

CR 90-69

CERTIFICATE

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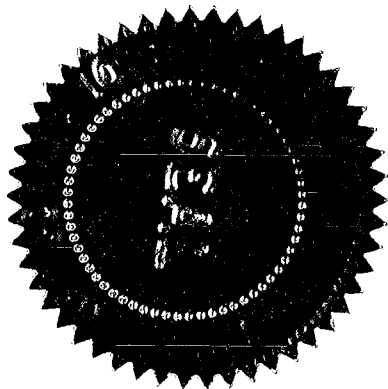
OCT 12 1990

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STATE OF WISCONSIN )  
 ) SS  
DEPARTMENT OF CORRECTIONS )

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

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



SEAL:

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

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

12-1-90

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ORDER OF THE  
DEPARTMENT OF CORRECTIONS  
AMENDING, REPEALING AND CREATING RULES

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To amend DOC 349.08(1) (intro.) and (b) and to repeal and recreate DOC 349.07, 349.11(4)(a), 349.13 and 349.15, relating to the establishment of minimum standards for the design, construction and security of municipal lockup facilities and for maintaining sanitary and safe conditions in lockups.

Analysis Prepared by the Department of Corrections

This rule modifies rules which establish minimum standards for the design, construction and security of lockups, and for sanitary and safe conditions in those facilities.

This rule makes the following modifications: 1) removal of the requirement for a shelf table and seat in cells of existing lockups; 2) removal of the requirement for showers and bathtubs in existing lockups; 3) changes in the requirements for locking devices in existing lockups; 4) removal of the requirement of providing toilet articles, clothing and blankets to inmates who are suicidal or have an identified special problem, if the inmate's safety would be jeopardized by providing those items; 5) removal of the requirement to provide shaving materials upon request to inmates in lockups; 6) changes in the reporting requirements for deaths and attempted suicides; 7) removal of the standards and reporting requirements for the use of force; and 8) expansion of the ability of lockup administrators to obtain exceptions to the rule requirements. The current rule allows exceptions to only the Physical Environment section. This rule allows variances to the entire chapter except requirements for cell dimensions, single occupancy of cells and any requirements specifically imposed by Wisconsin Statutes. In order to obtain a variance the lockup administrator has to demonstrate that strict enforcement of the rule would result in unreasonable hardship for administration of the lockup and that the variance would provide equivalent or better protection for the health, safety, welfare and rights of inmates and the public.

The Department's authority to amend, repeal and create these rules is found in ss. 301.03(5), 301.36, 301.37 and 227.11(2), Stats. The rules interpret ss. 301.03(5), 301.36, 301.37, 302.30 to 302.45, 61.24, and 62.09(13) Stats., as follows:

SECTION 1. DOC 349.07 is repealed and recreated to read:

DOC 349.07 PHYSICAL ENVIRONMENT OF EXISTING LOCKUPS. (1) This section applies to lockups that were constructed before February 1, 1990 and have not been substantially remodeled on or after February 1, 1990.

(2) Each cell shall be designed and used for single occupancy only.

(3) Each cell shall be at least 5-1/2 feet wide and 7-1/2 feet long and provide 400 cubic feet of air space.

(4) Each cell shall contain a rigidly constructed metal bed with the frame bracketed to the wall or bolted to the floor or a bed built in masonry construction of a similar strength, a prison-type wash bowl and a prison-type toilet. The supply of water shall be adequate.

(5) All windows accessible to prisoners shall be covered with a heavy gauge screen of 1/4" mesh or less or a detention screen to prevent passage of contraband.

(6) An approved security door with a security glass observation opening shall be provided for each entrance into the secure detention area of a lockup facility. The door may not be unlocked except to admit authorized persons and inmates.

(7) A modern detention strength locking device shall be installed on each security door.

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

SECTION 2. DOC 349.08(1) (intro.) and (b) are amended to read:

DOC 349.08 SANITATION AND HYGIENE. (1) Except when an inmate's safety would be jeopardized and the inmate has been identified as having a special problem under s.

DOC 349.12, The the lockup administrator shall provide:

(b) Upon request, toilet articles sufficient for the maintenance of inmate cleanliness and hygiene, including toothpaste, a toothbrush, a comb, and toilet paper, ~~shaving materials and basic feminine hygiene materials shall be provided to inmates upon request~~ and basic feminine hygiene materials. There shall be no common use of towels, toothbrushes, combs, shaving materials or feminine hygiene materials;

SECTION 3. DOC 349.11(4)(a) is repealed and recreated to read:

DOC 349.11(4)(a) The lockup administrator shall notify the division's regional detention facilities specialist within 48 hours after any of the following events occur:

1. An inmate dies;
2. An inmate attempts suicide and is admitted to a hospital, not including an emergency room admission or admission for detention and evaluation under ch. 51, Stats., or is provided medical treatment for a life-threatening injury incurred as a result of the suicide attempt;
3. An inmate has received an injury and is hospitalized due to the injury;
4. An inmate escapes or attempts to escape from confinement; or

5. There is any significant damage to the lockup affecting the safety or security of the lockup.

SECTION 4. DOC 349.13 is repealed and recreated to read:

DOC 349.13 USE OF FORCE. Corporal punishment of inmates is forbidden.

SECTION 5. DOC 349.15 is repealed and recreated to read:

DOC 349.15 EXCEPTIONS. (1) The division administrator or designee may grant a variance to a requirement found in this chapter, except that no variance may be granted for the requirement of single occupancy cells under s. DOC 349.06(3)(b) or 349.07(2), for the minimum cell space requirement under s. DOC 349.06(3)(c) or 349.07(3) or for any requirement specifically imposed by Wisconsin Statutes.

(2) In order to obtain a variance, the lockup administrator shall demonstrate in writing to the division's regional detention facilities specialist that strict enforcement of the rule would result in unreasonable hardship for administration of the lockup and that the variance would provide equivalent or better protection for the health, safety, welfare and rights of inmates and the public.

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

(4) Violation of any condition under which a variance is granted constitutes a violation of this chapter. Upon finding that there has been a violation of a

condition of a variance, the department may revoke the variance and strictly enforce the rule.

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

Wisconsin Department of Corrections

By: Stephen E. Bablitch  
Stephen E. Bablitch  
Secretary

Dated:

*October 12, 1990*

Seal:

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