

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 3:060. Security; control.

RELATES TO: KRS 196.173, 441.045, 441.055

STATUTORY AUTHORITY: KRS 196.035, 197.020, 441.055(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that house state prisoners. KRS 196.173 limits restraint situations for pregnant prisoners. This administrative regulation establishes security procedures to be followed in full-service jails.

Section 1. Policy and Procedure.

- (1) The jailer or jail administrator shall develop a written policy and procedure governing the security aspects of the jail's operation.
- (2) If requested in writing, the department shall provide technical assistance to the jailer or jail administrator in formulating written policy and procedure.
- (3) The policies and procedures shall include:
 - (a) Prisoner rules;
 - (b) Staffing;
 - (c) Searches of prisoner and of secure areas;
 - (d) Visitation;
 - (e) Key and weapon control;
 - (f) Prisoner head counts;
 - (g) Surveillance checks;
 - (h) Emergency situations;
 - (i) Jail schedule; and
 - (j) Administering medication.

Section 2. Prisoner Supervision.

- (1) Jail personnel shall conduct and document direct in-person surveillance of each prisoner on an irregular schedule, at least every sixty (60) minutes.
- (2) Jail personnel shall conduct and document direct in-person surveillance on an irregular schedule, at least every twenty (20) minutes on the following classes of prisoners:
 - (a) Suicidal;
 - (b) Mentally or emotionally disturbed, if housed in a single cell; or
 - (c) In a detox cell.
- (3) If available, closed-circuit television shall be used primarily to monitor hallways, stairwells, sally ports, perimeter security, points of egress, ~~and~~ common areas, and support areas.
- (4) There shall be at least three (3) documented prisoner counts every twenty-four (24) hours during which each prisoner's physical presence, by show of skin or by movement, shall be observed. At least one (1) count shall be conducted per shift.

Section 3. Security Procedures.

- (1) Each jailer or jail administrator shall establish a procedure for weekly inspection, for contraband and physical security, of each area accessible to a prisoner.
 - (a) Isolated security spot checks for contraband shall be conducted daily.

- (b) The prisoner rules, as specified in Section 1(3)(a) of this administrative regulation, shall contain a clear definition of each item permitted in the jail. All other items shall be considered contraband.
- (c) There shall be a written procedure for reporting security irregularities.
- (2) A weapon, ammunition, chemical agent, related security equipment, or object which may be used as a weapon shall not be permitted in the security area unless authorized by the jailer or jail administrator. Firearms shall not be permitted in the security area unless authorized by the jailer or jail administrator, under emergency circumstances.
- (3) If a weapon, ammunition, chemical agent, or related security equipment is not being carried or used, as authorized by the jailer or jail administrator, it shall be stored in an arsenal, vault, or other secure room under lock.
- (a) The weapons storage area shall be inaccessible to unauthorized persons.
- (b) There shall be a written procedure for issuing and accounting for all weapons.
- (4) Security devices and safety equipment shall be inspected monthly to ensure they are maintained in proper working order.
- (5) Tools and toxic, corrosive, or flammable substances, and other potentially dangerous supplies and equipment shall be stored in a secure, locked area located outside the security perimeter of the confinement area.
- (6) A prisoner shall not use hazardous tools, supplies, or equipment unless the prisoner is only under the direct supervision of jail personnel, and shall be provided with proper safety equipment.
- (7) A prisoner:
- (a) May be assigned the responsibility of providing prisoner services, including providing meals, under the direct supervision of jail personnel; and
- (b) Shall not be assigned to a position of authority over another prisoner.
- (8) A prisoner shall not be permitted to perform or assist in a security duty.
- (9) A jail with a work release or community service program shall establish special control procedures to minimize contact between a prisoner with work release privileges and another prisoner.
- (10) A prisoner shall be searched, in accordance with the requirements~~[guidelines]~~ established in 501 KAR 3:120, if entering or leaving the security perimeter.
- (11) Written procedures shall be developed for transporting a prisoner outside the jail and shall identify training required before jail personnel are permitted to transport any prisoner.
- (12) Each jailer or jail administrator shall develop written policies and procedures governing the use of physical restraints. Written policies and procedures shall include provisions for inmates known to be pregnant, in accordance and compliance with KRS 196.173.
- (13) A prisoner placed in physical restraints shall be constantly monitored.
- (14) The jail shall have key-control procedures as established in this subsection.
- (a) A key control center shall be secure and inaccessible to an unauthorized person at all times.
- (b) There shall be an accounting procedure for issuing and returning keys.
- (c) There shall be a procedure for immediate reporting and repairing of a broken or malfunctioning key or lock;
- (d) A set of duplicate keys shall be maintained in a separate, secure place.
- (e) A prisoner shall not be permitted to handle a key used to operate a jail security lock.
- (f) A key operating a lock to an outside door or gate shall not be permitted in the security area.
- (g) An emergency key or any key to a critical security area shall be issued in accordance with written procedures established by the jailer or jail administrator.

(h) Precautions similar to those outlined in paragraphs (a) through (g) of this subsection shall be taken to ensure the security of nonkey operated locking devices including electrical switches or levers.

(i) A lock to an outside exit shall be keyed differently from an interior lock.

(j) The lock to the control room shall be keyed differently from all other locks.

(15) Trustees.

(a) A trustee shall not have access to, or control of, a weapon.

(b) An unsupervised trustee shall not be permitted in either a program, support, or housing area with a prisoner of the opposite sex.

(c) A trustee shall not be permitted in either a program, support, or housing area with a juvenile inmate.

Section 4. Daily Jail Log; Special Reports. A daily jail log shall be kept current and shall reflect significant occurrences within the jail. Special reports shall include:

(1) Use of force;

(2) Disciplinary action;

(3) Medical or mental health treatment;

(4) Feeding schedule and menus;

(5) Extraordinary occurrences, including:

(a) Fire;

(b) Assault;

(c) Suicide or attempted suicide; and

(d) Escape or attempted escape;

(6) Inmate vandalism, including:

(a) Destruction of jail property; and

(b) Flooding of plumbing fixtures;

(7) Jail personnel roster for each shift; and

(8) Visitor's log.

(9 Ky.R. 642; Am. 925; eff. 3-2-1983; 13 Ky.R. 684; eff. 11-11-1986; 19 Ky.R. 1850; 2623; eff. 6-7-1993; 22 Ky.R. 1353; eff. 3-7-1996; 26 Ky.R. 160; 27 Ky.R. 82; eff. 7-17-2000; 31 Ky.R. 1553; 1794; eff. 5-26-2005; 34 Ky.R. 1179; 1962; eff. 3-7-2008; 37 Ky.R. 2949; 38 Ky.R. 572; eff. 10-7-2011; 42 Ky.R. 1945; 2341; eff. 3-4-2016; 50 Ky.R. 1952; eff. 9-3-2024.)

The Jail Standards Review Commission established pursuant to KRS 441.055(1)(b) has approved the standards in this administrative regulation at its meeting on January 8, 2024, prior to its filing with the Legislative Research Commission in compliance with KRS 13A.120(3), 13A.220(6)(a), and 441.055(2).

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: February 6, 2024

FILED WITH LRC: February 15, 2024 at 8:50 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation will be held on April 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Any person who wishes to be heard at this hearing shall notify the agency in writing by five workdays prior to the hearing of their intent to attend. If a notice of intent to attend the hearing is not received by that date, the hearing may be cancelled. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through April 30, 2024. Send written notice of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Amy V. Barker, Assistant General Counsel, Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, Justice.RegContact@ky.gov, telephone number (502) 564-3279, facsimile number (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes security procedures to be followed in full-service jails.

(b) The necessity of this administrative regulation:

This administrative regulation complies with the requirement to adopt jail standards in KRS 441.055(1)(a), (b).

(c) How this administrative regulation conforms to the content of the authorizing statutes:

This administrative regulation complies with the requirement to adopt jail standards in KRS 441.055(1)(a), (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

It establishes minimum standards to be followed for security procedures in full-service jails.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

The amendment adds statutes for authority and enlarges the necessity language. The amendment adds that inmates using hazardous materials or equipment shall be provided with safety equipment. It also adds that written policies and procedures regarding restraints shall include provisions for inmates known to be pregnant in compliance with KRS 196.173.

(b) The necessity of the amendment to this administrative regulation:

The amendment revises the standards as part of the review process in KRS 441.055(1)(b).

(c) How the amendment conforms to the content of the authorizing statutes:

The amendment revises the standards as part of the review process in KRS 441.055(1)(b).

(d) How the amendment will assist in the effective administration of the statutes:

It up-dates the minimum security standards as required by KRS 441.055 and includes language from a statutory change.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

This affects approximately 74 county and regional jails and their staff, approximately 50 Department of Corrections employees, including 12 Local Facilities staff, and approximately 19,683 prisoners in the jails, including 5,682 Class C and D felons.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

Employees supervising prisoners using hazardous tools, supplies, or equipment shall provide the prisoners with proper safety equipment. Employees shall limit use of restraints on prisoners known to be pregnant. Jailers and jail administrator will need to develop written policies and procedures.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

If proper safety equipment is not already available, it will need to be purchased. There is no cost associated with limiting restraints or developing written policies and procedures.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

The regulation is clearer and adds statutory requirements.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

Additional cost is not anticipated.

(b) On a continuing basis:

Additional cost is not anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

State budgeted funds for the Department of Corrections and county budgeted funds for jail operating expenses.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

An increase in fees or funding is not anticipated.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

Fees are not established or increased.

(9) TIERING: Is tiering applied?

No. The standards apply equally to all full-service jails.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The Department of Corrections and full-service county jails that house state inmates.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 196.035, 197.020, 441.055

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

Revenue is not generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

Revenue is not generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year?

For fiscal year 2023, the department paid the local jails approximately \$139,275,752.09 for the housing, transportation, and medical care and programming incentives for state inmates. Full-service jails receive the largest portion of this funding. In addition, the department incurred approximately \$1,669,365.54 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years?

Approximately the same as in (c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

Cost savings are not anticipated.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

Cost savings are not anticipated.

(c) How much will it cost the regulated entities for the first year?

The regulation impacts how the jails operate, but does not increase costs from what is budgeted for the biennium.

(d) How much will it cost the regulated entities for subsequent years?

The regulation impacts how the jails operate, but does not increase costs from what is budgeted for the biennium.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] A major economic impact is not anticipated.