from the Officer-in-Charge shall be made part of the Department of Offender Rehabilitation files.

(a) Any initial oral report of such an incident by the Officer-in-Charge of a detention facility will be followed up as soon as reasonably possible with a written report.

(8) Prison Inspectors will offer assistance to the Officer-in-Charge of a detention facility in the form of planning, recommending operating procedures and programs, or other administrative or professional services.

(9) Local written rules and regulations will be formulated by detention facilities to implement and supplement the rules and regulations of this chapter. All detention facility rules and regulations should be reviewed at least annually and updated as indicated and a copy forwarded to the Department of Offender Rehabilitation.

(10) The Secretary shall ascertain the maximum numbers of prisoners, of whatever classifications, that can properly be housed in any detention facility. Having ascertained such maximum numbers, he shall notify in writing the Officer-in-Charge of such facility and the Board of County Commissioners or City Commission where the facility is located of such maximum numbers. The Officer-in-Charge of the facility and the Board of County Commissioners or City Commission shall thereafter insure that the actual prisoner populations do not exceed such maximum numbers; provided, however, that the Secretary may authorize exceptions or modifications when in his opinion there is good cause for such action.

Specific Authority 20.315, 951.23 FS. Law Implemented 944.31, 944.32, 951.02, 951.06, 951.23 FS. History—New 10-8-76.

33-8.03 Employee Regulations.

(1) Each Officer-in-Charge of a detention facility shall be responsible for insuring that each employee of the detention facility has received a copy of all rules and regulations of the Department and detention facility has received a copy of all rules and regulations of the Department and detention facility and has read and understands them.

(2) Each employee's conduct shall be at all times consistent with the maintenance of proper security and welfare of the facility and of the prisoners under his supervision.

(3) No employee shall:

(a) Report for duty or exercise supervision or control over prisoners while under the influence of an intoxicant.

(b) Report for duty or exercise supervision or control over prisoners while under the influence of a narcotic, barbiturate, hallucinogenic drug or central nervous system stimulant. Exception will be made

only when such medication has been prescribed and is taken under a doctor's care, as long as it does not impair the employee from carrying out duties as required by assignment.

(c) Use profane or abusive language in supervising prisoners.

(d) Abuse a prisoner in any manner.

(e) Trade, barter, accept a gift from or present a gift to a prisoner, a prisoner's family or any other person in behalf of a prisoner, except as authorized by the Officer-in-Charge.

(f) Take any article whatsoever from the property of any detention facility without authorization from the Officer-in-Charge.

(g) Introduce into or upon the property of a detention facility any article which is not authorized by written directive or has the approval of the Officer-in-Charge.

(h) Recommend or furnish any advice concerning the selection of a specific lawyer or bondsman for a prisoner. If requested by a prisoner, a directory of list of names of all area lawyers or bondsmen should be made available for the prisoner's use.

(i) Carry any firearm, ammunition, tear gas or blackjack in the lock-up area of the detention facility except in emergencies as authorized by the Officer-in-Charge.

(j) Have keys to any area of a detention facility which have not been issued to him by an authorized employee.

(4) Employees will make a complete written report to the Officer-in-Charge on all unusual incidents that occur during a tour of duty. Example:

(a) Assault by a prisoner on an employee or another prisoner.

(b) Any occasion in which an employee discharges a firearm or uses tear gas.

(c) Attempts by prisoners to bribe an employee.

(d) Escapes or attempted escapes.

(e) Death, serious illness or serious injury.

(f) Strikes, riots and other disturbances.

(g) Disciplinary reports on prisoners who violate rules and regulations.

(5) No employee shall apply physical force to the person of a prisoner except and only to the degree that is reasonably necessary in self-defense, to prevent escape, to prevent injury to a person or to property, to quell a disturbance, or when the prisoner exercises physical resistance to a lawful command. In such cases, a written and signed report shall be made by the employee to the Officer-in-Charge, who shall have an investigation made and shall approve or disapprove the force used. If the employee involved is the Officer-in-Charge, it shall be sufficient for him to make a written and signed statement of the force used and of the circumstances under which it was used. All such written reports shall be retained in permanent files.

(6) No Officer-in-Charge or other employee shall knowingly permit any subordinate, prisoner, or other person, nor shall he commit any act or engage in any conduct which would violate these rules and regulations. The day-to-day administration and enforcement of these rules and regulations shall be the responsibility of the Officer-in-Charge of the detention facility.

(7) Any report written of violations and

investigations of employees or prisoners set forth in (4), (5) or (6) above shall be maintained and filed. Specific Authority 20.315, 951.23 FS. Law Implemented 951.23 FS. History—New 10-8-76.

33-8.04 Admission, Classification and Release.

(1) When receiving and admitting a prisoner to a detention facility the employee responsible for such admissions shall inquire and reasonably determine that established rules, regulations and procedures for such admission are met. Any legal or procedural questions concerning the admission of a person to a detention facility must be clearly resolved prior to their admission.

(2) Each prisoner shall be frisk searched by the receiving employee when being admitted to a detention facility.

(3) A prisoner who is a new commitment to the detention facility shall be segregated or placed under direct supervision if it can be determined through observation, records, or interviews that the prisoner may be in immediate danger from other prisoners or that he may pose a threat to detention facility personnel or other prisoners.

(4) Detention facilities shall not admit an unconscious person, or a person who appears to have serious injuries. Any such cases shall immediately be taken to the nearest appropriate hospital for emergency treatment or, if competent medical staff is present, their recommendation shall be followed.

(5) A matron or female employee must be present to admit and process female prisoners. A male employee must be present to admit male prisoners.

(6) A record shall be compiled on each prisoner when admitted. This record shall include:

(a) Full name and known aliases;

(b) Age and date of birth;

(c) Date admitted;

(d) Race;

(e) Height;

(f) Weight;

(g) Last known address;

(h) Name and address of next of kin;

(i) Marital Status;

(j) Religion;

(k) Information as to the prisoner's health insurance, if available;

(l) Offense for which the prisoner is charged or for which he has been sentenced;

(m) Name of attorney, if known;

(n) Signature of persons delivering and receiving prisoner;

(o) A written inventory of all monies valuables or other personal property. All items allowed to be kept by the prisoner and those taken and stored will be recorded. The prisoner and the receiving officer will verify and sign the inventory. If the prisoner refuses to sign, a notation will be placed on the property inventory and a second employee will witness and sign the inventory. After the initial receipt is completed, any changes authorized in the personal property inventory must also be documented, verified and signed by the prisoner and the employee making the transaction.

(7) Inked fingerprints are to be taken as required by Florida Statutes. In addition, all sentenced misdemeanants should be fingerprinted.

(8) Photographs of all prisoners charged or convicted of a felony shall be made. In addition, all sentenced misdemeanants should be photographed.

(9) During the admission process prisoners will be permitted the necessary phone calls to attorney, family or others. These phone calls should be documented.

(10) After the admission and booking process, the prisoner must be thoroughly searched, examined for contraband and body lice, and should be permitted to bathe.

(11) Beginning as soon as possible following admission to a detention facility, each prisoner's needs must be evaluated by appropriate employees to insure the prisoner's welfare and safety. The extensiveness of the initial evaluation will depend on the status of the prisoner: non-sentenced, sentenced, length of sentence, aptitude and other factors.

(12) The primary objective of evaluation should be to classify and place prisoners in appropriate custody categories, and in the type quarters that best meet their needs; subject to the limitations of each detention facility.

(13) If no classification officer is employed, an employee should be designated and trained as a classification officer. A reasonable and continuing effort should be made to further classify and involve prisoners in programs which may be personally beneficial to the prisoner.

(14) A personal record must be maintained on each prisoner. Such information should not be accessible to other prisoners. This record shall contain such information as:

(a) Name, aliases, booking number;

(b) Legal authority for commitment;

(c) Information obtained in booking record;

(d) Medical information;

(e) Classification information and program reports;

(f) Disciplinary reports including investigation and disposition;

(g) All temporary absences and the granting authority;

(h) Fingerprint card and photograph;

(i) Record of any detainers or other civil or criminal process;

(j) Personal property records;

(k) Date, terms or conditions of release, authority for release, and signature of releasing employee.

(15) The releasing employee should have written instructions which set forth the proper legal authority and procedure for releasing prisoners.

(16) Prisoners that show or complain of substantial injuries or illness should be afforded the opportunity to be seen by a physician or another appropriate medical person unless the Officer-in-Charge determines it is not necessary. A report of the findings shall be made and filed in all cases. If the injury or illness complained about is alleged to have occurred while the prisoner was in official custody or confined in the detention facility, a medical and investigative inquiry should be conducted to resolve the allegation, and a written report made as required by the Officer-in-Charge. Such reports must be made a part of the personal record.

(17) Positive identification must be made of all prisoners being released. The use of photographs, comparing signatures and response to questions asked regarding known or recorded facts of the released prisoners may be used.

(18) The prisoner's personal property, money and valuables will be verified with the property inventory record in the prisoner's presence. The prisoner must sign and date the "Release of Personal Property Receipt", along with the releasing employee. The original of this document will be placed in the prisoner's personal record.
Specific Authority 20.315, 951.23 FS. Law Implemented 951.23 FS. History—New 10-8-76.

33-8.05 Housing.

(1) Male and female prisoners must be housed separately and also separated by sight and sound. Sound separation is defined as restricting normal verbal communications between male and female prisoners.

(2) Juveniles on court order shall not be placed in the same cell with any other adult or juvenile alleged to have committed, or who has been adjudged to have committed, a crime.

(3) Prisoners should be separated in the following manner whenever possible:

- (a) Adult female felons;
- (b) Adult female misdemeanants;
- (c) Adult female non-sentenced;
- (d) Adult female sentenced;
- (e) Adult male felons;
- (f) Adult male misdemeanants;
- (g) Adult male non-sentenced;
- (h) Adult male sentenced.

(4) Special prisoners, such as the mentally ill, alcoholic, narcotic or drug addict, sex deviate, suicide risk and the prisoner who presents a threat to the staff, other prisoners, or himself, should be separated and closely supervised.

(5) General housing standards:

- (a) Prisoner housing will be racially integrated;
- (b) Housing will be well lighted, ventilated, and clean;
- (c) Lavatories, water closets, and floor drains will be kept in good repair;
- (d) Defacing walls of living quarters if prohibited;
- (e) Utility closets and corridors will be kept clean and free of clutter;
- (f) Prisoners should have access to an activity space or program area during the day, if possible;
- (g) The detention facility will record and maintain a listing of the current location of all prisoners;
- (h) Lockers should be provided, if possible.

(6) When a male person must enter the female section of a detention facility where a female is confined, a matron or female employee will accompany him, and when a female person must enter the male section of a detention facility where a male is confined, a male employee will accompany her.

Specific Authority 20.315, 951.23 FS. Law Implemented 39.03, 950.061, 951.23 FS. History—New 10-8-76.

33-8.06 Food.

(1) Food service operations, the food served, equipment and sanitation shall meet Health Program Office of the Department of Health and Rehabilitative Services standards.

(2) If food is provided by contract, the contract will require that the food service meet Health Program Office of the Department of Health

and Rehabilitative Services standards.

(3) Food preparation will be by, or supervised by, a civilian cook or trained employee at all times.

(4) Local detention facilities may seek advice and assistance from such other agencies as: County Health Service; local Fire and Safety Officers; local colleges having food courses; and Prison Inspectors, if necessary in maintaining an efficient food operation.

(5) All prisoners, including those in disciplinary confinement, shall be given three substantial, wholesome and nutritious meals daily, which meet Health Program Office of the Department of Health and Rehabilitative Services standards. The current recommended dietary allowance set by the Food and Nutrition Board National Research Council shall be the standard used to evaluate the meals.

(6) Modified diets will be prepared for prisoners when requested by the medical staff or by a physician's order.

(7) Menu planning for projected 30-day periods with appropriate cycling is recommended. If a nutritionist or other similarly qualified person is not employed by the detention facility, it is recommended that advice from such persons be obtained from outside sources. Seasonal fruits and vegetables are recommended in menu planning. A record of menus served, by date, will be maintained. Records of menus served will be kept for at least six (6) months.

(8) All employees and prisoners assigned to food service or who prepare and/or serve food must meet Health Program Office of the Department of Health and Rehabilitative Services standards.

(9) The Officer-in-Charge will inspect the food service area on a regular basis and significant deficiencies will be corrected and recorded.

(10) All food supplies not in preparation are to be stored in a locked, clean, well-ventilated room which is free from vermin.

(11) A locked storage area separate from food supplies should be provided for soaps, detergents, waxes, cleaning compounds, insect and rodent spray and other poisons.

(12) All food delivered to a prisoner in his quarters, day room or dining room must be under employee supervision.

(13) Prisoners should be fed in a dining room or day room, if possible.

(14) Food should be served at appropriate temperature. Appropriate food containers and utensils will be provided.

(15) The food service supervisor should maintain a procedure to keep an accurate accounting of utensils, trays, cups and bowls to assure that all are being returned by prisoners after each meal.

(16) Where day rooms or cells are used for feeding, utensils and leftover food will be removed immediately after the meal.

(17) All supplies delivered to the food service area shall be accepted and inspected by an employee to prevent contraband from coming into the facility.

(18) Yeast, sugar, dried fruits, vanilla, mace, nutmeg, pepper and other similar items which may be used to manufacture illegal products should be given special attention and control.

(19) Butcher knives, vegetable preparation knives, meat blades and cleavers shall be securely controlled. A current inventory of such items must be maintained.

(20) Fire extinguishers in adequate numbers to cope with Class A, B, or C fires shall be strategically located in the food preparation area.

Specific Authority 20.315, 951.23 FS. Law Implemented 951.23 FS. History—New 10-8-76.

33-8.07 Medical.

(1) The Officer-in-Charge will make arrangements for appropriate physician and hospital care for prisoners. This arrangement may be by contract or letter of agreement.

(2) The Officer-in-Charge shall assure that each prisoner is observed on a regular basis and a physician called or treatment provided if there are indications of serious injury, wound or illness. The instructions of the physician shall be strictly carried out. The recording of serious injuries or wounds by color photographs is recommended.

(3) All prescribed medication admitted into a detention facility must be specifically approved by medical authority. Medicines prescribed by a physician shall be administered by him or in accordance with his directions.

(4) A medical log will be maintained. All prescribed medicine received and dispensed will be recorded.

(5) The employee responsible for dispensing prescribed drugs must witness the prisoner take the medication to prevent any misuse of any drugs or medicines.

(6) All drugs, hypodermic needles, and syringes must be stored in a secure locked cabinet. A current inventory of these items must be maintained.

(7) All drugs, medication, hypodermic needles, or other medical instruments lost or missing will be reported in writing to the Officer-in-Charge, who will take appropriate action. The reports will be filed.

(8) The Officer-in-Charge will take action concerning mentally ill persons consistent with applicable Florida Statutes and/or court orders.

(9) Prisoners with suicidal tendencies or those who have seizures will be assigned to quarters that have 24-hour supervision.

(10) A prisoner will not be deprived of clothing, bedding or other comfort items except in situations where the prisoner demonstrates overt suicidal tendencies or to prevent him from inflicting injury to himself or others or to prevent destruction of property or equipment. Any time a prisoner is deprived of clothing or bedding to prevent injury to himself a physician should be consulted and a record of such deprivations must be maintained.

(11) A record will be maintained on each prisoner who requires medical attention.

(12) Prisoners who are committed under the influence of alcohol or drugs and have charges that require they be confined in a detention facility should be separated from the general population in an area that has 24-hour supervision.

(13) Standard first aid supplies will be available on the premises at all times. Resuscitation or inhalation equipment is recommended.

(14) It is the responsibility of the Officer-in-Charge to determine that each prisoner is medically fit to perform the duties assigned to him. All prisoners who require attention by a physician shall not be worked until approval is given by the attending physician or by some member of the medical staff of the facility, if such staff is available.

Specific Authority 20.315, 951.23 FS. Law Implemented 951.23 FS. History—New 10-8-76.

33-8.08 Clothing and Bedding.

(1) Prisoners will be furnished a mattress, mattress cover and sheet, or sheets. Pillowcases should be provided if pillows are issued.

(2) Sheets, mattress covers, and pillowcases, if issued will be laundered at least once each week.

(3) Blankets will be issued in sufficient number to keep the prisoner comfortable.

(4) Blankets should be cleaned at frequent intervals.

(5) Mattresses should be destruction and fire-resistant, maintained in good repair, and in a sanitary condition.

(6) Prisoners admitted into the detention facility should be furnished clean clothing. Issue clothing should be reasonably fitted and maintained in good repair.

(7) Soiled clothing shall be laundered at least once each week.

(8) The Officer-in-Charge may permit prisoners to wear their personal shoes. When a prisoner needs shoes and is without funds, footwear will be provided. Shower slides are recommended for inside use.

(9) Prisoners being worked shall be issued clothing and shoes appropriate for the type of work and prevailing weather.

(10) Numbers or letters stamped on the exterior side of the outer garments should be discouraged.

(11) Prisoners approved for study or work release should be provided with sufficient and appropriate clothing and shoes for his particular occupation, unless the prisoner has personal funds or suitable clothing.

(12) Prisoners, if given any initial work release clothing, should reimburse the detention facility as soon as sufficient funds are earned.

Specific Authority 20.315, 951.23 FS. Law Implemented 951.23 FS. History—New 10-8-76.

33-8.09 Programs.

(1) The Officer-in-Charge should make maximum use of programs available through local community resources. At least one employee in each detention facility should act as liaison between the facility and the community agencies that offer needed programs and services.

(2) The following is a partial list of agencies that may provide services to prisoners: Mental Health Centers, Drug Abuse Houses, Alcohol Anonymous Groups, County Health Departments, County Hospitals, County School Boards, County Libraries, County Welfare Departments, State Employment Offices, City and County Recreation Departments, local Universities and Community Colleges, Family Services Program Office of the Department of Health and Rehabilitative Services, Vocational Rehabilitation Program Office of the Department of Health and Rehabilitative Services, Legal Associations, Ministerial Associations, and others.

(3) All representatives of all outside agencies and volunteers should be thoroughly familiar with facility regulations and agree to abide by them before participating in formal services for prisoners.

(4) Correspondence between the prisoner, the family, and other approved persons should be encouraged. Mail to be delivered to or from a prisoner

in a detention facility will be inspected for contraband, but is not to be censored. Prisoners without funds will be supplied with writing material and postage to correspond with their attorney and courts. Mail directed to and from public officials, attorneys and the judiciary should be forwarded without delay. Prisoners without funds will be supplied with writing material and postage to correspond with their immediate family at reasonable intervals.

(5) The Officer-in-Charge shall have the right to refuse to send out a prisoner's mail or to permit a prisoner to receive mail when there is knowledge or probable cause to believe that the sending or receiving of mail between a prisoner and specified persons would pose a threat to the security of the detention facility. Correspondence may be disapproved for mailing or receiving if the content falls as a whole or in significant part into any of the following categories:

- (a) If a person advises that he or she does not wish to correspond with a prisoner or if the parents or legal guardian of a minor person so advises. If the prisoner advises that he/she does not wish to receive correspondence from specified parties.
- (b) The letter contains threats of physical harm against person or threats of criminal activity.
- (c) The letter threatens blackmail or extortion.
- (d) The letter concerns sending contraband in or out of the detention facility.
- (e) The letter concerns plans to escape.
- (f) The letter concerns plans for activities in violation of detention facility rules.
- (g) The letter concerns plans of criminal activity.
- (h) The letter is in code and its contents are not understood by the reader.
- (i) The letter solicits gifts of goods or money from other than family.
- (j) The letter is obscene.
- (k) The letter contains information which if communicated would create a clear and present danger of violence and physical harm to a human being.

(6) In any and all cases where mail restrictions are imposed, the Officer-in-Charge will document in writing the reason for such restriction and place a copy in the prisoner's file. In cases where a letter is rejected, the prisoner is to be notified of the rejection of a letter written by or addressed to him. The author of the letter will be given a reasonable opportunity to protest the decision. Subsequent attempts at correspondence will be considered violation of the rules and will subject the prisoner to disciplinary action.

(7) Rules and regulations shall be adopted to permit visits with prisoners by the following: members of the prisoner's family; his pastor; and any person who establishes a genuine and legitimate need to confer with the prisoner on personal business matters; any persons who are participating in any rehabilitative or service program approved and authorized by the Officer-in-Charge of the detention facility; if the prisoner is awaiting trial, to confer with his attorney or persons designated by the attorney as necessary to prepare the defense of his case; and such other persons as may be deemed reasonable by the Officer-in-Charge of the detention facility.

(8) The Officer-in-Charge may deny a visit to

any person when there is knowledge or probable cause to believe that such a visit might be a threat to the security of the facility or detrimental to the health and welfare of one or more prisoners. The reason for a visit denial must be recorded and appropriately filed.

(9) Attorneys, probation officers, medical officers, psychiatrists and psychologists authorized to meet with prisoners will be permitted to meet in an area that allows privacy. Such conversations shall not be monitored.

(10) All visitors shall be required to register before being permitted to visit a prisoner. Information that should be recorded in the visitor register is: name, date, address, relationship to prisoner, purpose of the visit, and any other information the Officer-in-Charge may reasonably require. Written rules and regulations will be adopted by detention facilities to specify when and how often visitors should be permitted, and to limit the number of persons and the maximum time allowed for each visit.

(11) Except as authorized by Statute, non-sentenced prisoners cannot be required to work beyond keeping their immediate area of confinement clean. They may be encouraged to volunteer for short-range high impact rehabilitation programs.

(12) A prisoner job assignment list which sets forth the different work stations is recommended. Daily job and time sheets should be maintained.

(13) Each prisoner serving a jail sentence shall be required to satisfactorily perform the work to which he is assigned.

(14) Except in emergency situations, prisoners shall not be required to work more than 10 hours per day and not more than 60 hours per week, including travel time between their place of confinement and place of work. Prisoners shall not be required to work on Sunday; except, food service workers, and maintenance crews under emergency situations. All prisoners shall be given at least one day off from work each week. Whenever practicable, prisoners shall be given a 15-minute rest break during both morning and afternoon work periods and at least one-half hour for the noon meal.

(15) No prisoners other than those on work and study release shall initiate or engage in conversations or have other contact with any persons, except fellow prisoners or employees, without the consent of the Officer-in-Charge. Prisoners may give brief polite responses to conversation initiated by other than those previously mentioned. Waving or calling out to persons is prohibited.

(16) No prisoner will depart the detention facility grounds or the place where he is assigned to work, except with the specific authorization of the Officer-in-Charge.

(17) Prisoners, except those in work and study release and minimum custody (trusties) status, must have constant supervision while outside the secure perimeter of the detention facility. Minimum custody (trusties) prisoners should be checked by an employee at frequent intervals.

(18) Work and study release, as authorized by the statutes, should be encouraged.

(19) If work or study releases are housed in a detention facility, they should be completely separated from the general population, if possible to avoid pressure by other prisoners.

(20) Prisoners who are confined to their cells on a 24-hour basis should be allowed to exercise.

(21) Detention facilities should establish rehabilitation programs such as: academic and vocational education, alcoholic and drug treatment, religious study, counseling services, and such others as may be appropriate and available.

Specific Authority 20.315, 951.2 FS. Law Implemented 951.08, 951.23 FS. History—New 10-8-76.

33-8.10 Privileges.

(1) A detention facility commissary may be operated if it is properly controlled. The commissary should not sell food that competes with the detention facility food program. It is preferable that prisoners routinely carry no money; if money is permitted, a limit should be set, and all money in possession in excess of that limit should be confiscated. The Officer-in-Charge must approve all items to be sold and set the prices and special conditions governing such sales. Valuable items should be added to the prisoner's personal property list after purchase.

(2) A list of items for sale and prices should be easily accessible to prisoners.

(3) Prices should be set at a profit rate not to exceed 15%.

(4) Any expenses involved in the commissary operation, including compensations for commissary employees and gratuities for prisoners who may assist such employees, may be paid from the profits.

(5) Profits in excess of expenses should be used for prisoner welfare, such as recreation, table games, and televisions.

(6) The fiscal management of a prisoner commissary should be audited by the Officer-in-Charge on an unscheduled basis and appropriate transaction records must be maintained. Stock inventories should be audited and kept current.

(7) Some form of indoor activity shall be provided for prisoners.

(8) Control of how and when radio and television sets are to be used shall be left to the discretion of the Officer-in-Charge.

(9) Outside exercise should be provided whenever practical.

(10) The Officer-in-Charge should make current magazines, newspapers and books available to prisoners. In detention facilities where sentenced prisoners are housed, a library service should be established with the local county and city library.

(11) In larger detention facilities, if possible, a recreation officer should be designated to organize leisure time activity and to take advantage of all community resources that can be utilized reasonably within the limits of the security of the facility.

(12) Telephone privileges, beyond those required by law, should be afforded prisoners to the extent possible, as determined by the Officer-in-Charge.

Specific Authority 20.315, 951.23 FS. Law Implemented 951.23 FS. History—New 10-8-76.

33-8.11 Security and Control.

(1) Security inspection procedures should be carefully defined and must cover every part of a detention facility. A general inspection of the facility will be made by the Officer-in-Charge at least once a week and recorded. All cells, cellblocks, and other quarters of a detention facility must be inspected at least once during each day and once during each

night, to insure the safety, custody, and welfare of those confined. Any deficiencies will be noted.

(2) A key control system will be designed to record the location of every key and lock in the detention facility.

(a) A complete inventory of all keys must be maintained.

(b) A written report of malfunctioning locks, broken or lost keys must be submitted immediately to the Officer-in-Charge.

(c) No prisoner shall be permitted to handle security keys.

(d) A full set of emergency keys will be maintained in a location approved by the Officer-in-Charge and the Prison Inspector.

(e) Keys that fit detention facility locks are not to be duplicated unless authorized by the Officer-in-Charge.

(f) An active key board should be maintained. If this board is not in a secure control room, it should be in a locked cabinet. Key rings should be numbered and the number on each key ring should correspond with the key board hook number. The number of keys on each ring should also be recorded. Employees will be required to receipt for all keys drawn.

(g) In cases where security keys are lost or fall into prisoner's hands, the lock should be changed to re-establish security.

(3) Recorded prisoner counts must be signed by the employee who conducts the count. Where recorded counts are made by more than one employee, the ranking employee will sign the total facility count. Recorded prisoner counts will be made four times daily at six hour intervals. Time of such counts will be established by the Officer-in-Charge. Routine counts should be made at intervening and unscheduled times.

(4) All prisoners other than minimum security (trusties) will be under constant direct supervision at all times when outside of the secure area of the facility. Trusties should have frequent physical checks by a designated employee.

(5) Tool control must be maintained to prevent the use of such tools in escape attempts and possible assaults on staff or other prisoners. If tools are kept in the detention facility, the following control must be exercised:

(a) The Officer-in-Charge may delegate an employee to be responsible for tool control.

(b) The employee responsible for tool control will maintain a complete inventory of all tools and hazardous equipment and their locations.

(c) Tools should be etched and color coded for positive identification. Tool shadow boards in a secure tool room are recommended.

(d) Kitchen knives, meat saws, and cleavers should be kept in a secure cabinet. These items should be issued only on a controlled basis.

(e) If hypodermic needles and syringes are maintained in a detention facility, they will be maintained in a secure locked cabinet.

(f) Tools are not to be used by prisoners unless under direct and constant supervision.

(g) All tools brought in from outside the detention facility should be accounted for when coming in and going out.

(h) The loss of any tool must be immediately reported in writing to the Officer-in-Charge.

(6) A list of emergency equipment will be

maintained by the Officer-in-Charge. Such items should be listed by number, make, description and serial number. Emergency equipment should be maintained in a secure area.

(7) All persons coming in or leaving a detention facility, whether employee, visitor or prisoner, must be positively identified. The employees who are accountable for such passage must determine that identity is positive.

(a) Employees should be issued and required to carry some form of identification. Part-time help should be photographed and given temporary identification cards.

(8) Narcotics and dangerous drugs will be controlled as outlined under the medical section.

(9) All prisoners will be given a frisk search each time they enter or leave the secure area of the detention facility and at such other times and places as may be deemed necessary to prevent and control the flow of contraband.

(10) No detention facility staff or other law enforcement personnel shall take firearms or ammunition into a detention facility, except in emergencies as authorized by the Officer-in-Charge. A secure weapons depository will be established and used.

(11) Written policy and procedures covering fire and other possible emergencies should be established and maintained by the Officer-in-Charge. The ranking employee on duty shall have ready access to all keys so that any person may be released from any area of the detention facility in case of emergency. All facility locks will be functional at all times.

(12) Security vestibules are to have both gates closed at all times when persons are not being moved through them. At no time will both gates of a security vestibule be opened at the time. When an employee enters through a security vestibule into prisoner quarters, there must be another employee on duty outside of the secure area controlling exits and communication. The employee being admitted into a secure area of the detention facility will not carry keys that will unlock any exterior perimeter locks, or keys to the armory, control room, vault or area that secures money, release clothing, or articles being stored as evidence, tool storage, or any other keys that could compromise security or aid in escape if the employee were taken hostage by the prisoners.

(13) Communications such as radio, telephone, fire alarms and security alarms should be constantly monitored. Employees working in the interior of a detention facility during the evening and morning hours should report regularly to the control room. It is recommended that such calls be recorded. All communications equipment should be protected and secured from misuse. No prisoner, including trustees, should have unsupervised access to such equipment.

(14) Chemicals such as those used in cleaning agents, duplicating fluids and paint thinners, must be kept in a secure area and used only under direct supervision of an employee.

(15) Emergency plans will be maintained by the Officer-in-Charge to cover escape, attempted escape, fire, riot, and natural disasters.

(16) Perimeter security should include procedures that guard against outside persons unlawfully entering a detention facility to forcibly free a prisoner or prisoners. A secure protected control room using security vestibules is recommended.

(17) Procedures should be maintained by the Officer-in-Charge which assure that all supplies and materials passing into the detention facility are inspected to prevent contraband from entering the facility.

Specific Authority 20.315, 951.23 FS. Law Implemented 951.23 FS. History—New 10-8-76.

33-8.12 Sanitation.

(1) Sanitation standards will conform to applicable standards of the Health Program office of the Department of Health and Rehabilitative Services.

(2) All prisoners being detained who do not have health and comfort items must be furnished soap, toothbrush, toothpaste and towels. Razor and blades will be issued and such issue may be on a controlled basis.

(3) A formal sanitation inspection of the detention facility will be made by the Officer-in-Charge at least once each week and any substantial deficiencies will be recorded and corrected.

(4) Visual inspections of the facility will be made on a routine basis and appropriate corrective actions should be taken immediately.

(5) Clutter should be eliminated in all areas of the detention facility. Floors should be swept and mopped daily and bars should be cleaned and maintained to the extent necessary to prevent corrosion. Walls shall be kept clean and free of objects which provide hiding places for vermin. Garbage and trash receptacles should be emptied and cleaned at least once a day. Toilets, urinals, sinks and basins shall be cleaned daily.

(6) Windows, sills and screens will be kept in good repair and clean.

(7) Prisoners shall not be allowed to store in their quarters any perishable foods or other items which produce unsanitary conditions.

(8) Prisoners should be assigned housekeeping and janitorial duties; however, employees will be responsible for sanitation and housekeeping throughout the facility.

(9) Where the prisoner's physical condition permits, each prisoner should bathe daily. Prisoners shall be required to bathe at least twice a week.

(10) Barber services will be made available to allow prisoners an opportunity to stay well-groomed.

(11) A program to control vermin in all areas of the detention facility should be maintained on a scheduled basis.

(12) Mattresses and blankets should be sanitized before reissue and at regular intervals during use.

Specific Authority 20.315, 951.23 FS. Law Implemented 951.23 FS. History—New 10-8-76.

33-8.13 Order and Discipline.

(1) Rules and regulations governing the conduct and discipline of prisoners shall be posted, or made available, so they will be visible to all prisoners. The rules should detail prisoners' rights and responsibilities, acts prohibited, disciplinary actions that may be taken, and disciplinary action procedure. If a violation of local, state or federal law occurs, the established criminal procedure should be followed.

(2) A disciplinary committee should be comprised of three members, one member to be designated as chairman. Any member of the disciplinary committee should be disqualified as a committee member if he has participated as an investigating officer, was a witness, initiated the charge, or is the person designated to review the

decision of the disciplinary committee.

(3) The recommendations for disciplinary action against a prisoner should be the responsibility of the disciplinary committee. Such committee shall be appointed by the Officer-in-Charge. Limited disciplinary action in minor infractions of the rules may be delegated by execution of a written policy by the Officer-in-Charge, provided such actions are reviewed by the Officer-in-Charge as a means of maintaining uniformity.

(4) Discipline shall not be capricious nor in the nature of retaliation or revenge.

(5) Corporal punishment of any kind is prohibited.

(6) Disciplinary action shall be taken as soon after the occurrence of the rule infraction or violation as circumstances permit.

(7) It shall be the responsibility of the Officer-in-Charge of a detention facility to establish and maintain a uniform discipline policy and procedure for the guidance of the disciplinary committees, and procedures and limits for disciplinary actions authorized for minor rule infractions.

(8) Any disciplinary action other than a verbal reprimand must be reported in writing to the Officer-in-Charge.

(9) The loss of a prisoner's authorized privilege for a short duration for a rule violation may be recommended by any employee but must be approved by the Officer-in-Charge before the specified discipline is imposed. Such actions must be recorded and filed.

(10) Normally the loss or correspondence activities will not be used as a disciplinary action, unless the infraction was a serious abuse of such activity. This will not apply to legal mail.

(11) Depriving a prisoner of food is not to be used as a disciplinary action.

(12) A disciplinary segregation cell must be well ventilated, lighted, and equipped with a water closet and lavatory. Security type fixtures are recommended.

(13) A prisoner will not be deprived of clothing as a disciplinary action.

(14) Disciplinary reports should be processed as required by the Officer-in-Charge. The reporting employee's report will include:

- (a) Date of infraction;
- (b) Place and time of infraction;
- (c) Date of report;
- (d) Specific charge, to include identification of rule or criminal offense;
- (e) Details of infraction;
- (f) The names of all witnesses except where disclosure would endanger the welfare of prisoner or staff, names of witnesses may be maintained in a confidential file;
- (g) The actions taken by the employee;
- (h) Signed by reporting employee.

(15) The Officer-in-Charge will cause an investigation to be made to reasonably verify the allegations and pertinent information relating to (14) above. This portion of the report will be signed and dated by the investigating employee.

(16) A copy of the disciplinary report must be given the prisoner at least 24-hours prior to any disciplinary hearing. The prisoner should be informed at that time as to the date and time of the hearing.

The prisoner must be present at the disciplinary hearing and shall be permitted to speak in his own behalf, if he wishes to do so.

(17) The final disposition of each hearing must indicate the facts on which the committee's decision was based and the disciplinary action recommended. The disciplinary committee's report must be signed and dated by the chairman of the disciplinary committee.

(18) The prisoner shall be informed of the committee's decision.

(19) The disciplinary committee's report will be reviewed by the Officer-in-Charge who will approve, modify to a lesser degree, or disapprove the action taken by the committee.

(20) The Officer-in-Charge will sign and date the report, and it will be filed.

(21) When a prisoner is transferred to a State institution or facility, or another jurisdiction, copies of disciplinary reports and dispositions should accompany the prisoner.

(22) Rules of prohibited conduct and penalties for infractions.

(a) The following violations are prohibited acts in detention facilities.

1. Assaulting any person.
2. Fighting with another person.
3. Threatening another with bodily harm, or with any offense against his person or his property.
4. Extortion, blackmail, protection, demanding or receiving money or anything of value in return for protection against others to avoid bodily harm, or under threat of informing.
5. Engaging in sexual acts with others.
6. Making sexual proposals or threats to another.
7. Indecent exposure.
8. Escape.
9. Attempting or planning escape.
10. Wearing a disguise or mask.
11. Setting a fire.
12. Destroying, altering, or damaging government property, or the property of another person.
13. Stealing (theft).
14. Tampering with or blocking any locking device.
15. Adulteration of any food or drink.
16. Possession of introduction of any explosive or any ammunition.
17. Possession or introduction of a gun, firearms, weapon, sharpened instrument, knife or unauthorized tool.
18. Possession, introduction, or use of any narcotics, narcotic paraphernalia, drugs, or intoxicants not prescribed for the individual by the medical staff.
19. Misuse of authorized medication.
20. Possession of money or currency, unless specifically authorized.
21. Possession of property belonging to another person.
22. Loaning of property or anything of value for profit or increased return.
23. Possession of anything not authorized for retention or receipt by the prisoner and not issued to him through regular institutional channels.
24. Possessing any officer's or staff clothing.
25. Possessing unauthorized clothing.

26. Mutilating or altering clothing issued by the government.
27. Rioting.
28. Encouraging others to riot.
29. Engaging in, or encouraging, a group demonstration.
30. Refusing to work.
31. Encouraging others to refuse to work or participating in work stoppage.
32. Refusing to obey an order of any staff member.
33. Unexcused absence from work, or any assignment.
34. Malingering, feigning an illness.
35. Failing to perform work as instructed by a supervisor.
36. Insolence toward a staff member.
37. Lying or providing a false statement to a staff member.
38. Conduct which disrupts or interferes with the security or orderly running of the institution.
39. Counterfeiting, forging, or unauthorized reproduction of any document, article or identification, money, security, or official paper.
40. Participating in an unauthorized meeting or gathering.
41. Being in an unauthorized area.
42. Failure to follow safety or sanitation regulations.
43. Using any equipment or machinery which is not specifically authorized.
44. Using equipment or machinery contrary to instructions or posted safety standards.
45. Failing to stand count.
46. Interfering with the taking of count.
47. Making intoxicants.
48. Being intoxicated.
49. Smoking where prohibited.
50. Using abusive or obscene language.
51. Gambling.
52. Preparing or conducting a gambling pool.
53. Possession of gambling paraphernalia.
54. Being unsanitary or untidy; failing to keep one's person and one's quarters in accordance with posted standards.
55. Tattooing or self-mutilation.
56. Unauthorized use of mail or telephone.
57. Unauthorized contacts with the public.
58. Correspondence or conduct with a visitor in violation of posted regulations.
59. Giving or offering any official or staff member a bribe, or anything of value.
60. Giving money or anything of value to, or accepting money or anything of value from another prisoner, a member of his family, or his friend.
- (b) Actions of the disciplinary committee as a result of a rule violation may include, but not limited to: increased custody, reprimand, restrictions of various kinds, disciplinary segregation, recommending the loss of gain time, or, in cases of a criminal law violation, referral to the appropriate authority for disposition.
- (23) Prisoners may be segregated for the purpose of insuring immediate control and supervision when it is determined they constitute a threat to themselves, to others, or the safety and security of the detention facility, a willful refusal to obey a lawful order or to demonstrate defiance of employees acting within their official, authorized

duty shall also constitute sufficient cause for placing a prisoner in segregation. Each such action shall be followed by a disciplinary report and formal disciplinary proceedings, as outlined in this section.

(24) A prisoner in segregation will be clothed, have a mattress and blanket, and footwear. Sheet or mattress cover should be made available.

(25) Toothbrush, toothpaste, soap, towel and toilet tissue will be provided those segregated.

(26) Each prisoner in segregation must bathe a minimum of twice weekly.

(27) Segregated prisoners should be checked at intervals not to exceed 72-hours by an appropriate medical person. The time and date of checks should be recorded.

(28) The Officer-in-Charge shall see and talk to each prisoner in disciplinary confinement at least once each morning and once each afternoon. At each of these times, the prisoner's general condition and attitude shall be ascertained and noted in writing, signed and placed in the prisoner's file.

(29) The time and date a prisoner is placed in segregation, and time and date of his release will be recorded and filed.

Specific Authority 20.315, 951.23 FS. Law Implemented 951.23 FS. History—New 10-8-76.

33-8.14 Contraband.

(1) Contraband is an item or article inside the detention facility, on the property of the facility, or in the possession of a prisoner that was not issued, an item not approved for purchase at the commissary, an item not purchased through an approved source with official approval, an item not authorized and approved for delivery by mail, or an item not authorized to be brought into the facility by an approved visitor. Items that have been altered from their original condition or items passed from one prisoner to another without proper authorization will also be considered contraband.

(2) No prisoner, employee or any other person shall bring or cause to be brought into or upon the property of a detention facility or give to any prisoner any article which is defined herein as contraband; or to give any prisoner anything which is not specifically authorized by written detention facility directive, or which has not been specifically authorized by the Officer-in-Charge.

(3) Some of the more serious items that fall into the contraband category are:

(a) Any instrument that may be used in escaping or attempting to escape.

(b) Any firearm or instrument which may be considered to be a dangerous weapon.

(c) Any narcotic, hypnotic, stimulant, or other dangerous drug as defined by Florida Statutes.

(d) Any intoxicant.

(e) Any stimulant or depressant substance.

(f) Manufacturing or having possession of articles, alcoholic beverages, or substances that may be used to manufacture alcoholic beverages.

(4) No prisoner, employee or other person shall take any article from a detention facility or the property thereof without specific authorization from the Officer-in-Charge.

Specific Authority 20.315, 951.23 FS. Law Implemented 951.23, 944.47 FS. History—New 10-8-76.

33-8.15 Minimum Construction Standards.

(1) Definitions for the purpose of this section:

(a) "Exterior Confinement Wall" means the outer perimeter wall surrounding the entire secure area of a detention facility.

(b) "Secure Housing Area" means that area designed to house prisoners that through a classification process pose a threat to the custody, security or welfare of others. This requires living quarters to be equipped with security hardware. The individual cells and day rooms are included in this area.

(c) "Reduced Custody Housing Area" means that area designed to house prisoners that through a classification process pose little or no threat to the custody, security or welfare of themselves or others. This area does not require security type hardware.

(d) "Cells" mean housing spaces designed to house one prisoner only.

(e) "Wet Cell" means a cell that is equipped with water closet and lavatory, with hot and cold water to lavatory.

(f) "Dry Cell" means a cell in a reduced custody area that is not equipped with water closet and lavatory. The prisoner shares common toilet and lavatory facilities with others in a designed housing unit and has access to such facilities at all times.

(g) "Dormitory" means a housing area designed to accommodate a minimum of four but not exceeding a maximum of sixteen prisoners.

(h) "Pod" means a group of sixteen or less individual cells sharing the same day room facilities.

(2) The Department of Offender Rehabilitation must be contracted prior to any remodeling, renovation or development of new construction plans. On receiving notification, the Department of Offender Rehabilitation will furnish a planning and construction document that complements this chapter and transmits more complete details. The Department of Offender Rehabilitation shall be contacted for a preliminary meeting among the interested parties, the architect and the Department of Offender Rehabilitation during programming stage.

(3) Plans and specifications shall be submitted to the Department of Offender Rehabilitation in two copies at the following stages:

(a) At completion of schematic drawings.

(b) At completion of preliminary drawings.

(c) When working drawings are approximately sixty-percent (60%) complete.

(d) At completion of working drawings and specifications.

(4) Bids shall not be received until written approval of the final documents have been obtained from the Department of Offender Rehabilitation. No agenda shall be made to such final documents except upon approval of the Department of Offender Rehabilitation. Final inspection before acceptance by the owner shall be made by Department of Offender Rehabilitation staff. Detention facilities shall not be used prior to receiving certification of compliance with these rules from the Department of Offender Rehabilitation.

(5) The following requirements shall be adhered to in the planning for new construction, remodeling, or renovation:

(a) All exterior confinement walls will be a minimum six inches (6") of poured, reinforced concrete, or minimum of eight inches (8") reinforced concrete block. If concrete block is used it must be

reinforced vertically and horizontally 8" on center.

(b) All interior walls surrounding a secure area will be six inches (6") of poured reinforced concrete or minimum of eight inches (8") reinforced concrete block or a minimum of 1/4" tool resistant steel plate. If concrete block is used it must be reinforced vertically and horizontally 8" on center using #4 steel rod and voids poured full with 3000 # concrete.

(c) All walls within a reduced custody housing area may be concrete or concrete block.

(d) Tool-resisting steel must be used in the construction of window sash or permanent fixed security windows where there is mechanical air exchange for ventilation. Windows in the prisoners' living quarters must be located on the outer cell block wall and shall have a minimum total space which is equal to at least one-tenth of the floor space. Awning type detention windows with a maximum of 5" clear opening are acceptable.

(e) View panels must be detention type, such as security glazing. However, where windows are located that are not accessible to prisoners, tool resistant steel or security glazing is not required.

(f) Whenever windows on an exterior wall are used other than those described in paragraph (e) of this section and prisoners have access to them through personal contact or the prisoner may throw objects at the windows, detention screen or security glazing should be used.

(g) Ceiling in a secure housing area will be steel or concrete. When concrete is used it will be a minimum of four inches (4") reinforced. When steel is used it must be a minimum of 1/4" tool resistant steel plate. Ventilation duct work running over the ceiling area of a secure housing area must be avoided.

(h) A cell will be designed for one (1) prisoner only. No cell will be less than 7 feet x 9 feet deep x 8 feet high. A housing pod will be designed to accommodate no more than a maximum of sixteen (16).

(i) Day room space must be programmed providing a minimum of 35 square feet per prisoner. Day rooms will not be designed for more than sixteen (16) prisoners.

(j) If dormitory units are built, they must provide for a minimum of 80 square feet per prisoner. This dimension includes day room space. If dormitory units are designed, they must accommodate a minimum of four (4) but not more than sixteen (16). Double decking beds will not be used.

(k) Doors leading into secure housing areas will be sound deadened hollow metal, constructed of a minimum of 16 gauge steel with security glazing viewing panel. Bar grille doors are not recommended, but if used, construction shall consist of not less than 7/8" steel bars, round or hexagonal, spaced five (5) inches on center. These doors must be at least three (3) feet wide.

(l) Cell doors in a secure housing area will be sound deadened hollow metal, constructed of a minimum of 16 gauge steel with security glazed viewing panel. Bar grille doors are not recommended, but if used, construction shall consist of not less than 7/8" steel bars, round or hexagonal, spaced five (5) inches on center. These doors will be sliding type.

(m) Doors to rooms in reduced custody area may be sound deadened hollow metal or solid core wood. These doors must have viewing panels.

(n) Building to be heated by central system of the designer's choice. In the case of a duct system, attention is called to the necessity of cut-off grills inside the duct leading from prisoner areas to the exterior.

(o) Mechanical ventilation of all confinement areas not having adequate outside ventilation is mandatory.

(p) No electrical conduit will be accessible to prisoners in secure housing area. In reduced custody housing areas where prisoners have access to light switches, a control room over-ride switch should be planned.

(q) In secure housing areas, the light fixtures must be security type, tamper proof.

(r) Space will be provided for an emergency generator to be selected by designer.

(s) Impervious floors should be used in all areas, but are required in kitchen, dining room and restrooms.

(t) All cells in secure housing area will have one (1) water closet and lavatory. Security type water closet and lavatory are required with hot and cold water for maximum security units, segregation and isolation, holding units, mental and detoxification units. (Stainless steel is recommended).

(u) In reduced custody housing areas where dry cells are used and in dormitories there will be at least one (1) water closet, two lavatories with hot and cold water, one (1) mirror and one (1) shower head for each eight prisoners or fraction thereof.

(v) Facilities housing adjudicated prisoners will plan for outside exercise area. Inside multi-purpose space will be designed for treatment programs including recreation.

(w) Safety vestibules are required whenever an entrance or exit penetrates the exterior confinement walls. Safety vestibules must be used at entrance points to all security housing areas. A safety vestibule must be installed at the entrance to the control room.

(6) The aforementioned rules and regulations have been established on construction standards to provide for the needs of security, custody, control

program and welfare of incarcerated prisoners held under local authority knowing that space requirements differ with type of prisoners, number incarcerated, and the length of stay. Therefore, design criteria for each facility will be approved on an individual basis by the Department of Offender Rehabilitation working with the owner and architect. Specific Authority 20.315, 951.23 FS. Law Implemented 951.23 FS. History—New 10-8-76.

33-8.16 Notice of Proceedings and Proposed Rules.

(1) Prior notice of adoption, amendment or repeal of a rule shall be made available upon request to persons or parties directly affected.

(2) Prior to any notice of a rule adoption, amendment or repeal, a draft of the proposed rule shall be prepared and made available to the public at the Central Office of the Department of Offender Rehabilitation, located at 1311 Winewood Boulevard, Building No. 5, Tallahassee, Florida 32301. Office hours are 8:00 A.M. to 5:00 P.M., Monday through Friday.

(3) Notice to those directly affected by a proposed rule shall be by:

(a) A copy of the proposed rule shall be forwarded to the Administrative Procedures Committee.

(b) Publication in the Florida Administrative Weekly at least 14 days prior to any proposed hearing.

(c) Posting notice of the intended action on the bulletin board in the Central Office in Tallahassee.

(d) Transmitting by memorandum a notice of the intended action to the Florida Sheriffs Association, Florida Police Chiefs Association, Inc., Florida League of County Commissioners, the Florida League of Cities and Florida A.C.L.U., (American Civil Liberties Union).

Specific Authority 20.315, 120.54(1)(a) FS. Law Implemented 120.54(1)(a) FS. History—New 10-8-76.

APPENDIX 4
1981 RULES
OF THE DEPARTMENT OF
CORRECTIONS, CHAPTER 33-8
COUNTY AND MUNICIPAL DETENTION FACILITIES

RULES
OF THE
DEPARTMENT OF CORRECTIONS
CHAPTER 33-8

COUNTY AND MUNICIPAL DETENTION FACILITIES

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- 33-8.01 Definitions. For the purpose of this chapter:
- (1) "Department" means the Department of Corrections.
 - (2) "Secretary" means the Secretary of the Department of Corrections.
 - (3) "Inspector General" means the Inspector General of the Department of Corrections.
 - (4) "Department Jails Committee" means the Inspector General (who shall serve as Chairman), the Chief Inspector, the Architectural Engineering Manager and the local Prison Inspector or their designated substitutes.
 - (5) "Employee" means any person employed by a detention facility and any other person who supervises prisoners but does not include trusty prisoners.
 - (6) "Officer-in-Charge" means the Sheriff, Chief of Police, Director of Corrections or Correctional Administrator, or any person designated by either of them as Officer-in-Charge.
 - (7) "Inspector" or "Jail Inspector" means those persons who are designated Inspectors and Investigators by the Secretary.
 - (8) "Technical Assistance" means any assistance or training rendered by or secured by the Inspector in an effort to assist the Officer-in-Charge with the administration or operation of a detention facility. It also means any assistance or training utilized by the Officer-in-Charge and/or his staff to promote jail operations and upgrade efficiency such as attendance at workshops and seminars.
 - (9) "Prisoner" or "Inmate" means a person who is lawfully detained in a detention facility.
 - (10) "Juvenile" means a person who has not reached the age of 18, and who will be handled under the rules for juvenile detention in the jail until such time as they will have been certified by the courts as adults, tried, found guilty, and sentenced.
 - (11) "Trusty" is a prisoner in minimum custody status who may perform work and/or services in or about the facility.
 - (12) "Detention Facility" means a municipal or county jail, stockade, prison camp and every other place

- used by a municipality or a county for the detention of prisoners charged with or convicted of a felony, misdemeanor or a municipal offense or for some other reason being legally held.
- (13) A "Single Cell" as used in these regulations has a bunk, water closet, lavatory, hot and cold running water. It is secured by a lock and bars or other restraining materials which prevent exit without external manipulation.
 - (14) "Multiple Occupancy Cell" is for two or more persons.
 - (15) "Isolation Cell" means an area which meets the requirements of a single cell but which is used for the removal of a person from the general population.
 - (16) "Special Handling Area" means any area which is used for persons with problems such as mental illness or who exhibit suicidal tendencies and those who must be observed on a more frequent basis. It must meet all requirements of these regulations.
 - (17) "Dormitory" means any space which is used for the housing of more than two prisoners in a reduced custody setting.
 - (18) "Holding Area" means any area which is used for periods not to exceed six hours to hold persons awaiting some special treatment or booking. It must have a lavatory, water closet and enough seating space for the occupants.
 - (19) "Reduced Custody Housing Area" means that area of a stockade, work camp, jail or other detention facility which is designed to hold a larger number of persons in a dormitory or barracks type setting. It may or may not have a security exterior and limited access.
 - (20) "Common Area" means any area of a detention facility which is used for more than one purpose. It includes catwalks, walkways, halls, foyers, corridors, waiting rooms, entrances, porches, or other areas which provide movement space or are part of the access to the facility and egress therefrom.
 - (21) "Day Room" means that area of a detention facility which is used for the general purposes of the prisoners.
 - (22) "Activity Space" means any space other than a day room which is designated for prisoner programs, such as chapel, work and study.
 - (23) "Multi-Purpose Space" means any space which is designed or developed for the use of the incarcerated persons or the staff for a combination of programs, activity, dining, exercise and training.
 - (24) "Dining Area" means any area, other than a day room which is used for feeding prisoners and/or staff of the detention facility.
 - (25) "Indoor Exercise Area" means any indoor area which is designated for prisoner exercise and recreation.
 - (26) "Outside Exercise Area" means any secured outside recreation or exercise area used by the prisoners of the facility.
 - (27) "Sally Port" as used in these regulations refers to any entry area for vehicles or personnel where one door or gate must be closed prior to the opening of the other

door or gate. Security Vestibule is the same as Sally Port except it refers to an inside area of a detention facility.

(28) "Lock-Down" is that time when all prisoners are physically restricted to their cell or housing area.

(29) "Commission" means a City or County Commission.

(30) "Clerk" means the Clerk of the Circuit Court.

(31) "Administrative Confinement" means the segregation of a prisoner for investigation, protection or some cause other than disciplinary action.

(32) "Disciplinary Confinement" means the segregation of a prisoner for disciplinary reasons.

(33) "Should" when used in lieu of will, shall, or must is not a mandatory enforceable rule but it is reportable. However, "should" denotes a correctional practice that is desirable and conducive to good prisoner management and alerts local governments to make a concerted effort to achieve.

Specific Authority 961.23 FS, Law Implemented 20.315, 961.23 FS, History—New 10-8-76, Amended 5-10-81.

33-8.02 General Provisions.

(1) These rules and regulations have been adopted by the Department and filed with the Department of State pursuant to applicable Florida Statutes. Amendment or repeal of any provision herein is within the discretion of the Secretary. The care, custody, treatment, housing and general handling of prisoners will be in accordance with these rules. Persons held for shorter periods need not be provided certain care and treatment facilities. Sections pertaining to contact, visiting, work and study release, canteen/commissary privileges and exercise are not applicable to prisoners that are held less than 36 hours. (Except that the canteen and vending machine profit limit of 15% indicated in 33-8.10(1)(b) is applicable to all detention facilities.)

(2) Inspectors employed by the Department are charged with the duty of inspecting the detention facilities of the State. The Inspectors shall inspect for compliance with applicable rules of the Department and Florida Statutes. Each detention facility in the State shall be inspected at least twice annually at varied times and shall be furnished appropriate forms for self-inspection twice annually. Every reasonable complaint alleging a violation of these regulations shall be investigated as soon as practicable.

(3) The Inspectors will be directly responsible to the Chief Inspector who shall coordinate and supervise their work throughout the State. The Chief Inspector will be directly responsible to the Department's Inspector General. The Inspector General and the Inspectors may enter any detention facility in this State at any time and shall be immediately admitted to such place upon request for such admittance, and may confer privately with any employee or prisoner. They shall also have access to all facility records.

(4) Within fourteen days of completing an inspection of a detention facility, and after discussion with the Officer-in-Charge or his designated representative, the Inspector shall provide the Chief Inspector with a full and complete report on such forms as required by the Department. The forms shall contain checklists adequate to record whether or not a detention facility is in compliance with respect to the requirements of these rules. A copy of the report will be mailed or furnished to the Officer-in-Charge by the Chief Inspector within 30 days of receipt of the inspection report. The Officer-in-Charge shall have 30 days after receipt in which to respond to the report. The response will be attached to

the final inspection report by the Chief Inspector. After review by the Inspector General a copy of the final report and response shall be filed with the Department, the Clerk, the Commission and the Officer-in-Charge and shall be sent to such others as the Department may deem appropriate. Inspection reports, responses, and all other reports and documents prepared by Inspectors, the Chief Inspector, the Inspector General, the Secretary and other Department employees pursuant to this subsection and subsection 33-8.02(5), shall be retained in the offices of the Clerk and the Chief Inspector, shall be public records, and shall be subject to inspection by the public at any reasonable time.

(5) Enforcement and Compliance.

(a) Aggravated violations.

1. An "aggravated violation" is a violation of these rules or other condition or practice that appears to pose a substantial and immediate danger to the life, health or safety of one or more prisoners or a staff member.

2. When an Inspector observes an aggravated violation, he shall immediately notify the Officer-in-Charge of the violation and of his duty to correct the violation. The Inspector shall also, within 24 hours of the time he first observes any such aggravated violation, prepare and provide to the Officer-in-Charge a special written report describing the violation, the notification given and the corrective action specified. He shall give prompt notification to and consult with the Chief Inspector, by telephone if necessary, and shall mail him a copy of the written report. This report will be forwarded to the Inspector General.

3. The Officer-in-Charge shall correct any such aggravated violation, and shall notify the Inspector or the Chief Inspector of the corrective action taken, as soon as possible and in any event within 24 hours of the Inspector's written notification to the Officer-in-Charge.

4. The Inspector shall reinspect within 48 hours of the time he first observes any aggravated violation to determine whether it has been corrected and shall prepare a written report of his reinspection.

5. If the Inspector has not received notification of corrective action with the aforesaid 24 hours, or if his reinspection determines that the aggravated violation has not been corrected, he shall so notify the Chief Inspector immediately, and the Chief Inspector shall notify the Inspector General.

(b) All other citable violations.

1. When an Inspector's report indicates one or more citable violations of these rules, the Chief Inspector shall, within 14 days of receipt of the date of the inspection, notify the Commission, the Officer-in-Charge and the Inspector General describing the nature of the violations and the corrective action needed. The Chief Inspector will designate an "action" addressee who shall correct the violations, or provide the Chief Inspector with a written "corrective action" plan for their correction within 30 days of receipt. This plan will be reviewed by the Inspector General and Chief Inspector. If that action is inappropriate or is not carried out, the Chief Inspector will notify the Inspector General.

2. The corrective action plan shall specify, with respect to each violation the corrective action to be taken, the timetable for such corrective action and resources to be used. The Department should take appropriate follow-up action to assist detention facility officials and the local authorities in developing a satisfactory plan, including (but not limited to) an inspection team survey, appearances before local authorities, and suggestions

concerning the contents and implementation of the plan. The corrective action plan shall provide for correction of all violations as soon as practicable and shall require that substantial progress towards corrections of violations be demonstrated within a reasonable time. A copy of the corrective action plan shall be retained in the office of the Chief Inspector, shall be a public record, and shall be subject to inspection by the public at any reasonable time in the office of the Clerk of the Circuit Court.

(a) Within 30 days of the expiration of the deadline provided in a corrective action plan for the correction of citable violations, the Inspector, or an inspection team, shall conduct a follow-up review of the citable violations and the corrective action taken pursuant to the plan, in order to determine whether such corrective action satisfactorily has been demonstrated.

3. If the Secretary determines that an action should be filed pursuant to Florida Statutes 951.23(3) and (4), he will promptly notify the action addressee of his intention to initiate such an action.

(6) Each prisoner shall be given access to a copy of the rules and regulations of the facility upon admittance.

(7) Each facility shall keep permanent records pertaining to:

(a) Visitation — the name of the prisoner, date, length of visit, names of visitors, relationship to prisoner, whether contact visit or non-contact visit.

(b) Exercise — the name of the prisoner, date, time for exercise, whether it was outdoor or indoor, and if the prisoner refused.

(c) Medical observation — all pertinent medical information will be recorded in the prisoner's medical file.

(d) Showers — name, date, whether or not taken. This paragraph shall only apply to prisoners confined in administrative and/or disciplinary confinement.

(8) Each facility shall post in a prominent place on each floor of the facility, a current copy of these rules and regulations.

(9) The Officer-in-Charge shall immediately notify the nearest Inspector of all incidents concerning:

(a) Prisoner deaths;

(b) Serious injuries to prisoners or employee;

(c) Escapes involving three or more prisoners;

(d) Escapes involving anyone sentenced to death or awaiting trial for a capital offense;

(e) Escapes or attempted escapes, regardless of number, where violence was involved, hostages taken, guns or other weapons used;

(f) Strikes involving seven or more prisoners;

(g) Riots;

(h) Any other serious or unusual circumstances that occur.

(10) Upon receiving notice of any incident as set forth in (9) above, the Inspector shall confer with the Chief Inspector. The Chief Inspector shall notify the Inspector General. If a special investigation is required the Inspector will proceed to the detention facility to conduct an investigation and submit an independent report to the Department. A copy of the report will be furnished to the Officer-in-Charge at the discretion of the Chief Inspector. The Chief Inspector will forward a copy of the report to the Inspector General.

(11) Inspectors will offer assistance to the Officer-in-Charge of a detention facility in the form of planning, recommending operation procedures and programs, or in providing other technical assistance to promote the enforcement of these rules.

(12) Policy and Procedure Directives for the employees and prisoners concerning the operation of each detention facility will be developed and issued by the Officer-in-Charge. Such Directives will be made a part of the pre-employment standard and in-service training of all employees. Employees will certify that they have read and understand all such applicable Policy and Procedure Directives, and shall certify review of them at least once annually. It is the responsibility of the Officer-in-Charge to up-date all Directives as necessary. Any forms authorized by the Officer-in-Charge shall be made a part of the Directives. When conducting detention facility inspections, Inspectors will examine the content of the Directives for compliance with applicable Florida Statutes, adherence to Department Rules and timely updating. The Policy and Procedure Directives shall include, but need not be limited to the following:

(a) Emergency plans in the event of fire, riot, escape, natural disaster, epidemic disease and hostage situations;

(b) Tool, knife and firearms control;

(c) Contraband control;

(d) Prisoner property and "in-cell" belongings;

(e) Daily log and count procedures;

(f) Prisoner grievances;

(g) Visitor/visiting procedures and control;

(h) Disciplinary procedures;

(i) Admission, classification and release procedures;

(j) Health services (see paragraph 33-8.07(2));

(k) Food services (see paragraph 33-8.08);

(l) Prisoner contact with attorneys, the court, public officials and the press;

(m) Procedure for close observation;

(n) Local employee rules and regulations;

(o) Supervisory efforts;

(p) Provisions for administrative and disciplinary confinement.

(13) The Secretary shall certify the maximum number of prisoners which may be housed in each detention facility based on a specified unit of floor space. The Secretary, through the Inspector General and the Chief Inspector shall notify the Officer-in-Charge and the Commission of the number he has certified. "Specified unit of floor space" shall be that amount of cell space that is reasonably necessary for each prisoner incarcerated in a detention facility, thereby establishing the maximum number of prisoners that may be housed. Such space requirements will be established by a combined analysis of cell size; design or renovated capacity; access to program, exercise, day room and activity space; level of secure custody needed for each prisoner; the structural configuration of the facility; and such other contributing factors which may be peculiar to a detention facility. The maximum number of prisoners that may be housed in facilities constructed after October 8, 1976, shall be determined in accordance with the design capacity of the facility established in Section 33-8.15, F.A.C. The maximum number of prisoners that may be housed in facilities constructed before October 8, 1976, shall be based on a factoring procedure as set forth in attachments to this section.

(14) Attachments.

(a) Factoring process description (attach sheet marked Exhibit 1).

(b) Factoring sheet #1 (attach sheet so marked).

(c) Factoring sheet #2 (attach sheet so marked).

(d) Daily record of programmed out-of-cell time (attach sheet so marked).

Specific Authority 951.23 FS. Law Implemented 20.315, 944.31, 944.32, 951.02, 951.06, 951.23 FS. History—New 10-8-76, Amended 5-10-81.

33-8.03 Employee Regulations.

(1) Each employee's conduct shall at all times be consistent with the maintenance or proper security and welfare of the facility and of the prisoners under his supervision.

(2) No employee shall:

(a) Report to duty or exercise supervision or control over prisoners while under the influence of an intoxicant.

(b) Report for duty or exercise supervision or control over prisoners while under the influence of a narcotic, barbiturate, hallucinogenic drug or central nervous stimulant. Exception will be made only when such medication has been prescribed and is taken under a doctor's care and if it does not impair the employee from carrying out his assigned duties.

(c) Use profane or abusive language in supervising prisoners.

(d) Abuse a prisoner in any manner.

(e) Trade, barter with, or accept anything of value from a prisoner, his friends, or family except as authorized by the Officer-in-Charge.

(f) Introduce into or remove from the property of any detention facility any article without authorization from the Officer-in-Charge.

(g) Recommend or furnish any legal advice or any other advice concerning the selection of a specified lawyer or bondsman for a prisoner. If requested by a prisoner, a directory or list of names of all area lawyers or bondsmen should be made available for the prisoner's use.

(h) Carry any firearm, ammunition, tear gas or blackjack into the lock-up area of the detention facility except in emergencies and as authorized by the Officer-in-Charge.

(i) Have keys to any area of a detention facility which have not been issued to him by an authorized employee.

(j) Employees will make a complete written report to the Officer-in-Charge on all unusual incidents that occur during a tour of duty. Examples:

1. Assault by a prisoner on an employee or another prisoner.

2. Any occasion in which an employee discharges firearms or uses tear gas.

3. Attempts by prisoners to bribe an employee.

4. Escapes or attempted escapes.

5. Death, serious illness or serious injury.

6. Strikes, riots and other disturbances.

(4) No employee shall apply physical force to the person of a prisoner except and only to the degree that is reasonably necessary in self-defense, to prevent escape, to prevent injury to a person or to property, to quell a disturbance, or when the prisoner exercises physical resistance to a lawful command. In such cases, a written and signed report shall be made by the employee to the Officer-in-Charge, who shall have an investigation made and shall approve or disapprove the force used. If the employee involved is the Officer-in-Charge, it shall be sufficient for him to make a written and signed statement of the force used and of the circumstances under which it was used. All such written reports shall be retained in permanent files.

(5) No Officer-in-Charge or other employee shall knowingly permit any subordinate, prisoner, or other

person to commit any act or engage in any conduct which would violate these rules and regulations.

(6) Reports of violence and investigations of employees or prisoners set forth in (3), (4), or (5) above shall be maintained, and available to the Inspectors.

(7) Inspectors shall check facility records regarding employees to assure compliance with Correctional Standards Certification.

Specific Authority 951.23 FS. Law Implemented 20.315, 951.23 FS. History—New 10-8-76, Amended 5-10-81.

33-8.04 Admission, Classification and Release.

(1) When receiving and admitting a prisoner to a detention facility, the employees responsible for such admission shall inquire and reasonably determine that established rules, regulations and legal procedures for such admission are met. Any legal or procedural questions concerning the admission of a person to a detention facility must be clearly resolved prior to their admission.

(2) Each prisoner shall be searched by the receiving employee when being admitted to a detention facility. During the admission and booking process the prisoner should be examined for contraband and body lice and permitted to bathe unless he is belligerent and unruly to the point of being unmanageable. In case he cannot be controlled on entry he will be bathed as soon as facility and manpower permit. A search of anal or vaginal areas shall be made only for cause and must be conducted by the medical staff. Birth control devices or other foreign matter shall be removed only by the prisoner, or if appropriate, by the medical staff. A written report documenting such action shall be submitted to the Officer-in-Charge.

(3) Detention facilities shall not admit an unconscious person or a person who appears to have serious injury.

(4) At no time will a juvenile be held in jail except under court order. If they must be temporarily detained until a court order is received they will be held in the booking area and under direct observation. Juveniles shall be supervised and monitored at all times.

(5) A female employee must be present to admit and process female prisoners. A male employee must be present to admit male prisoners. A female correctional officer must be on duty at all times when the facility houses female prisoners.

(6) A record shall be started and maintained on each prisoner when admitted. This record shall include:

(a) Full name and known aliases;

(b) Age, date of birth, and sex;

(c) Date admitted;

(d) Race;

(e) Height;

(f) Weight;

(g) Offense for which the prisoner is charged or for which the prisoner has been sentenced;

(h) Name of Attorney, if known;

(i) Signature of persons delivering and receiving prisoner;

(j) A written inventory of all monies, valuables or other personal property. All items allowed to be kept by the prisoner and those taken and stored will be recorded. The prisoner and the receiving officer will verify and sign the inventory. If the prisoner refuses to sign, a notation will be placed on the property inventory and a second employee will witness and sign the inventory. After the initial receipt is completed, any changes authorized in the personal property inventory must also be documented.

verified and signed by the prisoner and the employee making the transaction.

Additionally, the record should include:

(k) Last known address;

(l) Name and address of next of kin;

(m) Marital status;

(n) Religion.

(7) All persons booked into the facility shall be fingerprinted.

(8) Photographs of all prisoners charged with or convicted of a felony shall be made. In addition, all sentenced misdemeanants shall be photographed.

(9) During the admission process, prisoners shall be permitted telephone calls to their attorney and to family or others.

(10) As soon as possible following admission to a detention facility, each prisoner shall be classified. The classification process shall include all information available or obtainable from the social, legal and self-reported medical history of the detained person.

(11) The primary objective of classification is to place prisoners in the type quarters that best meet their needs and to provide reasonable protection for the prisoner and other prisoners. Each facility shall have a designated classification officer.

(12) In-so-far as facilities permit, no prisoner should be subjected to more restrictive conditions of confinement, including but not limited to freedom of movement within the institution and out-of-cell time, than those justified by the prisoner's security designation.

(13) Classification decisions as to housing, programs and privileges shall be based on rational standards which shall be written and incorporated into the facility's rules and regulations.

(14) A personal record shall be maintained on each prisoner. Such information shall not be accessible to other prisoners. This record shall contain such information as:

(a) Legal authority for commitment for juveniles, a copy of the court order requiring jail detention shall be made part of the juveniles file;

(b) All information contained in the booking record;

(c) Medical information;

(d) Classification information and progress reports;

(e) Disciplinary reports including investigation and disposition;

(f) All absences from the detention facility;

(g) Fingerprint card and photograph;

(h) Record of any detainees or other civil or criminal process;

(i) Personal property records;

(j) The date and terms or conditions of release, the authority for release, and signature of the releasing employee. The aforementioned classification process (See (10) & (11) above) should follow the prisoner throughout his incarceration as a method of assistance to his handling or treatment. His adjustment should result in the gaining or loss of privilege, reduced custody housing, extended visiting time, involvement in better job assignments, etc.

(15) In determining custody grade, special handling, housing and programs for each prisoner the classification officer shall follow standardized classification criteria. All prisoners (pretrial and sentenced) whose severity or nature of crime would not preclude such handling, shall be directed toward trusty status as soon as commensurate with security and program needs.

(16) Prisoners will be released only in accordance with the written instructions contained in the rules and

regulations of the institution which will include the proper authority and procedure for the release. Positive identification must be made of all prisoners being released.

(17) At the time of release the prisoner will sign for the return of his property which has been held by the facility. This form will be countersigned by an employee.

Specific Authority 951.23 FS. Law Implemented 20.315, 951.23 FS. History—New 10-8-76, Amended 5-10-81.

33-8.05 Housing.

(1) Housing standards will conform to the applicable standards of the Health Program Office of the Health and Rehabilitative Services (F.A.C. 10D-7).

(2) Male and female prisoners must be housed separately and also separated by sight and normal sound. Sound separation is defined as restricting normal verbal communications. When a male must enter a female housing area he will do so only when accompanied by a female correctional officer or other female person designated by the Officer-in-Charge unless any emergency situation would dictate otherwise.

(3) Juveniles when housed under the provisions of Florida Statutes 39.032 shall be under the supervision of a correctional officer at all times during confinement.

(4) Prisoners should be separated in the following manner whenever possible:

(a) Adult female felons;

(b) Adult female misdemeanants;

(c) Adult female non-sentenced;

(d) Adult female sentenced;

(e) Adult male felons;

(f) Adult male misdemeanants;

(g) Adult male non-sentenced;

(h) Adult male sentenced;

(5) Special prisoners, such as the mentally ill, alcoholic, narcotic or drug addict, sex deviate, suicide risk and the prisoner who presents a threat to the staff, other prisoners, or himself, should be separated and closely supervised.

(6) Persons brought to the jail for detoxification will be kept in an area designated for that use and will be held only so long as necessary to meet the requirements of Florida Statutes 396.072(2)(7) and (8).

(7) Prisoners shall be assigned housing based on a classification process as described in 33-8.04 (10) & (11) above with particular care to the assignment of those persons who have a history of, or exhibit aggressiveness toward other prisoners.

(8) Prisoners shall not be discriminated against in housing, or in any programs, privileges or other aspects of their confinement, based on race, national origin, color, creed, economic status, political belief or sex (except that males and females shall be housed separately).

(9) The following housing standards apply to all facilities:

(a) Each single cell will contain at least:

1. Washbasin with hot and cold running water;

2. Toilet flushable by the prisoner;

3. Bunk;

4. Artificial lighting which is of at least 20 foot candles at 30 inches above the floor for reading purposes;

5. Ventilation which circulates at least 20 cubic feet of fresh air or purified air per minute per person;

6. Acoustics that ensure noise levels that do not interfere with normal human activities;

7. Adequate heating to provide temperatures within a normal comfort range.

(b) All other housing areas shall provide a minimum of:

1. Minimum lighting which is of at least 20 foot candles at 30 inches above the floor;
2. Ventilation which circulates at least 10 cubic feet of fresh or purified air per minute per person;
3. Flush toilets and washbasins in the ratio of 1 or more to 8 prisoners;
4. Shower facilities in the ratio of 1 to 8 prisoners;
5. Hot and cold running water in the showers and lavatories;
6. Sanitary type drinking fountain or single service drinking cups for each dormitory and cell block;
7. Ready access during non-sleeping hours to tables and chairs or areas designed for reading and/or writing;
8. Adequate heating to provide temperatures within a normal comfort range.

(c) Each prisoner will be provided with adequate amount of toothpaste, toothbrushes, shaving equipment, soap and two clean towels which are exchanged at least once a week.

(d) Each prisoner will be allowed to shower daily.

(e) Washbasins, toilets, and floor drains will be kept in good repair.

(f) Defacing of walls is prohibited.

(g) Utility closets and corridors will be kept clean and free of clutter at all times.

(h) It is the prerogative of the Officer-in-Charge to determine what personal items may be kept in the cell and/or stored with the prisoner, however, a prisoner shall be allowed to retain a reasonable amount of personal property including but not limited to his/her legal material, personal hygiene items, writing paper and pen, and authorized reading material, in reasonable quantities, as approved by the Officer-in-Charge. Personal items will be kept in an orderly manner. Fire potential is reduced by limiting the amount of personal property in the cells.

(i) The Officer-in-Charge shall inspect all areas daily or cause them to be inspected. Appropriate disciplinary action should be taken against prisoners who fail to have their area, the common areas and their person clean and orderly.

(j) A prisoner confined in an isolation cell used for psychiatric purposes shall be examined by the physician or his designee within 48 hours following his or her confinement in such area or cell and should thereafter be permitted to remain there if:

1. the physician or his designee finds that the prisoner presents a serious risk of physical danger to himself or others and,

2. continues to provide the prisoner with follow-up medical care and treatment during the entire time that the prisoner remains confined in such area or cell as he deems necessary. The physician or his designee shall determine when the prisoner should be sent or returned to the general population.

Specific Authority 961.23 FS, Law Implemented 20.315, 39.03, 960.061, 961.23 FS, History—New 10-8-76, Amended 5-10-81.

33-8.06 Food.

(1) Food service operations, the food served, equipment and sanitation shall meet Health Program Office of the Department of Health and Rehabilitative Services Standards (10D-13, F.A.C.).

(2) If the food is provided by contract, the contract will require that the food service meet Health Program Office of the Department of Health and Rehabilitative Services Standards.

(3) No employee or prisoner shall work in any area of food service operations if he or she has a communicable disease, open wounds or sores or respiratory infections. Clean outer garments will be worn and all prisoners working in food service or delivery will maintain a high degree of personal cleanliness.

(4) Food preparation will be by (or supervised by) an employee trained in culinary services.

(5) Prisoners shall be given three substantial, wholesome, and nutritious meals daily. Not more than 14 hours may lapse between the evening meal and the morning meal. Sandwich meals shall not be served for more than one meal daily. Seasonal fruits and vegetables are recommended in menu planning.

(6) Menus shall be planned for not less than 28 days in advance and certified by a nutritionist. If a nutritionist is not employed by the detention facility, nutritional advice will be obtained from a similarly qualified person from outside sources such as County Health Services, local schools, hospitals, or a professional dietary service. Modified diets shall be prepared for prisoners when ordered by the facility physician. Records of meals served shall be kept for six months. Food may not be withheld, nor the standard menu varied, as a disciplinary sanction or as a reward for good behavior or work for an individual prisoner.

(7) The Officer-in-Charge will inspect the food service area on a regular basis (at least once a week) and will make corrections on deficiencies found. The inspection of the food service area will be recorded and maintained for not less than six months.

(8) All food supplies not in preparation are to be stored in a locked, clean, well ventilated room which is free from vermin. A locked storage area separate from food supplies shall be provided for soaps, detergents, waxes, cleaning compounds, insect and rodent spray and other poisons.

(9) All employees and prisoners assigned to food service or who prepare and/or serve food must meet Health Program Office of the Department of Health and Rehabilitative Service Standards.

(10) The delivery of food to prisoners in their quarters, day room or dining room shall be under the supervision of an employee. The serving of food shall be consistent with common sanitary measures. Trays may not be placed on the floor or slid under a cell door. If drinking cups are allowed in the cell they shall be removed at least once each day for cleaning in the kitchen or utensil cleanup area.

(11) All food service equipment will be of such material, design, workmanship and/or installation to permit full compliance with the provisions of these rules. The equipment shall be kept clean and in good repair at all times.

(12) Prisoners shall be served in a common dining area or adjacent day room, if available, if their security, classification and adjustment would not preclude such dining.

(13) The food service supervisor shall maintain a procedure to keep an accurate accounting of utensils, trays, cups and bowls.

Specific Authority 961.23 FS, Law Implemented 20.315, 961.23 FS, History—New 10-8-76, Amended 5-10-81.

33-8.07 Medical.

(1) The Officer-in-Charge will execute an agreement in writing, if at all possible, for appropriate care and the services of a physician licensed in the State of Florida.

(2) There will be a standard operating procedure for the medical section of the detention facility. The operating procedure will cover, but not necessarily be limited to the following:

- (a) Receiving screening;
- (b) Physical examination;
- (c) Necessary medical, dental and mental health services;

(d) Emergency medical and dental services;

(e) Notification of next of kin in cases of serious illness, injury, or death;

(f) Delousing procedures;

(g) Detoxification procedures under medical supervision;

(h) Control of pharmaceuticals.

(3) Each detention and/or intake facility will have a medical intake screening procedure which will be performed during the admission process. The screening will, at a minimum, consist of filling out of medical history form, and visual observation by a member of the staff. The screening shall include inquiry into:

(a) Current illnesses and health problems including venereal diseases and other infectious diseases;

(b) Medications taken and special health requirements;

(c) Screening of other health problems as designated by a member of the medical staff;

(d) Behavioral observation, including state of consciousness and mental status;

(e) Notation of body deformities, trauma markings, bruises, lesions, ease of movement, jaundice, etc.;

(f) Condition of skin and body orifices, including rashes and infections, and needle marks or other indications of drug abuse;

(g) Inquiry into use of alcohol and other drugs including type of drugs used, mode of use, amounts used, frequency used, date or time of last use.

(4) A medical record will be maintained on each prisoner who is held beyond first appearance.

(5) Each prisoner shall be given a physical examination by a medical person designated by the facility physician within 72 hours after admission to the facility.

(6) Each facility shall have an agreement or understanding with one or more health care providers to provide services either at the facility or at the location of the health care provider.

(7) A schedule which lists the names, telephone numbers and call days of the emergency physician(s) and health care provider shall be available at each facility.

(8) Standard first-aid supplies will be available on the premises at all times. Facility staff trained in the delivery of emergency first-aid care shall be on duty at all times. Such staff shall have completed first-aid training as required by Correctional Standards Council.

(9) Each facility shall provide each prisoner the opportunity for daily sick call supervised by the facility physician or his designee.

(10) Each jail shall have an agreement or understanding with a licensed dentist to provide emergency dental care.

(11) The facility's standard operating procedures for the proper management of pharmaceuticals shall include:

(a) Adherence to Federal and State Regulations governing controlled substances;

(b) Maximum security storage and perpetual inventory of all controlled substances, syringes and needles, medication and drugs.

(12) Medications shall be administered in accordance with the facility health care plan by licensed medical personnel or by qualified and trained facility staff members according to the directions of the facility's designated physician.

(13) A copy of each prisoner's medical record shall be kept by the facility for a period of not less than four years following the release, transfer or death of the prisoner, and shall be available.

(14) Summaries or copies of the health record files shall be routinely sent to the facility to which the prisoner is transferred. Health record information shall be transmitted to specific and designated physicians or medical facilities in the community on the written authorization of the prisoner.

(15) Prisoners who are committed under the influence of alcohol or drugs shall be separated from the general population and kept under close observation for a reasonable period of time.

(16) Prisoners with suicidal tendencies and those with a propensity for having seizures, as determined by medical authority, shall be assigned to quarters that have close observation.

(17) Each facility shall have an agreement with one or more health care providers to provide emergency services either at the facility or at the location of the health care provider.

(18) State licensure and/or certification requirements and restrictions shall apply to health care personnel working in the facility the same as those working in the community; copies of licensing and/or certification credentials shall be on file in the facility.

Specific Authority 961.23 FS, Law Implemented 20.315, 961.23 FS, History—New 10-8-76, Amended 5-10-81.

33-8.08 Clothing and Bedding.

(1) Prisoners will be furnished a mattress, mattress cover, sheet or sheets, pillow case and a towel. The provisions of this sub-paragraph shall not apply to cells or areas used for short term holding of prisoners less than six hours.

(2) Sheets, towels and pillow cases will be laundered at least once each week. Mattress covers must be washed before reissue.

(3) Blankets will be issued in sufficient number to the prisoner(s).

(4) Mattresses shall be fire resistant, maintained in good repair and in a sanitary condition.

(5) Prisoner clothing must be clean upon entry or prisoners must be furnished clean clothing if kept beyond first appearance. Clothing shall be laundered at least twice each week.

(6) The Officer-in-Charge may permit prisoners to wear their personal shoes. When a prisoner needs shoes and is without funds, footwear shall be provided. Shower slides are recommended for inside use. Prisoners who work shall be issued clothing and shoes appropriate for the type of work and prevailing weather.

(7) A prisoner will not be deprived of clothing, bedding or other comfort items except in situations where the prisoner demonstrates overt suicidal tendencies or when necessary to prevent the prisoner from inflicting injury to self, to others or to property.

(8) Any time a prisoner is deprived of clothing or bedding, a record shall be maintained.

(9) Prisoners held beyond first appearance who are unable to supply themselves with personal care items because of indigency or lack of a canteen shall immediately be issued the following:

- (a) Toothbrush;
- (b) Dentifrice;
- (c) Soap;
- (d) Comb;
- (e) Shaving implements (dangerous shaving implements may be restricted or issued for use only under observation).

(10) Female prisoners shall be provided necessary hygiene items.

(11) Drinking cups shall be on hand unless the living area is provided with drinking bubblers or fountains.

Specific Authority 961.23 FS, Law Implemented 20.315, 961.23 FS, History—New 10-8-76, Amended 5-10-81.

33-8.09 Programs.

(1) The Officer-in-Charge shall make maximum use of programs available through local community resources. At least one employee in each detention facility should act as liaison between the facility and the community agencies that offer needed programs and services. Records shall be kept of all community contacts and the nature of the contacts.

(2) The following is a partial list of agencies that may provide services to prisoners: Mental Health Centers, Drug Abuse Houses, Alcoholic Anonymous Groups, County Health Departments, County Hospitals, County School Boards, County Libraries, County Welfare Departments, Local Universities and Community Colleges, Family Services Program Office of the Department of Health and Rehabilitative Services, Legal Services, Ministerial Associations, Vocational Rehabilitative Services and others.

(3) The Officer-in-Charge shall ensure that all representatives of outside agencies and volunteers will be familiar with facility regulations. Compliance with the regulations should be agreed to in writing.

(4) Mail.

(a) General correspondence such as between the prisoner, the family and other persons should be encouraged. Incoming prisoner mail may be monitored to ascertain any attempts at escape, security violations, or conspiracy to introduce contraband. Incoming mail may be inspected to intercept cash, checks, money orders or physical contraband. Outgoing mail shall not be interfered with except to open and inspect it to determine if:

1. the letter contained threats of physical harm against persons or threats of criminal activity;
2. the letter threatens blackmail or extortion;
3. the letter contains plans to escape;
4. the letter contains plans for activities in violation of detention facility rules;
5. the letter is in code;
6. the letter contains information which if communicated would create a clear and present danger of violence and physical harm to a human being. In each case the prisoner shall be given written reasons why his correspondence is being denied.

(b) Privileged mail, including mail to and from attorneys, the courts, and public officials shall not be opened for inspection unless there is compelling evidence of a prohibited act listed in subsection 33-8.09(4)(a)1.-6. In such cases, the incoming or outgoing mail shall be opened only in the presence of the prisoner and may not be read.

(c) Indigent prisoners. Prisoners without funds will be supplied with writing materials and postage to correspond with attorneys and the court. In addition,

prisoners without funds will be supplied with writing materials and postage to correspond with their immediate family at reasonable intervals.

(d) Prisoners must receive their mail through the facility. They must not use a "blind box" or other subterfuge to violate mail directives.

(e) There shall be no approved lists of correspondents, or limits on the volume of mail a prisoner may receive or send.

(f) Mail shall be delivered to and from prisoners without delay.

(5) Visiting.

(a) Rules and regulations pertaining to the time and conduct of visitation shall be posted for the knowledge of the prisoners and prospective visitors. A copy of the rules shall be given to each prisoner. Visitation periods shall be permitted so that each prisoner in general population has the opportunity for at least 2 hours of visitation each week.

(b) The Officer-in-Charge may deny a particular visit or visitor if the visit, visitor, or prisoner poses a clear and present danger to the security of the institution.

(c) All visitors shall be required to register and to record their name, address, and relationship to the prisoner. Visitors may be searched if necessary to the security of the institution. The Officer-in-Charge may reasonably require additional information if necessary to the conduct of that particular visit. Prisoners shall be permitted visits by the following: members of the prisoner's family; his pastor; any person who establishes a genuine and legitimate need to confer with the prisoner on business matters; and those persons who are participating in service programs approved and authorized by the Officer-in-Charge of the detention facility.

(d) Visiting for special days such as holidays should include special programs so that prisoners may benefit from family or community effort.

(e) Contact visitation privileges should be extended to those prisoners whose facility adjustment is exceptional as adjudged by the classification process. The allowing of contact visitation on any special occasion shall be the prerogative of the Officer-in-Charge.

(6) Work.

(a) Sentenced prisoners may be assigned to work to the benefit of the facility, county or municipality within the guidelines expressed in the paragraphs below. Non-sentenced prisoners cannot be required to work beyond those duties necessary to the cleanliness and good order of their own area and the common areas of the detention facilities. However, persons who are in pre-trial status and held beyond first appearance should be given the opportunity to volunteer for available work programs. Continuing work programs as alternatives to idleness are strongly recommended.

(b) Except in emergency situations, prisoners shall not be required to work more than 10 hours per day and not more than 60 hours per week, including travel time between their place of confinement and place of work. All prisoners shall be given at least one day off from work each week. Prisoners shall be given a 15 minute rest break during morning and afternoon work periods and at least one half hour for the noon meal.

(c) Prisoners, except those in work and study release and minimum custody (trusty) status, must have supervision in keeping with his custody classification while outside the secure perimeter of the detention facility. Minimum custody and/or trusty prisoners should be checked by an employee to assure appropriate

accountability and security.

(d) Work and study release, as authorized by the court and/or the facility is encouraged. If work or study releasees are housed in a detention facility, they should be completely separated, whenever practical, from the general population.

(e) Prisoners may be required to work for other county or municipal agencies to the benefit of that county or municipality. If so, their supervisor(s) shall acknowledge in writing the provisions of these regulations (particularly Chapter 33-8.03) and the Policy and Procedure Directives of the facility. It is the intent of this paragraph to encourage the use of prisoners in vocational and productive work programs which will benefit the prisoner and the county or municipality.

(f) Prisoners may voluntarily work for charitable or nonprofit organizations under the following conditions:

1. they must be supervised by an employee of the facility or other county or municipal employee;
2. the work must have the prior written approval of the Officer-in-Charge;
3. no monetary remuneration may be made to the prisoner or the facility for the work.

(g) Prisoners who have been classified for such activity, may do minor work around the facility such as washing cars for "spending money". If such work is performed, it must be with the written approval of the Officer-in-Charge and monies must be credited to the prisoner's account rather than paid directly to the prisoner. Proper documentation must be made to preclude conflict as to work performed or monies paid.

(h) A prisoner shall be cleared by the facility physician prior to assignment in a structured work program.

Specific Authority 961.23 FS, Law Implemented 20.315, 961.06, 961.23 FS, History—New 10-8-76, Amended 5-10-81.

33-8.10 Privileges.

(1) Prisoner commissary and welfare fund.

(a) A detention facility commissary may be operated if it is properly controlled. If a commissary is established then a prisoner welfare fund shall also be established. The Officer-in-Charge will establish a procedure for providing commissary/canteen facilities or access to canteen items for the benefit of the prisoner. The commissary or canteen should not sell food that competes with the detention facility food program. It is recommended that prisoners routinely carry no money and that a check off system from their account be implemented. If money is permitted, a limit shall be set and all money in possession in excess of that limit shall be confiscated. Confiscated monies shall revert immediately to the prisoner welfare fund unless/until needed as evidence in a trial or disciplinary hearing. A shopping list should be developed and printed for the information of all prisoners with the prices and special conditions governing each sale shown clearly on such a list. Valuable items purchased by prisoners should be added to their personal property list after purchase and marked for identification.

(b) Canteen prices shall be set at a gross profit rate not to exceed 15% (to include vending machines).

(c) Expenses involved in the commissary operation, including compensation for commissary employees and gratuities for prisoners who may assist such employees, may be paid from the profit.

(d) Profits from the commissary must be used for overall prisoner welfare, and a prisoner welfare fund committee shall recommend what expenditures are to be made. Activities of the committee shall be reviewed by the

Officer-in-Charge who shall have final authority on expenditures. It is recommended that the jail chaplain be a member of the committee.

(e) The fiscal management of the commissary must be audited by the Officer-in-Charge on an unscheduled basis and appropriate transaction records must be maintained. Stock inventory shall be audited and kept current. Audit by a disinterested party (such as county auditor) is recommended.

(2) Exercise.

(a) Every prisoner should have the opportunity to have a minimum of one hour of outdoor exercise twice weekly, weather permitting.

(b) Sufficient space, equipment and staffing to permit both individual activities and group activities shall be provided.

(c) Prisoners may remain in their housing areas or call if they so desire.

(3) Other Privileges.

(a) Control of how and when radio and television sets are to be used, if present, shall be left to the discretion of the Officer-in-Charge.

(b) A reading or library service shall be available to the prisoners who are held beyond first appearance. Such service should be established with the local county or city library and via the purchase of periodicals for use in the jail.

(c) It is recommended that a recreation officer be appointed to organize leisure time activities and to program exercise, recreation and avocation. This officer may be used for extra security during exercise and recreation periods.

(4) Each facility should appoint a chaplain who would coordinate religious services and activities.

Specific Authority 961.23 FS, Law Implemented 20.315, 961.23 FS, History—New 10-8-76, Amended 5-10-81.

33-8.11 Security and Control.

(1) As required in paragraph 33-8.02, the Officer-in-Charge shall have comprehensive written plans for emergencies to include fire, riot, hostage situations, escape, medical emergency and natural disaster. These plans shall be developed after consultation with fire departments, emergency medical personnel and law enforcement agencies. The plans shall provide for:

- (a) Alarm systems and notification;
- (b) Transmission of alarm to:
 1. fire department;
 2. emergency medical service;
 3. other law enforcement officials.
- (c) Response to alarms;
- (d) Isolation of fire or disturbance areas and the control of mobilization areas;

(e) Specific equipment such as fire extinguishers and fire hoses to be located at specific appropriate places within the institution and inspection and preventive maintenance schedule for such equipment;

(f) Release and evacuation activity;

(g) Prevention of escape during evacuation;

(h) Fire fighting plans, the rendering of prompt medical aid or the assistance of law enforcement agencies in quelling riots or disturbances;

(i) The chain of command to be followed in all such emergencies, including the specific responsibilities of staff and prisoners;

(j) Inspection schedules of hazardous areas and review of fire plans;

(k) After action report in the event of any such emergencies.

(2) Fire exit drills and emergency evacuation drills shall be held with sufficient frequency to familiarize custodial personnel with proper procedures. Such drills shall be conducted for each shift of personnel each calendar quarter. The actual movement of prisoners to holding areas outside the building is not required. The facility daily log shall record the drills.

(3) Security inspection procedures shall be carefully defined and must cover every part of the detention facility. A general inspection of the facility will be made by the Officer-in-Charge or his representative at least once each week with daily checks of all cells, cell blocks and other quarters within the detention facility by the custodial personnel. Deficiencies must be noted on the detention facility log with a space for the person notified and the date and time of the corrective action taken.

(4) Each facility shall meet applicable fire safety and prevention standards promulgated by the State Fire Marshal for correctional facilities pursuant to Section 633.05(8), F.S.

(5) A key control system will be designed to record the location of all keys and locks in the detention facility. The system will include:

(a) A complete inventory of all keys;

(b) A written report of malfunctioning locks, broken or lost keys or other safety hazards that are key related;

(c) No prisoner shall be permitted to handle security keys at any time;

(d) A full set of emergency keys will be maintained in a secure and easily accessible location away from the detention facility for use in the event of fire or other emergency;

(e) The key control system should include a shadow board or other means of ensuring that custodial personnel would know immediately if a key were missing or had become inoperative.

(6) Prisoner counts shall be taken at least three times daily and recorded in the detention facility log. Additional count control requirements may be established by the Officer-in-Charge. At least one of the counts shall be a full "lock-down" count when all prisoners are required to be immobilized and visually inspected. All prisoners will be visually checked every hour between 11:00 p.m. and 6:00 a.m. unless involved in an outside program that precludes a personal check. Checks will be entered in the daily log.

(7) There will be a tool control plan to include the standard use of inventory shadow boards, etc., to ensure that tools of the facility are not used to the detriment of the security. Tools which are introduced to the facility by outside agencies such as county maintenance personnel shall be logged in and out through the sally port to likewise ensure that there is no wrongful use. Tools belonging to the facility should be etched and color coded for positive identification.

(8) Each facility will have a personnel identification system which will ensure that employees, visitors and prisoners are positively identified and that security measures are not bypassed. A badging system for larger detention facilities is recommended while a personnel identification system based on recognition normally is sufficient for a smaller facility.

(9) No person will enter a detention facility with firearms or ammunition except in emergencies and then only when authorized by the Officer-in-Charge. A weapons depository will be established near the pedestrian sally port. Under no circumstances will weapons or ammunition

be placed in a desk drawer or other container which has common access. A locked desk drawer is not sufficient security for a weapon and will not be used as a depository.

(10) Chemicals or other materials which could be incendiary or be a security hazard shall be kept in a secure area and used under the direct supervision of an employee. In no instance will such chemicals or other cleaning materials be stored or housed in the same area as edible food stuffs.

(11) Items from the food service area such as mace, nutmeg, raisins and other items which are used for the concoction of contraband beverages will be the joint responsibility of the food service supervisor and the chief of security. They will be considered a control item whose use will be governed by rule or regulation.

(12) Each floor of a detention housing facility will have a correctional officer or staff member present. The presence of two correctional officers is required when moving high risk prisoners in or out of a "cell block". A law enforcement officer/road deputy may be substituted for the correctional officer when necessary to this function. The provisions of this rule are to ensure the security and well-being of all employees and to prevent any assault, intimidation, sexual battery or other prisoner to prisoner aggressiveness.

(13) A secondary means of egress (fire exit) from each floor of a detention facility is required if prisoners are housed or would otherwise be present on that floor.

(14) Correctional officer posts shall be located to permit officers to hear and respond promptly to calls for help.

(15) Juveniles shall be supervised and monitored by an officer at all times during confinement.

(16) Prisoners shall be prohibited from supervising, controlling or exerting or assuming any authority over other prisoners.

(17) There shall be sufficient staff on duty so that at all times prisoners will be within hearing distance of a correctional officer. This may be accomplished by means of electronic surveillance.

Specific Authority 961.23 FS, Law Implemented 20.315, 961.23 FS, History—New 10-8-78, Amended 5-10-81.

33-8.12 Sanitation.

(1) Sanitation standards will conform to applicable standards of the Health Program Office of the Department of Health and Rehabilitative Services (F.A.C. 10D-7).

(2) Clutter shall be eliminated in all areas of the detention facility. Floors shall be swept and mopped daily and bars shall be cleaned. Walls shall be kept clean and free of objects which provide hiding places for vermin. Garbage and trash receptacles shall be emptied and cleaned daily. Books, magazines and newspapers will not be placed on or between bars. Toilets, urinals, sinks and basins shall be cleaned daily.

(3) Windows, sills and screens will be kept in good repair and clean.

(4) Prisoners shall not be allowed to store any perishable foods or other items which entice vermin or produce unsanitary conditions in their living area.

(5) Barber services will be made available to allow prisoners an opportunity to stay well-groomed.

(6) Prisoners shall be required to bathe at least twice weekly.

(7) A program to control vermin in all areas of the detention facility will be maintained on a scheduled basis.

(8) A preventative maintenance program will be established to include but not limited to: periodic

painting, repairs and other such maintenance as required.

(9) A formal sanitation inspection of the detention facility will be made by the Officer-in-Charge at least once each week and any substantial deficiencies will be recorded and corrected.

(10) Prisoners should be assigned housekeeping and janitorial duties; however, employees will be responsible for ensuring sanitation and housekeeping throughout the facility.

Specific Authority 961.23 FS, Law Implemented 20.315, 961.23 FS, History—New 10-8-78, Amended 5-10-81.

33-8.13 Order and Discipline.

(1) Rules and regulations governing the conduct of prisoners and visitors shall be posted and available to each prisoner and all visitors.

(2) The rules shall include prohibited acts and the disciplinary action that can or may be taken to ensure proper conduct. A suggested list of prohibited acts is contained in subsection (16) of this section. They shall also indicate the procedures for any disciplinary action and the method for the establishment and loss of privileges. Translation when appropriate will be provided. Action to be taken when there is a violation of rules by visitors shall be covered in the Policy and Procedure Directives.

(3) A disciplinary committee shall be established by the Officer-in-Charge consisting of at least three members with one member to be designated as the chairman. Any member of the disciplinary committee shall be disqualified if he has participated as an investigating officer or witness in the case against the prisoner or has personal knowledge of the incident.

(4) When an infraction of the rules is alleged to have occurred, a disciplinary report should be processed as required by the Officer-in-Charge. The employee who witnessed the alleged violation by the prisoner shall prepare the disciplinary report and it should include:

(a) Date of infraction;

(b) Place and time of infraction;

(c) Date of report;

(d) The specific charge, to include identification of the rule or statute violated;

(e) Details of the infraction;

(f) The actions taken by the employee;

(g) The names of all witnesses. (Where disclosure of witnesses would endanger the welfare of the prisoner or staff, the names of witnesses and the names of confidential informants must be maintained in a confidential file.)

(5) The Officer-in-Charge will cause an investigation to be made of the allegations of acts of prohibited conduct or violation of criminal statutes. The report of investigation will be forwarded to the disciplinary committee described in paragraph (3) above along with the original disciplinary report. (Normally the disciplinary report will include space for the required investigation and a separate form is not needed.)

(6) Prisoners who are accused of infractions and shall face disciplinary actions will be notified in writing at least 24 hours in advance of the charges against them and given that period to prepare their defense. They will acknowledge the receipt of the charges or there shall be a note in the record that the charges were delivered. The prisoner may waive the 24 hour notification in writing.

(7) A hearing shall be held as soon as possible after the alleged occurrence of the rule infraction or violation as circumstances permit, after allowing notification of the charges to the prisoner and the required 24 hours for his assimilation of the charges against him, but in no event

later than 72 hours after the incident excluding weekends and holidays. It shall be the requirement of the disciplinary committee through its chairman, to determine that the prisoner properly understands the charges against him, and the possible adverse actions that can result from the disciplinary committee hearing.

(8) When holding the disciplinary hearing, the chairman of the committee or the majority of the members shall have authority for the following actions:

(a) At their discretion they may call supporting documents or witnesses;

(b) At their discretion they may approve prisoner requests for assistance, witnesses requested by the prisoner or any evidence which he wishes to call or present;

(c) They shall offer a staff member to assist the prisoner during the hearing when the prisoner is apparently illiterate, has a language barrier or the complexity of the issues makes it unlikely that the prisoner would be able to properly represent himself. The disciplinary committee, through its chairman, should require the proper decorum throughout the disciplinary hearing.

(9) A prisoner shall have the following rights at a disciplinary hearing:

(a) A prisoner charged with rule violations shall be present at the hearing unless he waives in writing his right to attend the hearing or his behavior during the hearing justifies his removal from the hearing; the absence of a prisoner from a hearing and the reason therefore shall be documented;

(b) The prisoner shall receive a copy of the written decision;

(c) The time spent by a prisoner in disciplinary segregation shall be proportionate to the offense committed, but in no event shall be greater than 30 days;

(d) A prisoner shall have the right to appeal the decision of the hearing committee to the Officer-in-Charge;

(e) If the prisoner is found not guilty, the disciplinary report and all references to it shall be so indicated in his file;

(f) The decision shall be based solely upon the evidence presented at the hearing, and shall contain a statement of the reasons for the decision and the evidence relied upon.

(10) The prisoner or the disciplinary committee may request material witnesses.

(11) The results of the hearing (after the disciplinary committee has been in closed conference to discuss the evidence presented) shall be announced to the prisoner so that he knows what recommendations will be made to the Officer-in-Charge. The recommendations will be forwarded to the Officer-in-Charge for agreement and/or reduction and implementation. The Officer-in-Charge may not increase the disciplinary penalties suggested by the disciplinary committee.

(12) Discipline shall not be arbitrary nor capricious nor in the nature of retaliation or revenge. Corporal punishment of any kind is prohibited.

(13) Prisoners may be placed in administrative confinement for the purpose of ensuring immediate control and supervision when it is determined they constitute a threat to themselves, to others, or to the safety and security of the detention facility. Each such action shall be followed by an incident or disciplinary report and formal disciplinary proceedings, if applicable, as outlined in the above section. Prisoners in disciplinary

or administrative confinement should be checked at intervals not to exceed 72 hours by the medical staff and the time of his release will also be recorded and filed. Each prisoner in administrative confinement shall receive housing, food, clothing, medical care, exercise, visitation, showers and other services and privileges comparable to those available to the general population.

(14) Prisoners in administrative or disciplinary confinement shall be required to bathe twice weekly.

(15) The Officer-in-Charge or his designee shall see and talk to each prisoner in disciplinary or administrative confinement at least once each morning and once each afternoon. At each of these times, the prisoner's general condition and attitude shall be ascertained and noted in writing, signed and placed in the prisoner's file.

(16) The following is a list of acts/etc. from Appendix "B":

1. Assaulting any person;
2. Fighting with another person;
3. Threatening another with bodily harm, or any offense against his person or his property;
4. Extortion, blackmail, protection, demanding or receiving money or anything of value in return for protection against others to avoid bodily harm, or under threat of informing;
5. Engaging in sexual acts with others;
6. Making sexual proposals or threats to another;
7. Indecent exposure;
8. Escape;
9. Attempting or planning escape;
10. Wearing a disguise or mask;
11. Setting a fire;
12. Destroying, altering or damaging government property or the property of another person;
13. Stealing (theft);
14. Tampering with or blocking any locking device;
15. Adulteration of any food or drink;
16. Possession or introduction of any explosive or any ammunition;
17. Possession of contraband;
18. Misuse of authorized medication;
19. Loaning of property or anything of value for profit or increased return;
20. Possession of anything not authorized for retention or receipt by the prisoner and not issued to him through regular institutional channels;
21. Mutilating or altering issued clothing;
22. Rioting;
23. Encouraging others to riot;
24. Engaging in, or encouraging, a group demonstration;
25. Refusing to work;
26. Encouraging others to refuse to work or participating in work stoppage;
27. Refusing to obey an order of any staff member;
28. Unexcused absence from work, or any assignment;
29. Malingering, feigning an illness;
30. Failing to perform work as instructed by a supervisor;
31. Insolence toward a staff member;
32. Lying or providing a false statement to a staff member;
33. Conduct which disrupts or interferes with the security or orderly running of the institution;
34. Counterfeiting, forging, or unauthorized reproduction of any document, article, or identification, money, security, or official paper;
35. Participating in an unauthorized meeting or

gathering;

36. Being in an unauthorized area;

37. Failure to follow safety or sanitation regulations;

38. Using any equipment or machinery contrary to instructions or posted safety standards;

39. Failing to stand count;

40. Interfering with the taking of count;

41. Making intoxicants or being intoxicated;

42. Smoking where prohibited;

43. Using abusive or obscene language;

44. Gambling, preparing or conducting a gambling pool, possession of gambling paraphernalia;

45. Being unsanitary or untidy; failing to keep one's person and one's quarters in accordance with posted standards;

46. Tattooing or self-mutilation;

47. Unauthorized use of mail or telephone;

48. Unauthorized contacts with the public;

49. Correspondence or conduct with a visitor in violation of posted regulations;

50. Giving or offering any official or staff member a bribe, or anything of value;

51. Giving money or anything of value to, or accepting money or anything of value from another prisoner, a member of his family, or his friend.

Specific Authority 961.23 FS, Law Implemented 20.316, 961.07, 961.17, 961.18, 961.23 FS, History—New 10-8-76, Amended 5-10-81.

33-8.14 Contraband.

(1) No person shall introduce or cause to be introduced into or upon the property of a detention facility, or give to any prisoner, any article of contraband; or give to any prisoner anything which is not specifically authorized by written detention facility directive, or which has not been specifically authorized by the Officer-in-Charge. The Officer-in-Charge will establish and post a list of articles/items which prisoners may have in their possession. All other items in the possession of a prisoner shall be considered contraband.

Specific Authority 961.23 FS, Law Implemented 20.316, 961.22, 961.23 FS, History—New 10-8-76, Amended 5-10-81.

33-8.15 Minimum Construction Standards.

(1) Any county or municipal government contemplating extensive renovation or new construction shall, prior to the conceptual development, establish the purposes and objectives of the facility. Such decisions should be the result of resolution of a coalition of all criminal justice agencies and other interested parties. The Department should be contacted to provide, or assist in obtaining, technical assistance in determining what type renovation or new facility will best meet the needs of the users and local government entities.

(2) The Department of Corrections shall be contacted prior to any remodeling, renovation or development of new constructions plans. On receiving notification, the Department will issue planning and construction advice and instruction that will complement Chapter 33-8. The Department shall be contacted for a preliminary meeting among interested parties, including the Architect, during programming stages. When renovation is contemplated, that part of the facility which is to be renovated must come into complete compliance with the rules of this chapter.

(3) Two copies of plans and specifications shall be submitted to the Department for approval at the following stages:

- (a) At completion of schematic drawings.
- (b) At completion of preliminary drawings.

(c) At sixty percent completion of working drawings.

(d) At completion of working drawings and specifications.

(4) Bids shall not be received prior to receiving approval of the final documents from the Department.

(5) No addenda shall be made to such final documents except upon approval of the Department.

(6) Final inspection to determine compliance with the approved plans shall be made by the Department staff prior to acceptance by the owner.

(7) Detention facilities shall not be used prior to receiving certification of compliance with the Rules from the Department.

(8) The following requirements shall be adhered to in the planning for new construction, remodeling, or renovation:

(a) Submission of staffing guide. A staffing guide for the proposed facility must be submitted at the completion of preliminary drawings. The guide will be reviewed by the Department Jails Committee and will be rejected if it does not provide adequate staff to complement the proposed structure and ensure operational compliance with these standards. Approval of the final staffing will be included in the approval of the final plans for the facility.

(b) Any construction scheme shall employ the maximum possible visibility of prisoners and protection for the custodial officers.

(c) All exterior confinement walls shall be either six inches of poured, reinforced concrete, or four inches of precast concrete, or other material deemed secure by the Department, or eight inches of reinforced and filled concrete block. If concrete block is used it must be reinforced horizontally with masonry reinforcing sixteen inches on centers and vertically with #4 steel reinforcing rods sixteen inches on centers and all voids filled with 3,000 lb. concrete from top to bottom.

(d) All interior walls surrounding a secure area shall meet the requirements for exterior walls or be 1/4" tool resisting steel. Steel will not be approved in wet areas.

(e) Interior dividing walls within a secure area shall be a minimum of six inch concrete block reinforced horizontally and vertically sixteen inches on centers and filled with 3,000 lb. concrete.

(f) All walls within a reduced custody housing area may be standard masonry construction.

(g) Ceilings in a secure housing area shall be either poured or precast concrete. Poured in place concrete will be a minimum of 4" thick and reinforced. Precast concrete panels will be 5,000 lb. concrete and reinforced and be the manufacturer's standard thickness. One 1/2" cement plaster on ribbed metal lath will be acceptable when the structural frame of the building restricts ready escape routes.

(h) Single occupancy cells will be designed with a minimum of 63 sq. ft. of floor space. Cell configuration will be considered when plans are reviewed.

(i) Multiple occupancy cells will be designed with a minimum of 45 sq. ft. of floor space per prisoner in the sleeping area.

(j) Day room space shall be furnished providing a minimum of 35 sq. ft. per prisoner for all cell areas except disciplinary and/or administrative confinement.

(k) Open dormitory or reduced custody housing units shall be designed with a minimum of 80 sq. ft. of floor space per prisoner and this includes both sleeping and day room area.

(l) Single occupancy holding cells shall be designed with a minimum of 63 sq. ft. of floor space and contain a combination water closet and lavatory. Holding cells approved for up to 6 hours holding and not overnight shall have benches and no bunks. Multiple occupancy holding cells for up to 8 hours holding shall contain a minimum of 35 sq. ft. of floor space per prisoner. Holding cells approved for overnight holding shall meet all requirements of these rules for single or multiple occupancy.

(m) Impervious floors shall be used in all areas. Suitable floor drains shall be installed so as to control vandalism.

(n) Space shall be provided for an emergency generator to be selected by the designer.

(o) Security vestibules are required whenever an entrance or exit penetrates the cellblock perimeter or exterior confinement walls. Security vestibule doors must be sliding type and equipped with override switches to prevent both doors being opened at the same time. Security vestibule doors should be either electrically or mechanically operated from a control box located remotely from the vestibule.

(p) Facilities housing prisoners shall have a fenced, outside exercise area. Inside multi-purpose space shall be included for programs, visiting, recreation and common dining.

(q) All local detention facilities shall be designed to meet all codes and other regulatory agencies' requirements unless specifically exempted by this Department. These include the State Fire Marshal, Health Program Office of the Department of Health and Rehabilitative Services, the Department of Commerce and handicapped persons requirements for the public areas.

(r) Provision shall be made for a secure sensitive storage and for a safe storage for items such as chemicals and flammable material.

(9) All furnishings and equipment for the detention area shall be security type whether mentioned herein or not.

(a) Tool resisting steel of the latest industry standards must be used in all security devices subject to be cut in an escape attempt.

(b) Window sash of all types located in prisoners quarters must be of the security type. Awning type detention windows shall have a maximum of five (5) inches clear opening.

(c) Glass and glazing materials shall have the proper security values for the area in which they are used. Examples are, bullet resistive in exterior exposed control rooms, laminated glass in view panels, etc. Polycarbonate sheets that are easily scratched or burned will not be used as exposed surfaces.

(d) View panels in security areas shall be security type with security type glazing.

(e) Detention screens shall be placed over security windows located where prisoners may throw objects at the windows.

(f) Doors leading into secure housing area shall be either a minimum of 16 gauge sound deadened hollow metal with security glazed viewing panel or bar grille doors of not less than 7/8" steel bars, round or hexagonal, spaced 5" on centers. These doors must be at least 3 feet wide.

(g) Cell doors in a secure housing area shall be the sliding type and not less than 2'-6" wide. Doors for single occupancy can be either solid type of 12 gauge sound deadened hollow metal with a security glazed viewing

panel or bar grille type. Multiple occupancy or dormitory type cells must not have solid doors.

(h) Doors to rooms in a reduced custody area may be sound deadened hollow metal or solid core wood with viewing panels.

(10) Mechanical systems shall include the following:

(a) Heating, ventilating or air conditioning should be central systems of the designer's choice. Duct systems from prisoner areas, when large enough for escape attempts, must have substantially fastened cut off grilles inside the ductwork. Ductwork over a secure housing area should be avoided.

(b) Mechanical ventilation of all confinement areas not having adequate natural ventilation is mandatory.

(c) If natural ventilation is used, the window must have a free area equal to one tenth of the floor space and cross ventilation is required.

(d) In secure housing areas light fixtures shall be the secure tamperproof type with no electrical conduit accessible to prisoners. All switches shall have control room override.

(e) All lavatories and showers shall have either hot and cold water or tempered water.

(f) Single occupancy cells shall have a water closet and lavatory. Showers should be located in the day room area.

(g) Multiple occupancy or dormitory type units shall have water closets and lavatories in the sleeping area with showers in the day room.

(h) Fixture counts shall be one water closet, one mirror, one shower and two lavatories for each eight prisoners or fraction thereof. Stainless steel fixtures are recommended.

(i) Bunks and tables shall be security type substantially anchored.

(11) All facilities shall be architecturally designed so as to satisfy all the requirements of these rules.

(12) Individual Criteria.

The aforementioned rules and regulations have been established on construction standards to provide for the

needs of security, custody, control, programs and welfare of incarcerated prisoners held under local authority. The Department recommends all single occupancy type facilities, however, this is not a requirement. The requirements remains 1/3 single occupancy and 2/3 multiple occupancy. Because space requirements differ with types of prisoners, number of incarcerated, and the length of stay, design criteria for each facility will be approved on an individual basis by the Department working with the owner and architect. Final interpretation of any provision herein is within the discretion of the Secretary of the Department.

Specific Authority 951.23 FS. Law Implemented 20.315, 951.23 FS. History—New 10-8-76, Amended 5-10-81.

33-8.16 Notice of Proceedings and Proposed Rules.

(1) Prior notice of adoption, amendment or repeal of a rule shall be made available upon request to persons or parties directly affected.

(2) Prior to any notice of a rule adoption, amendment or repeal, a draft of the proposed rule shall be prepared and made available to the public at the Central Office of the Department of Offender Rehabilitation, located at 1311 Winewood Boulevard, Building No. 5, Tallahassee, Florida 32301. Office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday.

(3) Notice to those directly affected by a proposed rule shall be by:

(a) A copy of the proposed rule shall be forwarded to the Administrative Procedures Committee.

(b) Publication in the Florida Administrative Weekly at least 14 days prior to any proposed hearing.

(c) Posting notice of the intended action on the bulletin board in the Central Office in Tallahassee.

(d) Transmitting by memorandum a notice of the intended action to the Florida Sheriffs Association, Florida Polic Chiefs Association, Inc., Florida League of County Commissioners, the Florida League of Cities and Florida A.C.L.U., (American Civil Liberties Union).

Specific Authority 20.315, 120.54(1)(a) FS. Law Implemented 120.54(1)(a) FS. History—New 10-8-76.

APPENDIX "A"

PER SPECIFIED UNIT OF FLOOR SPACE

FACTORING PROCESS

This factoring process will apply to detention facilities constructed prior to October 8, 1976.

Recognizing that these facilities do not comply with current space requirements, this process has been developed to allow these facilities to house prisoners in smaller quarters, provided they are allowed sufficient out-of-cell time to equal the requirements of this process.

Prisoners shall be afforded a square footage factor of 63 in cells of any type (22 of which must be sleeping space) and a square footage factor of 80 in dormitories, sleeping quarters, or reduced custody housing area (25 of which must be sleeping space).

As used in this process cell refers to any type cell as defined in 33-8.01 paragraphs (13) & (14) of these rules.

Attachment 1 to this appendix (Factoring Sheet #1) is a work sheet for determining the square foot factor for each cell in a detention facility. The work sheet also provides a column for the accumulation of square feet factors based on access to day room space. An additional column allows the computation of square feet factors based on access to common areas and other "out-of-cell" times. The final column of the work sheet provides space for setting the capacity of the designated cell after consideration of the consolidated square foot factor.

Attachment 2 to this appendix (Factoring Sheet #2) is a work sheet for determining square footage factors for each cell based on programmed out-of-cell time.

Density (capacity) for each cell is determined by consideration of all of the above square footage factors. It results in setting the number of persons who may be placed in each cell and only under the conditions described by the completed factoring process. Reduction in access to the day room or other out-of-cell programs will negate these determinations and is prohibited without the expressed permission of the Secretary.

Programmed out-of-cell time will be factored on the following schedule based on reasonable activities in a detention facility.

A square foot factor of 3 will be allowed for each hour of programmed out-of-cell time per week not to exceed the maximum allowable as described below.

Sq. F.F. = Square Foot Factor
N.T.E. = Not To Exceed

Visiting (out-of-cell)	NTE 27 (9 hours per week)
Outside Recreation/Exercise	NTE 21 (1 hour per day)
Inside Recreation/Exercise/Programs	NTE 21 (1 hour per day)
Common Dining	NTE 21 (1 hour per day)
Work	NTE 41 (Maximum allowable under process)
Total	NTE 41 (Maximum allowable under process)

The limited factors (N.T.E.) allowed for out-of-cell time prevent the process from circumventing the minimum square footage requirement in cells. The maximum factor of 3, in most instances, will require access to at least two programs for those cells containing minimum square footage. Programs providing for out-of-cell factors shall be included in facility policies and procedures and accurate records maintained on required forms as provided by the Department.

FACTURING SHEET

DAY ROOM ACCESS FACTORS

- 1-unlimited access (12 hours or more)
- 2-limited to 6 hours or less
- 3-limited to 3 hours or less
- 4-limited to 1 hour or less

SHEET # _____

NAME OF FACILITY _____

CELL DESIGNATION	CELL SQUARE FOOTAGE	÷ (22 or 45) = MAX. CAP.	x	OUT OF CELL FACTOR FROM PAGE 2	=	TOTAL S.F.F.	+	DAYROOM SQUARE FOOTAGE ÷ ACCESS FACTOR ÷ CELLS SERVED	+	CELL SQUARE FOOTAGE	=	TOTAL	÷	63 or 80	=	CAPACITY
_____	_____	÷ (22 or 45) = _____	x	_____	=	_____	+	_____	+	_____	=	_____	÷	63 or 80	=	_____
_____	_____	÷ (22 or 45) = _____	x	_____	=	_____	+	_____	+	_____	=	_____	÷	63 or 80	=	_____
_____	_____	÷ (22 or 45) = _____	x	_____	=	_____	+	_____	=	_____	=	_____	÷	63 or 80	=	_____
_____	_____	÷ (22 or 45) = _____	x	_____	=	_____	+	_____	=	_____	=	_____	÷	63 or 80	=	_____
_____	_____	÷ (22 or 45) = _____	x	_____	=	_____	+	_____	=	_____	=	_____	÷	63 or 80	=	_____
_____	_____	÷ (22 or 45) = _____	x	_____	=	_____	+	_____	=	_____	=	_____	÷	63 or 80	=	_____
_____	_____	÷ (22 or 45) = _____	x	_____	=	_____	+	_____	=	_____	=	_____	÷	63 or 80	=	_____
_____	_____	÷ (22 or 45) = _____	x	_____	=	_____	x	_____	=	_____	=	_____	÷	63 or 80	=	_____
_____	_____	÷ (22 or 45) = _____	x	_____	=	_____	x	_____	=	_____	=	_____	÷	63 or 80	=	_____

NOTES: _____

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NOTES: Sq. F.F. = Square Foot Factor; N.T.E. = Not To Exceed
The maximum factor of 3, in most instances, will require
access to at least two programs for those cells containing
minimum square footage. Programs providing for out-of-cell
factors shall be included in facility policies and procedures
and accurate records maintained on required forms as provided
by the Department.

NAME OF FACILITY _____

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1941123:

ATTACHMENT #3

DEPARTMENT OF CORRECTIONS

DAILY RECORD OF PROGRAMMED OUT-OF-CELL TIME

SUPERVISING OFFICER _____

DATE _____

[illegible]

END