

1/31/94

STATE OF MINNESOTA
DEPARTMENT OF CORRECTIONS
COMMUNITY SERVICES DIVISION

In the Matter of Proposed Rules
of the Department of Corrections
Relating to 24 Hour and 8 Day
Juvenile Temporary Holdover Facilities
Chapter 2950

**STATEMENT OF NEED
AND REASONABLENESS**

GENERAL STATEMENT

The primary purpose of the rules are to govern the development and operational facets of temporary holdover facilities. These facilities are designed to temporarily detain delinquent and non-delinquent youth awaiting juvenile court action. The intent of the rules, if substantially followed by a provider, will assure the general safety, health and welfare of both staff and residents who work and reside in the facility.

These rules were developed by the Juvenile Detention Services Unit with input from various facility operators, sheriffs, jail administrators and jail programmers. In addition to these individuals, a Notice of Solicitation of Outside Information or Opinions was published in the September 13, 1993 edition of the State Register. Finally, all existing rules governing various detention facilities previously promulgated by the Department of Corrections were consulted.

STATUTORY AUTHORITY

Minnesota Statutes, section 241.0221, Subd. 7 provides that the Commissioner of Corrections shall inspect each local detention facility once a year to ensure continued compliance with minimum standards and requirements established by the commissioner under Minnesota Statutes, section 241.0221, Subd. 4.

Minnesota Statutes, section 241.021, Subdivision 1, provides that the commissioner adopt rules establishing minimum standards for all correctional facilities throughout the state whether public or private, established and operated for the detention and confinement of persons detained or confined in them according to law except to the extent that they are inspected or licensed by other state regulating agencies.

To this end the minimum standards set forth in this rule were established for the inspection of all 24 hour and 8 day juvenile temporary holdover facilities by the Commissioner of Corrections or the commissioner's designee.

SMALL BUSINESS CONSIDERATIONS

Minnesota Statutes, section 14.115, requires the Department of Corrections to consider the effect on small business when it adopts rules. In the estimation of the Department of Corrections, Minnesota Statutes, section 14.115, does not apply because the rules have no effect on small business.

DEPARTMENTAL CHARGES IMPOSED BY THE RULES

Minnesota Statutes, section 16A.1285, does not apply because the rules do not establish or adjust charges for goods and services, licenses, or regulations.

FISCAL IMPACT

Minnesota Statutes, section 14.11, Subdivision 1, does not apply because adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption of the rules.

AGRICULTURAL LAND IMPACT

Minnesota Statutes, section 14.11, Subd. 2, does not apply because adoption of these rules will not have an impact on agricultural land.

OTHER STATUTORY REQUIREMENTS

Minnesota Statutes, section 115.43, Subdivision 1, and 116.07, Subd. 6, regarding pollution control and Minnesota Statutes, section 144A.29, Subd. 4, regarding nursing homes are not applicable to these rules.

WITNESSES

If these rules go to a public hearing it is anticipated that there will be no witnesses called to testify on behalf of the agency.

RULE BY RULE ANALYSIS

2950.0100 DEFINITIONS.

This part defines words and phrases that have meanings specific to Chapter 2950 that otherwise may have several possible interpretations or that need exact definitions to be consistent with statute or other department rules.

Subpart 1. Scope. This provision is necessary to clarify that the definitions apply to the entire sequence of Chapter 2945. This subpart and the definitions that follow in subpart 2 to 34 are necessary to inform administrators of temporary holdover facilities of the meaning of the specific words used in this rule.

Subp. 2. Administrator. This definition is necessary to clarify a term used in the rule. Administrator is the one individual who is responsible for the administration and operation of the juvenile temporary holdover facility. It is reasonable to require that one person be identified as in charge and the contact person.

Subp. 3. Applicant. This definition is necessary to clarify a term used in the rule. Applicant is the person(s), agency, or organization applying for a license or renewal of a license under this rule.

Subp. 4. Approved capacity. This definition is necessary to clarify a term in the rule. Approved capacity means the maximum number of residents that may be held in a facility based on the standards set forth in Chapter 2945. It is reasonable to set a maximum resident capacity for each facility to ensure that residents are not placed in a facility that is overcrowded.

Subp. 5. Attendant. This definition is necessary to clarify a term in the rule. Attendant means the person(s) who supervise(s) and provide care to the youth being held at the temporary holdover facility.

Subp. 6. Commissioner. This definition is necessary to clarify a term used in the rule. "Commissioner" means the Minnesota Department of Corrections. It is reasonable to shorten the term "Commissioner of the Minnesota Department of Corrections" to "Commissioner" to shorten the length of the rule.

Subp. 7. Communicable disease. This definition is necessary to clarify a term used in the rule. Communicable disease means a disease or condition by which an infectious agent may pass or be carried from the body or one person to the body of another. It is reasonable to require these facilities to take extra precautions against the spread of communicable diseases due to the nature of confinement within a temporary holdover facility.

Subp. 8. Contraband. This definition is necessary to clarify a term used in the rule. Contraband means those items defined by policy of the facility administration that are prohibited on the physical premises. This is reasonable in order to ensure the safety and security of the facility.

Subp. 9. Controlled Substance. This definition is necessary to clarify a term used in the rule. Controlled substance means those drugs that must be accounted for when handled or dispensed within the facility. Those drugs are defined in Schedules I to V of Minnesota Statutes, section 152.02.

Subp. 10. Department of Corrections.; department. This definition is necessary to clarify a term used in the rule. "Department of Corrections" or "department" shall mean the Minnesota Department of Corrections. It is reasonable to shorten the term "Minnesota Department of Corrections" or "Department of Corrections" to "department" in order to shorten the rule.

Subp. 11. Directory. This definition is necessary to clarify a term used in the rule. Directory means that any standard in the rule which is not identified as mandatory is a directory standard. It is reasonable to direct the facility to comply with these standards to ensure the security and safety of the residents to the greatest extent.

Subp. 12. Eight-day temporary holdover facility. This definition is necessary to clarify a term used in the rule. An eight day temporary holdover facility is a physically restricting and unrestricting facility of not more than eight beds, two rooms of which must be capable of being physically restricting. Juveniles may be detained in such a facility for no longer than 8 days, excluding weekends and holidays.

Subp. 13. Emergency. This definition is necessary to clarify a term used in the rule. Emergency shall mean any incident or activity which disrupts the normal facility operations. Examples of such are included in this definition.

Subp. 14. Inspection. This definition is necessary to clarify a term used in the rule. Inspection is the actual assessment or evaluation of the juvenile temporary holdover facility by the commissioner or his designee.

Subp. 15. Juvenile. This definition is necessary to clarify a term used in the rule. A juvenile is any person under 18 years old.

Subp. 16. Legend drug. This definition is necessary to clarify a term used in the rule. A legend drug is a drug that is required by the Federal Food, Drug and Cosmetic Act to bear the following, "Caution: Federal law prohibits dispensing without prescription."

Subp. 17. License. This definition is necessary to clarify a term used in the rule. License means a certificate issued by the commissioner authorizing the designee to provide specified services for a period of one year.

Subp. 18. Local detention facilities. This definition is necessary to clarify a term used in the rule. A local facility is any correctional facility in a county or multiple jurisdiction used for the detention and confinement or a juvenile.

Subp. 19. Mandatory. This definition is necessary to clarify a term used in the rule. Mandatory means that any standard in the rule which is identified as mandatory must be complied with by the facility or waived by the commissioner in order for the facility to be licensed and continue to operate.

Subp. 20. Medicine. This definition is necessary to clarify a term used in the rule. A medicine is any agent whether of a legend or nonlegend nature that may be given to a resident to cure, prevent, treat or mitigate a disease.

Subp. 21. Policy. This definition is necessary to clarify a term used in the rule. A policy is a written statement which outlines the stated course or method of action which guides and determines present and future decisions and actions within the facility.

Subp. 22. Procedure. This definition is necessary to clarify a term used in the rule. A procedure is the method by which the established policy of the temporary holdover facility is implemented.

Subp. 23. Renewal license. This definition is necessary to clarify a term used in the rule. A renewal license means a license issued for a period subsequent to the period for which the license was initially issued.

Subp. 24. Resident. This definition is necessary to clarify a term used in the rule. Resident means an individual detained or confined in the temporary holdover facility.

Subp. 25. Revocation of license. This definition is necessary to clarify a term used in the rule. Revocation of license means that the designee shall no longer be authorized to provide the specified services.

Subp. 26. Rule. This definition is necessary to clarify a term used in the rule. The rule is the means of general applicability and future effect adopted to implement or make specific the law enforced or administered, or to govern operation or procedure. The definition is reasonable because it is consistent with Minnesota Statutes, section 14.02, subdivision 4.

Subp. 27. Substantially conform. This definition is necessary to clarify a term used in the rule. Substantially conform means that a juvenile temporary holdover facility when inspected must comply with all standards labeled as mandatory or 100% of that category. Additionally, the facility must comply with 70% of all standards not identified as mandatory contained within the rule at the time of the inspection.

Subp. 28. Suspension of license. This definition is necessary to clarify a term used in the rule. Suspension of license means that the designee is not allowed to provide specified services until the facility is found to be in substantial compliance with licensing requirements.

Subp. 29. Temporary holdover facility. This definition is necessary to clarify a term used in the rule. A "temporary holdover facility" shall mean a facility licensed for either 24 hours excluding weekends and holidays or an eight day classification, excluding weekends and holidays.

Subp. 30. Twenty four hour temporary holdover facility. This definition is necessary to clarify a term used in the rule. A 24 hour temporary holdover facility is a secure and/or non-secure facility which can detain juveniles for up to 24 hours excluding weekends and holidays.

Subp. 31. Undue hardship. This definition is necessary to clarify a term used in the rule. An undue hardship means the financial costs to a facility in order to comply with a particular standard is not warranted when weighted against the benefits derived in the estimation of the commissioner or his designee.

Subp. 32. Variance. This definition is necessary to clarify a term used in the rule. A variance is written permission from the commissioner for the facility to temporarily depart from a specific rule for a specified period of time. The definition is reasonable because it is consistent with Minnesota Rule 2910.0400, Subpart 1.

PROCEDURES FOR LICENSING

2950.0110 INTRODUCTION.

This section is needed to clarify the statutory basis for the development of the proposed rules, as well as the statutory authority to inspect such facilities on an annual basis. It is reasonable to assume that the proposed standard will meet these requirements.

2950.0120 INTENDED USE NONCONFORMANCE; LIMITATIONS OF RULES.

Subpart 1. Intended use. Juvenile temporary holdover facilities serve different functions in the state. Length of time a resident may be held varies from several hours to eight days. It is necessary to develop various levels of classifications in order to adequately address each facility. It is reasonable to recognize that particular standards for one facility may not be appropriate for another. It is necessary to ensure that a facility is used only for the purpose for which it has been approved. It is

necessary to clarify the mandatory implications of the terms "shall" or "must" when used in a directory standard. It is reasonable to use such terms to direct the facility with regard to the importance of these standards even if they are not mandatory.

Subp. 2. Federal jail removal mandates. It is necessary and reasonable to expect that all temporary holdover facilities meet federal mandates to ensure that the State does not lose federal juvenile justice funds.

Subp. 3. Nonconformance, unsafe, unsanitary, or illegal conditions. It is necessary to identify the statutes and actions available to the Commissioner if facilities do not substantially conform to the rule. It is reasonable to create a mechanism for discontinuing use of the facility.

Subp. 4. Appeal procedure for denial, suspension and revocation of license. This subpart is necessary so that administrators of facilities understand that they have the right to appeal the decision of the commissioner to revoke or suspend their license. It is reasonable to create a mechanism for administrators to have a course of action available if they disagree with the original findings.

2950.0130 ORIGINAL APPLICATION FOR LICENSE (MANDATORY).

Subpart 1. General. This subpart is needed to establish a procedure whereby a county or group of counties may obtain a license from the Minnesota Department of Corrections to operate a juvenile temporary holdover facility. It is reasonable to expect that all facilities follow similar and consistent steps in obtaining a license.

Subp. 2. Material filed with application. This subpart is need to identify the materials necessary to file with a juvenile temporary holdover facility application. It is reasonable to expect that all facilities file similar documents to ensure consistency among such facilities.

Item A is necessary and reasonable to identify the applicant.

Item B is necessary to assess if the physical plant meets the requirements of the rule. It is reasonable to expect that in order for a facility to be licensed as a temporary holdover facility, that the physical plant meets the requirements of the rule.

Item C is necessary to ensure that residents and staff are in a safe environment while in the facility and the facility meets all local laws and ordinances. It is reasonable for staff and residents to be able to expect to be in a safe environment.

2950.0135 NOTICE TO APPLICANT OF COMMISSIONER'S ACTION.

This rule is necessary and reasonable to ensure that the applicant has a license to operate a juvenile temporary holdover facility and is notified of the terms of the license.

2950.0140 RENEWAL OF LICENSE.

Subpart 1. General. This subpart is needed to establish a procedure whereby a county or group of counties may renew a license to operate a juvenile temporary holdover facility in subsequent years after it is originally licensed. It is reasonable to expect that all facilities follow similar and consistent steps in renewing a license.

Subp. 2. Materials filed with application. This subpart is necessary and reasonable to identify the materials necessary to file with a juvenile temporary holdover facility renewal application.

Item A is necessary and reasonable to determine if the facility meets the requirement of the rule to obtain a license.

Item B is necessary and reasonable to assess if the physical plant

meets the requirements of the rule.

Item C is necessary and reasonable to ensure that residents and staff are in a safe environment while in the facility and the facility meets all local laws and ordinances.

2950.0150. CONDITIONS OF LICENSE.

Subpart 1. General. This subpart is necessary and reasonable to ensure that the issued license is not transferred to another physical plant or that modifications to the existing physical plant do not affect the terms of license.

Item A is necessary and reasonable to set requirements for obtaining a new license if the facility's program changes.

Item B is necessary and reasonable to see requirements for obtaining a new license if the physical plant is modified or the applicant has relocated the facility.

Subp. 2. Restrictions on capacity. This subpart is necessary to ensure that overcrowding does not occur in the juvenile temporary holdover facility. It is reasonable to ensure that residents are not detained in an unsafe environment.

Subp. 3. No occupancy before licensing. This subpart is necessary and reasonable the facility does not detain juveniles until it meets the requirement of the rule.

Subp. 4. Issuance of licenses. This subpart is necessary and reasonable a facility is not licensed until it meets the minimum requirements of this rule.

2950.0160 VARIANCES AND SUSPENSION OF REQUIREMENTS.

Subpart 1. Variances; general. This subpart is necessary to identify information that must be included in a request for a

variance from a rule requirements. This subpart is reasonable because it is consistent with the variance requirements under Minnesota Rule 2910.0400, Subpart 1, and Minnesota Statute 14.03, subpart 4. Items A through E are necessary to establish a uniform procedure for justifying a variance request and each of these items have to be met.

Item A is reasonable to prevent the facility from having to take unnecessary steps if the facility can still maintain a safe and secure environment.

Item B is reasonable to ensure the safe and secure environment with the variance.

Item C is reasonable to ensure the variance does not prevent the maintenance of a safe and secure environment.

Item D is reasonable to ensure a proactive stance on the part of the facility.

Item E is reasonable to ensure that the facility comes as close to complete compliance with the rule as possible.

Subp. 2. Emergencies. This subpart is necessary to provide an approved vehicle by which any rule may be suspended under emergency conditions. The Department is fully aware of the unusual, unique, and difficult circumstances that facility operators are on occasion confronted with in the operation of facilities governed by these proposed rules. Notification of the Commissioner in such instances and approval for extended suspension of a rule is reasonable to ensure against arbitrary, capricious and unreasonable rule suspension.

Subp. 3. Notification of emergencies (mandatory). This subpart is needed to ensure that those people responsible for the operation of

and monitoring of the facility are aware of the fact that one or more of its regulations have been suspended and the reasons why. It is reasonable to require this notification within 72 hours so that they could possibly respond to inquiries.

Subp. 4. Extension of emergency. This subpart is necessary to ensure that a facility administrator does not arbitrarily extend the suspension of any rule. In some cases it may be reasonable for the commissioner to grant a variance to extend the suspension.

2950.0200 MINIMUM PHYSICAL PLANT, FURNISHINGS AND
LOCATION STANDARDS FOR TEMPORARY HOLDOVER FACILITIES FOR
24-HOUR AND EIGHT DAY.

Subpart 1. Non-secure 24 hour temporary holdover facilities. This subpart is necessary to ensure that residents' constitutional rights to privacy are met and the facility provides a safe and secure environment for both residents and staff. It is reasonable for residents to expect that their right to privacy is protected as well as their right to a safe and secure environment.

Item A is necessary and reasonable to ensure that the temporary holdover facility is located outside of a jail facility but has 24 hour law enforcement or emergency services staff available who will respond to emergency situations.

Item B is necessary and reasonable to ensure that adequate space is provided for both juveniles and staff confined within the facility.

Item C is necessary and reasonable to ensure that adequate furniture is provided to allow residents to sit and sleep and for staff to sit.

Item D is necessary and reasonable to ensure that bathroom and shower facilities are available to residents at a location which

does not jeopardize the safety and security of residents or staff.

Item E is necessary and reasonable to ensure that equipment is available to summon backup emergency personnel.

Item F is necessary and reasonable to meet the nutritional need of youth detained in the facility.

Item G is necessary and reasonable to ensure that adequate lighting, ventilation and temperature is provided.

Item H is necessary and reasonable to ensure that the privacy rights of residents are protected.

Item I is necessary and reasonable to ensure that the temporary holdover facility has sufficient furnishing to provide residents with basic necessities and to ensure that constitutional rights are protected.

Item J is necessary and reasonable to ensure the safety of both staff and residents detained within the facility. (Mandatory)

Item K is necessary and reasonable to ensure that residents can not obtain hazardous materials while in the facility.

Subp. 2. Secure 24 hour temporary holdover facilities. This subpart is necessary to ensure that residents' constitutional rights to privacy are maintained and is reasonable to ensure that the facility provides a safe and secure environment for both residents and staff.

Item A is necessary and reasonable to ensure that residents can not escape from the facility when in need of toilet facilities.

Item B is necessary and reasonable to ensure that fixtures and

furnishings can not be used as weapons against staff.

Item C is necessary and reasonable to ensure the privacy rights of residents but provide for the safety and security of both staff and residents.

Item D is necessary and reasonable to ensure that adequate space is provided for the juvenile. (Mandatory)

Subp. 3. Eight day temporary holdover facilities (secure and non-secure). This subpart is necessary to ensure that residents' constitutional rights are maintained, and is reasonable to ensure that the facility provides a safe and secure environment for both residents and staff.

Item A is necessary and reasonable to meet the intent of Minnesota State Statute.

Item B is necessary and reasonable to ensure that juveniles cannot be victimized by other juveniles in their rooms, to ensure that adequate space is provided for detained juveniles, that fixtures and furnishings can not be used as weapons against staff, that residents in secure detention have access to activity areas and that such juveniles have the ability for continuous communication with staff when in need of assistance. Visual monitoring is necessary in areas not directly observable by staff because it is reasonable to expect that juveniles will be constantly observed to protect their safety while in a facility.

Item C is necessary and reasonable to ensure that adequate space is provided for both juveniles and staff detained within the facility.

Item D is necessary and reasonable to ensure that there is a source of natural lighting within the facility.

Item E is necessary and reasonable to ensure that adequate space is available to meet the daily needs of the residents.

Item F is necessary and reasonable to ensure that residents' privacy rights are maintained.

Item G is necessary and reasonable to protect the privacy rights of residents.

Item H is necessary and reasonable to ensure that bathroom and shower facilities are available to residents and that residents in secure detention are separated from residents in non-secure detention.

Item I is necessary and reasonable to ensure that the temporary holdover facility has sufficient furnishings to provide residents with basic necessities and to ensure that their constitutional rights are protected.

Item J is necessary and reasonable to ensure that the nutritional needs of residents are met.

Item K is necessary and reasonable to ensure that residents receive adequate exercise while detained.

Item L is necessary and reasonable to ensure the safety and health of both residents and staff detained within the facility.
(Mandatory)

PERSONNEL STANDARDS

2950.0300 STAFFING REQUIREMENTS FOR 24-HOUR AND EIGHT DAY
TEMPORARY HOLDOVER FACILITIES.

Subpart 1. Staffing plan. This subpart is necessary to ensure that each facility is staffed with enough employees to perform all duties and discharge all responsibilities. This is reasonable to ensure the safety and security for all residents detained there.

Subp. 2. Minimum staffing requirements for temporary holdover facility. This subpart is necessary to ensure that statutory provisions for staff presence are met, that the facility is never left in the care of a staff person not capable of responding to an emergency, that residents' privacy rights are protected, and that the facility is never left unsupervised. This is reasonable so that the safety of residents detained in the facility is protected.

Item A is necessary to ensure that staff presence is available and that someone is capable of responding to an emergency. This is reasonable so that the safety of anyone detained is protected.

Item B is necessary to protect each resident's right to privacy. This is reasonable because it is consistent with Minnesota Statute 642.08, which prohibits the detention of a person of one sex without the presence of a staff member of the same sex, and consistent with Minnesota Rule 2910.0900, Subp. 5.

Item C is necessary to ensure that sufficient staff are available to respond to the needs of detained residents and respond to emergencies in an efficient, effective manner. This is reasonable so that the safety of residents detained in the facility is protected.

Item D is necessary to ensure that residents are continuously supervised while detained in a temporary holdover facility. This is reasonable to provide a safe and secure environment of the residents.

Item E is necessary to ensure that residents are supervised on a continuous basis. This is reasonable in that juveniles who are placed in detention are generally in a crisis state and need to be protected from themselves as well as others.

Item F is necessary to ensure that juveniles are not left in a secure 24-hour temporary holdover facility without supervision. It is reasonable to expect staff to document resident's behavior every

30 minutes to prevent successful litigation against the facility in case of a lawsuit for "failure to protect".

2950.0310 STAFF RECRUITMENT.

Subpart 1. Age requirement (mandatory). This subpart is necessary to ensure that staff supervising residents are not peers in the same general population. This is reasonable, since in many temporary holdover facilities, only one staff will be present to supervise 1-4 juveniles.

Subp. 2. Discrimination prohibited (mandatory). This subpart is necessary to ensure that all job qualifications and hiring policies should be examined with the assistance of equal employment specialists from outside agencies. Employment qualifications should be demonstrably related to the skills required to perform the work. It is reasonable to expect that tests not be culturally bias.

Subp. 3. Staff selection. This subpart is necessary and reasonable to permit selection from a larger pool of applicants, and, and it is reasonable ensure that artificial barriers to employment should be removed.

Subp. 4. Criminal history check (mandatory). This subpart is necessary to ensure that the safety and welfare of residents are protected. It is reasonable for residents to expect that their safety and welfare will be protected.

Item A is necessary and reasonable to ensure that residents are not at increased risk of physical or sexual abuse.

Item B is necessary and reasonable to ensure that residents are not supervised by staff with a recent history of felonious behavior.

Subp. 5. Chemical dependency. This subpart is necessary and reasonable to safeguard the residents against staff that may be under the influence of alcohol and/or drugs.

2950.0320 EXTRA DUTY.

This rule is necessary to recognize the nature of the work is stressful and it is reasonable that employees should not be expected to routinely work longer than one shift at a time. The standard allows for deviation in case of emergency or unexpected staff shortages.

2950.0330 ATTENDANT HEALTH.

Subpart 1. Mantoux test or chest x-ray (mandatory). This subpart is necessary because statistics indicate an increase in tuberculosis cases in the United States and since tuberculosis is highly contagious, it is reasonable to protect residents and other staff from the risk of infection.

Subp. 2. Contagious disease. This subpart is necessary and reasonable to protect the health of residents and staff.

STAFF TRAINING

2950.0400 STAFF TRAINING PLAN.

Subpart 1. Pre-service training (mandatory). This subpart is necessary to ensure that staff are trained in the care and supervision of juveniles, have interpersonal communication skills, understand basic concepts of adolescent development and have a general knowledge of chemical use, physical and sexual abuse and techniques for suicide prevention. The need for competent staff makes it reasonable for staff to complete pre-service training in critical areas of juvenile care.

Subp. 2. Orientation training plan. This is necessary because of all the aspects of the operation of a temporary holdover facility, none is more important or essential than personnel who are trained to be competent in their position as direct care staff. The need for a competent staff makes it reasonable to dictate the need for staff orientation training plans which will aid in job satisfaction, more efficient job performance, and the consistent operation of the temporary holdover facility in accordance with acceptable standards.

Subp. 3. Orientation training. This subpart is necessary because proper training is essential for the protection of all concerned. This should include a general understanding of the rights and responsibility of those confined as well as the rights and responsibilities of the temporary holdover facility staff. It should include a thorough understanding of the policies and procedures of the facility, residents' rules and regulations and fire emergency procedures at a minimum. It is reasonable to expect such staff training to ensure the safety and security of both residents and staff and aid in creating consistency in operational procedures.

Subp. 4. First aid and CPR training (mandatory). This is necessary and reasonable due to the fact that staff are charged with ensuring the health and safety of all persons detained within the facility.

Subp. 5. Delivery of medication training. This subpart is necessary to ensure that medication is properly dispensed to residents, and it is reasonable to ensure that sufficient documentation is provided to decrease possible litigation against the facility.

Subp. 6. In-service training. This subpart is necessary and reasonable to ensure that all staff remain current in relevant juvenile issues on a yearly basis.

JOB DESCRIPTIONS, POLICIES AND PROCEDURES

2950.0500 GUIDELINES AND RESPONSIBILITIES.

Due to the smaller nature and short term stay of residents in temporary holdover facilities, it may be necessary for a variety of staff persons to be involved in the supervision of a resident. This responsibility may not be a part of their normal job description. Therefore, this is needed so that staff know clearly what their responsibilities are when they work within the temporary holdover facility, what tasks must be done, and what the agencies

policies and procedures are. It is reasonable to have formal guidelines to ensure continuity.

2950.0510 POLICY AND PROCEDURE MANUALS.

Needed in order to ensure a uniform daily operation of the facility, the policy and procedure manual should be of sufficient detail. Every employee should have access to a copy. This is reasonable to ensure equal treatment and continuity.

RECORDS AND REPORTS

2950.0600 MAINTENANCE OF RECORDS AND REPORTS.

The need for records and reports has been, in the past, due to the fact that the Department of Corrections is required to inspect and assess conditions in such facilities. As a function of that process, adequate documentation is necessary to the Department's ability to carry out the responsibility of the Commissioner of Corrections. Additionally, the Department of Corrections is under an obligation to investigate complaints made by residents as referred to it, either directly to the Department of Corrections by the resident, sent to it through the Attorney General's Office, and a number of other offices that deal with a number of the concerns mentioned under the section of record (as examples: food service, medical and dental records, etc.). To properly facilitate investigation of such complaints, it is imperative that the documentation be maintained to assist in that process and to also document that, in fact, the facility has met its legal obligations with respect to same.

Similarly, records of budget requests and work orders are especially important to the investigation of physical plant conditions. If physical plant conditions of an unsanitary, unsafe, or non-secure condition are found by the inspector; for the purpose of facilitating correction, it is extremely important that the Department be able to establish whether or not the facility administrator has submitted a request for repair. If so, has a local governing body taken the appropriate action. If the facility administrator has not submitted such request, it would be unreasonable to expect that the governing body taken the appropriate action. If the facility administrator has not

submitted such request, it would be unreasonable to expect that the governing body take action with respect to such need.

Subpart 1. Items A and B are mandatory requirements and must be maintained in order to continue to be licensed by the department. This is necessary and reasonable in order to keep accurate count of the number of residents held and of any unusual or special occurrences within the facility.

Subp. 2. All items A through K are considered to be directory requirements. Therefore, at the time of inspection it is reasonable to require a minimum of 70% of these records be maintained. Each of these items are considered to be important even if not mandatory. Those in non-compliance will be noted in the facility's report with correction expected.

All records act as documentation as to where the responsibility for failure to affect improvement lie. In the event the Department of Corrections finds it necessary to initiate action to revoke the facilities license, it should be noted very clearly and specifically where the responsibility for failure to rectify the given conditions falls. The rule is very specifically designed for the safety of both the facility administrator and the local governing board.

2950.0610 STORAGE AND PRESERVATION OF RECORDS (MANDATORY).

Records should be stored in a secure area. This is needed and reasonable so that they are protected from theft, loss, tampering and destruction.

2950.0620 ACCESS TO CONFIDENTIAL AND RESIDENT RECORDS (MANDATORY).

Access to records for legitimate purposes should be limited only to the extent necessary to protect confidentiality. Statutes govern the confidentiality and protection of information on residents. These statutes apply also to persons who have been discharged. When statutorily required, judicial and correctional authorities involved with the case should be supplied information without a

signed consent form. Those who incarcerate individuals are responsible under the law to protect these confidential rights of residents. It is reasonable to require these facilities to comply with these requirements due to the fact that it is Minnesota Statute Chapter 13.05.

ADMISSION/RELEASE

2950.0700 ADMISSIONS.

Subpart 1. Admission policies. This subpart is necessary and reasonable for there are specific considerations which need to be put in place when admitting a person to a temporary holdover facility.

Item A is reasonable and necessary in order to ensure against the possibility of contraband being introduced to the facility.

Item B is necessary and reasonable in an effort to control the spread of disease transmitted by lice within the confined environment of a temporary holdover facility.

Item C is necessary and reasonable so that staff knows how to do an initial assessment to ensure that residents will receive prompt medical attention where appropriate.

Item D is necessary and reasonable to ensure that residents have had everything returned to them that they had when they were admitted.

Item E is necessary and reasonable in order to ensure that all pertinent information required for each resident is obtained.

Subp. 2. Identification (mandatory). This subpart is necessary and reasonable to ensure that no individual is illegally detained thus minimizing the possibility of litigation at a later date.

Subp. 3. Privacy. This subpart is necessary to ensure that all transactions and conversations that take place at intake are done

in a location and manner that will ensure to the greatest extent possible the privacy of the resident. This is reasonable since the resident held at this type of facility are pre-trial residents and are still assumed to be innocent at this point.

2950.0720 RELEASES.

Subpart 1. Return of resident property. This subpart is necessary to ensure that each resident receives back all of the personal property with which he entered the facility. It is reasonable to keep any property which is used as evidence in the court case. It is reasonable to require the resident to sign a receipt for property so that the resident can not falsely claim at a later date that some of his/her property had been lost or stolen at the facility.

Subp. 2. Transportation. This subpart is necessary due to the fact that persons brought to these facilities after arrest are transported by the arresting officers thus having no way back to their cars after release. It is reasonable to allow these individuals the opportunity to arrange for a ride.

Subp. 3. Release in Severe Weather. This subpart is necessary due to how quickly weather changes in this area of the country and that what a resident may be wearing at admission may not be appropriate at release. It is reasonable to protect a resident's health and comfort.

RESIDENT WELFARE/SECURITY

2950.0800 SEPARATION OF RESIDENTS (MANDATORY).

This is necessary and reasonable to ensure that each facility licensed under this rule is in compliance with State Statute 641.14. It is reasonable to expect that residents be housed separately according to their sex to ensure privacy from residents of the opposite sex.

2950.0810 INFORMATION TO RESIDENTS.

Subpart 1. Information to residents. This is necessary and

reasonable because residents have the right to know how to obtain hygienic products and to know procedures to obtain privileges and have their constitutional rights met.

Subp. 2. Rules and disciplinary consequences. This is necessary and reasonable because residents have the right to know what they can and can not do within the facility. It is reasonable to require that they be informed of what consequences of negative behavior might be.

Subp. 3. Official charge, legal basis for detention (mandatory). This is necessary and reasonable in order to ensure that the residents know what the legal basis is for their detention and to whom all information will be disseminated.

2950.0820 USE OF RESTRAINTS (MANDATORY).

Subpart 1. Prohibition. This is necessary and reasonable to ensure that instruments of restraint are never used as a punitive action.

Item A, 1-3. This is necessary to define under what circumstances the use of physical restraints may be used. It is reasonable to allow the use of restraints during transfer as a precaution against escape. It is reasonable to use restraints if under the direction and order of a physician in order to prevent a resident from harming him/herself. It is reasonable to require the use of restraints within the facility to prevent a resident from injuring him/herself, others or damaging property to be done only by order of the person in charge. This is a decision made by a responsible authority.

Item B. It is necessary for the facility administrator to develop written policies and procedures governing the use of restraints so that all staff will be consistent in their use. It is reasonable to require this in order to ensure the proper use of restraints.

Item C. This is necessary and reasonable to ensure that the use of restraints does not go beyond a preventative action into a punitive action.

Item D. This is necessary to document the reasons for the use of restraints, and reasonable in order to justify it if the resident complains to the Department of Corrections or sues the facility.

Subp. 2. Disciplinary records. This is necessary and reasonable to ensure that the protection of the rights of residents is being safeguarded as well as the protection of the facility staff. Records of disciplinary action need to be documented and records maintained in the event that legal action may occur years later and only the records may be available as the defense. The purpose of the disciplinary record is primarily one of documentation.

Subp. 3. Training in use of restraints. This subpart is necessary to minimize the risk of injury to resident or staff when a staff person attempts to restrain a resident. It is reasonable for staff to have sufficient knowledge in the use of restraints to minimize the risk of injury to residents or themselves.

2950.0840 RECREATION AND LEISURE SERVICES.

Subpart 1. Written plan. This is necessary to ensure that residents have activities available to them while detained in a temporary holdover facility. This is reasonable to expect as it also can reduce negative resident behavior to both the staff and the physical plant.

Subp. 2. Physical Exercise. This is necessary to ensure that residents have the chance to release physical energy with a healthy outlet. This is reasonable to expect in order to reduce the occurrence of physical assault against other residents and staff.

2950.0850 EDUCATION PROGRAMMING.

Subpart 1. Educational status assessment. This is necessary and reasonable to ensure that a staff person is aware of his/her responsibilities regarding assessment of a new resident's education status as soon as possible.

Subp. 2. Educational plan. This is necessary and reasonable to ensure that a resident is given every opportunity to continue with his education without falling behind the other students in his class or, if the resident is not in school, is given knowledge of his educational opportunities upon his release.

2950.0860 RESIDENT VISITATION. Visiting is needed to meet recognized constitutional and statutory rights of residents as well as to establish uniformity of basic visiting provisions for all residents of the facility. Residents should not be denied access to visitation of persons of their choice, except where administrators or designee has clear and convincing evidence that such visits jeopardize the security of the facility, or the safety of the resident or visitor. It is reasonable to require that the facility's visiting policy be in writing so that it is understood by residents and enforced by staff.

Subpart 1. Initial visits for residents (mandatory). This subpart is necessary due to fact that the act of being detained is a traumatic experience for most people and especially so for a juvenile. It is reasonable to allow the initial visit by a juvenile's parent to take place as soon as possible.

Subp. 2. Visiting plan. This subpart is necessary to ensure that the visiting policies are equally applied to all residents. It is reasonable to require this plan in writing so that all staff, residents and visitors are aware of all stipulations.

Item A. This is necessary and reasonable to ensure that attorney/client privilege is not breached.

Item B. This is necessary and reasonable to ensure that all parties involved, residents, visitors, and staff are aware of when visiting is permitted.

Item C. This is necessary and reasonable because the event of being detained is very depressing and disconcerting. If possible, a visit with family accredited religious persons, and other who may help the resident, could be comforting to the resident and eliminate future problems within the facility.

Item D. This is necessary and reasonable in order to keep an accurate accounting of all visitors for each resident.

Item E. This is necessary and reasonable to ensure that visits are not being denied by staff for arbitrary and/or capricious reasons.

2950.0870 CORRESPONDENCE.

Subpart 1. Plan for resident mail. An established plan for the handling of residents correspondence inclusive of those areas covered by rules here is needed and reasonable to ensure that residents' legal rights with respect to correspondence are met. (Not applicable to 24 hour temporary holdover facilities).

Subp. 2. Unrestricted volume of mail. This is needed to ensure that a resident is not being punished by restricting his/her mail. It is reasonable to assume that if a resident is busy reading or writing mail he/she will be less likely to be involved in an activity detrimental to the resident or the facility. (Not applicable to 24 hour temporary holdover facilities).

Subp. 3. Inspection and censorship (mandatory). This is necessary and reasonable to ensure that all legitimate complaints or concerns residents may have concerning their care within the facility are conveyed to the appropriate authorities without interference.

Subp. 4. Contraband. This is necessary and reasonable so that if contraband is discovered in either incoming or outgoing mail it is removed. Only illegal items and items that threaten the security of the facility should be considered contraband.

2950.0880 TELEPHONE.

This is necessary to ensure that residents' rights to access to communication with persons outside of the facility are not violated. This rule is reasonable due to the fact that juveniles who are detained usually are in a crisis situation and to allow resident contact with persons outside the facility may reduce the stress incarceration and isolation produces.

2950.0890 RESIDENT CLOTHING, BEDDING AND LAUNDRY SERVICES.

Subpart 1. Resident clothing. This subpart is necessary and reasonable to ensure that residents have clean and appropriate clothing to wear while detained in the facility.

Item A is necessary to ensure that residents have appropriate clothing to wear while in the facility. This is reasonable because a resident may not be wearing appropriate or clean clothing at the time of his arrest.

Item B is necessary because being in a temporary holdover facility can be a humiliating experience for a juvenile and putting a resident into jail like uniforms increases that humiliation. It is reasonable to believe that such humiliation could increase the likelihood of suicide attempts among residents and should be avoided.

Item C is necessary and reasonable to ensure a healthy environment for residents and staff. (Applicable to eight-day temporary holdover facilities only).

Item D is necessary and reasonable to ensure that resident's

personal clothing is not damaged, lost or stolen while the juvenile is detained within the facility.

Subp. 2. Linens and bedding.

Item A. This item is necessary due to the fact that upon arrest a resident may be tired and need to lie down. It is reasonable to require bedding to be furnished to a resident upon request, or who is to be held in the facility for longer than eight (8) hours.

Item B. This subpart is necessary to ensure a healthy environment for all residents. It is reasonable to require that the facility launder all bedding after each use. This is also required under Minnesota Statute 642.07 (mandatory).

Subp. 3. Removing clothing and bedding. This subpart is necessary in order to maintain the security and control of the facility. Policies should be established which ensures that the removal of these items is done only when the behavior of the resident warrants such and must never be done as a form of punishment. It is reasonable that these policies be written so that staff is uniform in their application. It is also reasonable to return these items when the person in charge determines that the resident's negative behavior has ceased.

2950.0895 EMERGENCIES.

Subpart 1. Emergency plan (mandatory). There is a need for all facilities to develop an emergency plan because they are charged with the care and custody of residents who are vulnerable and dependent. Proposed rules are needed and reasonable to ensure that employees of such facilities on all shifts are familiar with steps to be taken in such situations.

Item A is necessary and reasonable to ensure that all staff are familiar with where all alarms and fire fighting equipment is located.

Item B is necessary so all staff is familiar with the steps to be taken in the event of an emergency. It is reasonable to require staff to practice the drill.

Item C is necessary so that each staff members knows exactly what they are to do, and it is reasonable to ensure that there is no confusion.

Item D is necessary and reasonable to ensure that the appropriate and responsible people are notified.

Item E is necessary to ensure that staff is familiar with the proper way to remove residents from the facility and reasonable to protect the health and safety of all involved.

Item F is necessary to ensure the safety of the community by being able to reasonably continue to detain residents.

Subp. 2. Copies of plans. This is necessary and reasonable to ensure that all staff can review the emergency plan as necessary.

Subp. 3. Review of emergency procedures (eight-day temporary holdover facilities only). If an emergency occurs, staff are needed to respond appropriately. Therefore, it is reasonable to have a plan. It is necessary for the staff to review the plan quarterly to keep the procedures fresh in their minds.

Item A is necessary and reasonable to ensure that each staff member knows exactly what they are to do without duplicating efforts.

Item B is necessary and reasonable to ensure the efficient and appropriate use of the alarms.

Item C is necessary and reasonable to ensure that the persons in

charge of the facility are properly and promptly notified.

Item D is necessary and reasonable to ensure that staff know where the equipment is and are instructed in the proper use.

Item E is necessary to ensure the safest and fastest way out of the facility and reasonable to ensure to the greatest extent possible the health, safety and welfare of the staff and residents.

Subp. 4. Other emergency planning. This subpart is necessary in that facilities face the possibility of a variety of emergency situations occurring. It is reasonable to require staff in these facilities to be familiar with steps to be taken in such emergency situations.

Subp. 5. Reporting of special incidents. Proposed rules concerning special occurrences are needed and are reasonable to ensure that the Department is made aware of such incidents in order that inquiries concerning such incidents can be effectively handled by the Department, that the Department may assess such situations and assist where appropriate in the prevention of similar such incidents and that, where staff have contributed to such incidents, such knowledge may be used to the benefit of other facilities. Special occurrences listed are generally recognized as being of a serious and special nature.

Items A - K are examples of what the Department of Corrections considers to be special incidents. It is necessary to give these examples so that the facility and staff can reasonably determine if an incident which occurs in the facility needs to be reported. It would be impossible to list every circumstance, but by listing these examples a reasonable conclusion can be made by staff.

Subp. 6. Resident death (mandatory). The ultimate emergency or special occurrence is a death of a resident. It is important that staff know what to do in case of death and is important that the facility has a plan prior to such a crisis. It is reasonable to

require this of temporary holdover facilities for it is consistent with the requirements of Minnesota Statute 390 which governs the investigation of a death by the county coroner.

Item A is necessary and reasonable to ensure that the resident's record is complete and accurate.

Item B is necessary and reasonable to ensure that the circumstances surrounding the resident's death are investigated by the appropriate outside authorities.

Item C is necessary and reasonable to ensure that the resident's belongings are handled responsibly and an accurate accounting of all items is maintained.

Item D is necessary and reasonable to ensure that all records are maintained and kept in accordance with state law and needed in case of lawsuit.

Item E is necessary and reasonable to ensure that an independent investigation is conducted and that an accurate conclusion to the cause of death is reached.

FOOD SERVICE

2950.0900 FOOD HANDLING PRACTICES (MANDATORY).

This standard is necessary and reasonable to ensure that the food handling practices are done in accordance with and consistent with Minnesota Department of Health rules 4625.2401 to 4625.4701.

2950.0910 FREQUENCY OF MEALS.

This standard is necessary to ensure that residents are being fed adequately. The requirements of no more than 14 hours between a substantial evening meal and breakfast as well as at least 3 meals

in each 24 hour period were determined to be reasonable as a minimum standard by the task force appointed by the commissioner to develop this rule.

2950.0920 CATERED FOOD.

This standard is necessary and reasonable to ensure that all food handling practices are done in accordance to Minnesota Department of Health requirements.

2950.0930 USE OF FOOD AS DISCIPLINE (MANDATORY).

This standard is necessary and reasonable to ensure that a resident is not being punished by depriving him/her the minimum daily nutritional requirements as defined by the Minnesota Department of Health.

2950.0940 HOT MEAL MINIMUM.

This is necessary and reasonable to ensure a variety of food is served. It would be inappropriate to serve a resident 3 meals of cereal or peanut butter sandwiches in a 24 hour period.

2950.0950 THERAPEUTIC DIETS (MANDATORY).

This standard is necessary and reasonable to ensure that a resident is receiving care as prescribed by a physician. To further ensure that this is the case, it is reasonable to require documentation.

2950.0960 SUPERVISION OF MEAL SERVING.

This standard is necessary and reasonable to ensure that each resident receives an equal serving of food, and that all utensils used in the serving of the meal are accounted for in order to maintain the safety and security of the facility.

SECURITY

2950.1000 WEAPONS, TOOLS, EQUIPMENT, HAZARDOUS SUBSTANCES.

Subpart 1. Firearms and dangerous weapons (mandatory). This

subpart is necessary and reasonable due to the fact that the safety of residents is the primary goal of the temporary holdover facility.

Subp. 2. Dangerous materials and hazardous substances (mandatory). This subpart is necessary and reasonable to ensure that residents cannot obtain materials that could harm themselves or could be used as weapons against other residents or staff.

Subp. 3. Tool control. This subpart is necessary and reasonable in order that residents do not obtain tools that can be used as weapons against staff or other resident or to aid in resident escape plans.

ENVIRONMENTAL-PERSONAL HEALTH AND SANITATION

2950.1100 AVAILABILITY OF MEDICAL AND DENTAL RESOURCES (MANDATORY).

Subpart 1. Availability of resources. This subpart is necessary for the staff of the facility who are not trained medical personnel and are not qualified to make medical judgment. Therefore, it is reasonable to require the facility have such a person or medical facility available 24 hours a day to consult.

Subp. 2. Emergency dental care. This subpart is necessary and reasonable due to the fact that a dental emergency is extremely painful and attention is needed immediately.

Subp. 3. Ambulance service. This subpart is necessary due to the fact that in the event of a medical emergency, speed is of the utmost importance. It is reasonable to assume that staff cannot leave the facility and therefore outside transportation is required.

Subp. 4. Examination of resident where medical attention is necessary. This subpart is necessary since staff of these facilities are not qualified to make medical judgements. It is

reasonable to require a medical examination for a resident in need of medical care and they cannot be neglected.

2950.1200 POSTING OF AVAILABLE RESOURCES (MANDATORY).

Proposed rules concerning posting of available resources are needed and reasonable to ensure that all employees are informed of such resources and can readily identify which resource is available at a certain time of day, and do not have to search a phone book or other source material for the telephone numbers of such resources.

2950.1300 FIRST AID.

Subpart 1. Training of attendants (mandatory). This subpart is necessary and reasonable to ensure that persons who are responsible for the care and custody of a resident are trained in emergency first aid procedures and cardio pulmonary resuscitation.

Subp. 2. First aid kit. This subpart is necessary to ensure that the supplies to administer first aid are available in the facility. It is reasonable to require the kit to be kept at a central location familiar to all staff to eliminate delay in locating.

2950.1400 MEDICAL RECORDS.

Subpart 1. Records of illness and injury. This subpart is necessary in order to ensure that the medical needs of residents are being met and reasonable to require a record so that a resident cannot later claim mistreatment.

Subp. 2. Medical or dental records (mandatory). This subpart is necessary to ensure that those residents who are under medical or dental care receive this care as directed by the medical personnel. It is reasonable to require these facilities to provide proper care. To this end it is reasonable to require at a minimum the following items:

Item A is necessary and reasonable so that all staff are aware of exactly what the resident is or is not physically capable of doing.

Item B is necessary and reasonable so that all staff are instructed in the proper medical attention to be given each resident.

Item C is necessary and reasonable in order to keep a permanent record of all medication and the proper methods for disposal.

Item D is necessary and reasonable in order to keep a permanent record of all special treatment or diet as ordered by the responsible physician.

Item E is necessary and reasonable so that staff will not require a resident to do something they are physically unable to do.

Item F is necessary and reasonable so that an accurate record of medical attention given a resident is maintained primarily in defense of allegations of improper medical attention and treatment.

2950.1500 PREVENTATIVE HEALTH SERVICES.

Subpart 1. Written plan for personal hygiene. This subpart is necessary and reasonable to ensure that each resident is required to maintain proper personal hygiene and is reasonable to require staff to assist those residents unable to care for themselves.

Subp. 2. Delousing materials. This subpart is necessary and reasonable due to the fact that if these materials are used improperly it could be hazardous to the resident. Additionally, it is important these materials are used only when appropriate and in a manner that will be most effective.

Subp. 3. Bathing. This subpart is necessary to ensure each resident has access to washing, bathing or showering if detained for an extended period. It is reasonable to require this opportunity to bathe on a daily basis at a minimum.

Subp. 4. Hygienic supplies. This subpart is necessary and reasonable to ensure that a resident is not denied any items necessary to maintain an acceptable hygiene level.

2950.1600 DELIVERY, SUPERVISION, AND CONTROL OF MEDICINE.

Subpart 1. Legend drugs (mandatory). This subpart is necessary and reasonable to ensure that staff are not dispensing legend drugs without a prescription.

Subp. 2. Policy for storage, delivery, and control of medicine. This subpart is necessary in order to have a uniform consistent plan so that all staff are aware of the proper method of handling medicine. It is reasonable to require this plan to be formulated in conjunction with a trained medical person. It is necessary and reasonable to detail at a minimum what should be included in a minimum policy.

Item A is necessary and reasonable so that medicine does not fall into the wrong hands.

Item B is necessary and reasonable to ensure that unauthorized personnel does not have access to medicine.

Item C is necessary and reasonable to ensure medicine is stored in the appropriate manner.

Item D is necessary and reasonable to ensure residents do not have access to an unauthorized area.

Item E is necessary and reasonable to control who has access to medicine.

Item F is necessary and reasonable to ensure that the proper medicine is given to the proper resident by the proper method.

Item G is necessary and reasonable to ensure that internal medicine does not become accidentally contaminated.

Subp. 3. Procedures for delivery of medicine. It is necessary and

reasonable to ensure that all medicine is delivered in an approved, appropriate manner, and to outline all areas which are required.

Item A is necessary and reasonable to ensure these policies are included.

Subitem 1 is necessary and reasonable due to the fact that staff of these facilities are not trained medically and are not qualified to administer injections.

Subitem 2 is necessary and reasonable due to the fact that staff of these facilities are not trained medically and would not be familiar with how certain drugs may interact and cause adverse reactions.

Subitem 3 is necessary and reasonable to ensure the proper treatment for the reaction and to maintain the record in case of litigation.

Subitem 4 is necessary and reasonable in order for the physician to address an additional course of treatment, and to guard against a resident claiming at a later date that he/she was not offered their medicine.

Subitem 5 is necessary and reasonable to ensure that staff does not use medicine as a form of punishment.

Subitem 6 is necessary and reasonable to limit access to medicine to those individuals or staff who are given this responsibility.

Subitem 7 is necessary and reasonable to verify that the medicine is in fact what the resident claims so that staff are not dispensing non-prescribed drugs.

Item B is necessary and reasonable in order to define the minimum

requirements that should be included in the plan for the delivery of medicine.

Subitem 1 is necessary and reasonable to ensure that the medicine is administered in the most sanitary manner.

Subitem 2 is necessary and reasonable to ensure that all medicine is given to the resident for when it is prescribed.

Subitem 3 is necessary and reasonable to ensure that the physician's orders are being followed directly.

Subitem 4 is necessary and reasonable to ensure that a resident is not hiding the individual dosage under his/her tongue or elsewhere in an effort to stockpile medicine in an effort to take all together at a later time in an attempt at suicide or a high.

Subp. 4. Records of receipt; disposition of drugs. This subpart is necessary and reasonable to ensure that all medicine has been handled by staff in a proper and appropriate manner in an effort to eliminate any abuse by residents or staff.

Subp. 5. Medicine given to resident upon release. This subpart is necessary and reasonable for the medicine is prescribed for the resident and only the resident and in most cases is purchased by the resident and thus is their property. It is reasonable that if the resident is not responsible enough to handle the medicine it is given to the appropriate authority taking custody of the resident.

Subp. 6. Destruction of unused prescribed medicine. This subpart is necessary if a resident refuses to take their medicine, absconds without medicine or is released directly from court and does not return for the medicine. The facility is prohibited from stockpiling legend drugs thus it must be destroyed. It is

reasonable to require such destruction to be done consistent with procedures developed by Minnesota Board of Pharmacy in their rule defined in Chapter 6800.6500. Subp. 3.

2950.1700 REPORTING SUSPECTED COMMUNICABLE DISEASE (MANDATORY).

This standard is necessary in order to control the spread of a communicable disease as defined in this rule and to report it to the appropriate authority. This is reasonable and consistent with the Minnesota Department of Health Rule, Chapter 2605.7030. Subp. 2.

2950.1800 SEPARATION OF RESIDENTS SUSPECTED OF HAVING A COMMUNICABLE DISEASE (MANDATORY).

Subpart 1. General. This standard concerning the separation for communicable disease is needed and reasonable to ensure that residents placed in separation for suspicion of a communicable disease receive prompt medical attention and are not unreasonably deprived of privileges as a result of placement in separation. Separation for communicable disease is not a disciplinary action and, consequently, the individual's privileges and rights must be maintained to the greatest extent possible under the circumstances.

Subp. 2. Written policies and procedures. This is reasonable and necessary to ensure that proper procedures are followed to protect the health of residents held in temporary holdover facilities.

2950.1900 HOUSEKEEPING, SANITATION, AND PLANT MAINTENANCE.

Subpart 1. General. This subpart is necessary and reasonable in order to achieve the main goal of the facility which is to detain persons in a secure, safe, and healthy environment.

Subp. 2. Maintenance plan. This subpart is necessary and reasonable to ensure the upkeep and repair of the facility if the person responsible is absent. It also assists that person to develop a routine maintenance schedule for the facility.

Subp. 3. Compliance with rules (mandatory). This subpart is necessary and reasonable due to the fact that temporary holdover facility staff charged with enforcing the standards of the rule are not experts in these related areas. Therefore, it is reasonable to require that these facilities be in compliance with the rules of these other agencies.

Subp. 4. Plan for daily inspection. This subpart is necessary and reasonable to identify any unsanitary or unsafe conditions and to provide a method to correction the situation.

Subp. 5. Policies and procedures to detect deterioration of building and equipment. This subpart is necessary and reasonable to provide a vehicle for the repair of the physical structure and define the minimum procedures required.

Subp. 6. Reporting of unsanitary and unsafe conditions (mandatory). This subpart is necessary and reasonable to ensure that unsafe or unsanitary conditions are corrected.

Subp. 7. Priority of work requests. This subpart is necessary and reasonable to ensure that those conditions which are most dangerous are corrected first.

Subp. 8. Reports of repair. This subpart is necessary and reasonable to affix responsibility for failure to correct housekeeping, sanitation, or maintenance needs. In the event of litigation, it is reasonable and necessary to expect that the facility administrator and governing body can clearly show that they have identified needs and acted on same, consistent with their knowledge of needs, responsibilities and authority to affect improvements.

Subp. 9. Elimination of conditions conducive to vermin (mandatory). This subpart is necessary and reasonable to ensure against disease

transmission by same. Licensed pest control operators are necessary to ensure that selection of equipment and procedures assure the most effective application of poisons, dust, sprays and traps.

Subp. 10. Fire inspection (mandatory). This subpart is necessary due to the fact that the most dangerous and deadly incident that could occur in a facility that has individuals detained is fire. It is reasonable to require the facility to be inspected by fire officials and to immediately or within the time frames allowed, correct all orders.

CONCLUSION

Based on the foregoing, the Department of Corrections' proposed rules relating to 24 Hour and 8 Day Juvenile Temporary Holdover Facilities are both necessary and reasonable.

1/13/94

Date



Frank W. Wood, Commissioner
Department of Corrections