

**Subpart B. DEPARTMENT OF CORRECTIONS**

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**CHAPTER 91. ADMINISTRATION**

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**Authority**

The provisions of this Chapter 91 issued under section 916 of The Administrative Code of 1929 (71 P. S. § 306), unless otherwise noted.

**Source**

The provisions of this Chapter 91 adopted August 14, 1971, 1 Pa.B. 1655, amended through February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (32658).

**§ 91.1. Definitions.**

The following words and terms, when used in this subpart, have the following meanings, unless the context clearly indicates otherwise:

*Board*—Pennsylvania Board of Probation and Parole.

*Community corrections center*—A minimum-security community-oriented facility operated or contracted by the Department for the purpose of facilitating special programs.

*Contraband*—Material listed as contraband in 18 Pa.C.S. §§ 5122 and 5123 (relating to weapons or implements for escape; and contraband), the *Department of Corrections Inmate Handbook*, or any Department document that is disseminated to inmates, such as material that an inmate is prohibited from possessing or material that an inmate is permitted to possess that has been altered or is being used for something other than its intended purpose.

*Department*—The Department of Corrections.

*Department of Corrections Inmate Handbook*—A document that is to be disseminated to inmates that contains all rules that an inmate shall follow to avoid

discipline. It is updated through dissemination of written materials to inmates that describe the rule change when a change is made, or by dissemination of a revised handbook.

*Diagnostic and classification center*—Facilities designated to receive and classify persons who have been committed to the custody of the Department.

*Facility*—An institution, motivational boot camp or community corrections center operated or contracted by the Department.

*Facility manager*—The chief administrator of a facility, that is, the superintendent of an institution, the commander of a motivational boot camp or the director of a community corrections center.

*Inmate*—A person committed to the custody of or confined by the Department.

*Resident*—An inmate assigned to a community corrections center.

*Secretary*—The Secretary of the Department.

#### Authority

The provisions of this § 91.1 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

#### Source

The provisions of this § 91.1 amended December 21, 2001, effective December 22, 2001, 31 Pa.B. 6932; amended April 15, 2005, effective April 16, 2005, 35 Pa.B. 2279. Immediately preceding text appears at serial pages (286419) to (286420).

### § 91.2. Agency purpose.

It is the goal of the Department to operate its institutions and programs to provide protection to the community, a safe and humane environment and opportunities for rehabilitation for the inmates.

#### Authority

The provisions of this § 91.2 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

#### Source

The provisions of this § 91.2 amended December 21, 2001, effective December 22, 2001, 31 Pa.B. 6932. Immediately preceding text appears at serial page (249002).

### § 91.3. Reception of inmates.

The Department will accept and confine those persons committed to it under lawful court orders which conform to 42 Pa.C.S. § 9762 (relating to sentencing proceeding; place of confinement) when information has been provided to the Department as required by 42 Pa.C.S. § 9764 (relating to information required upon commitment and subsequent disposition). The Department will also accept persons for whom transfer from other correctional facilities has been approved in advance by the Secretary or a designee, under section 1 of the act of July 11, 1923 (P. L. 1044, No. 425) (61 P. S. § 72). Commitments and transfers will be accepted only during the facility's normal business hours, except upon prior approval of the facility manager or a designee.

**Authority**

The provisions of this § 91.3 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

**Source**

The provisions of this § 91.3 amended December 21, 2001, effective December 22, 2001, 31 Pa.B. 6932. Immediately preceding text appears at serial page (249002).

**§ 91.4. Catchment areas.**

Male inmates committed to the custody of the Department will be received at male diagnostic and classification centers and female inmates will be received at female diagnostic and classification centers unless granted other permission in advance by the Secretary or a designee.

**Authority**

The provisions of this § 91.4 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

**Source**

The provisions of this § 91.4 amended December 21, 2001, effective December 22, 2001, 31 Pa.B. 6932. Immediately preceding text appears at serial pages (249002) to (249003).

**§ 91.5. [Reserved].****Source**

The provisions of this § 91.5 reserved September 18, 1998, effective September 19, 1998, 28 Pa.B. 4719. Immediately preceding text appears at serial pages (97103) to (97105).

**§ 91.6. Use of force and restraints.**

(a) Force and restraints will be used by corrections personnel only to accomplish legitimate penological and law enforcement objectives.

(1) A staff member may not use any greater force against an inmate than is necessary to protect the staff member or others from bodily harm or to protect property from damage or destruction or to prevent a criminal act or to effect compliance with rules when other methods of control are ineffective.

(2) A staff member may only use deadly force against an inmate when that force is necessary to prevent death, serious bodily harm to the staff member or others, or to prevent one or more of the following:

(i) An escape from a correctional facility other than a community corrections center or while in immediate pursuit of an inmate escaping from a correctional facility other than a community corrections center.

(ii) An escape from a work detail, transport or other approved temporary absence when deadly force is necessary to prevent the escape and the inmate has been convicted of an offense involving the threat of physical force or violence against any individual.

(3) A staff member may use force against an inmate when he reasonably believes that force is necessary to prevent the escape of an inmate or to recapture an escaped inmate.

(4) Instruments of restraint will only be used as a precaution against escape, as protection against an inmate injuring himself or others or on medical grounds at a doctor's direction.

(b) Neither force nor restraints will be used for punishment or revenge.

(c) Use of chemical munitions will be closely controlled. Appropriate medical attention will be provided for any person involved in an incident where chemical munitions were used. Staff will follow the procedures set forth in DC-ADM 201—Use of Force—as to the availability and storage, method of use, training, medical staff role and reporting of the use of chemical munitions.

#### Authority

The provisions of this § 91.6 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

#### Source

The provisions of this § 91.6 amended April 15, 2005, effective April 16, 2005, 35 Pa.B. 2279. Immediately preceding text appears at serial pages (286421) to (286422).

#### Notes of Decisions

##### *Effect of Regulations*

The administrative regulations, found in 37 Pa. Code §§ 91.1—91.6, do not create rights in prison inmates; rather the administrative regulations create rules for corrections officers to follow in the performance of their duties. *Commonwealth ex rel. Buehl v. Price*, 705 A.2d 933 (Pa. Cmwlth. 1998); appeal denied 727 A.2d 1123 (Pa. 1998).

##### *Validity of Restraint Policy*

New prison restraint policy (behind-the-back handcuffing applied to all death-sentenced inmates for all out-of-cell movements) did not violate administrative regulation even though the inmate's complaint indicates that the new policy was imposed after contraband was found in the unit housing death-sentenced inmates and that the new policy constituted a concession to corrections officers' union, which had long been requesting the new policy, because the implementation of the new restraint policy was imposed to accomplish legitimate penological objectives, and does not evidence a retaliatory animus designed to penalize death-sentenced inmates. *Commonwealth v. Price*, 705 A.2d 933 (Pa. Cmwlth. 1998).

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