

Act 81 (Title 42 Amendments) Place of Confinement and Work Release Reimbursement

Considerations and Discussion Points Specific to County Wardens/Jail Administrators

Early in 2011 a committee of representatives from the several disciplines in the field of criminal justice, the PA Department of Corrections, the County Commissioners Association of PA, the PA Sentencing Commission, the PA Board of Probation and Parole, and the Pa Commission on Crime and Delinquency (often referred to as the “State/County” working group) was tasked with providing interpretation of, and definition to the new ACT 81 legislative language; for the purpose of providing this information to those members of the criminal justice system that it will impact upon. During the process, a Q&A handout was developed, and it is now used to convey the salient points. This document is intended to mimic the numbering system in the Q&A handout, but provide further insight into those discussions, specifically, and only, from the point of view of a warden or jail administrator. As you read on please consider the term Warden to be inclusive of all “Chief Administrator” positions in county jails or prisons in PA.

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4 – A form was developed, and has been provided to you for use in your county. This is not intended to be mandatory, nor is it required by the legislation. A warden is required only to make notification. The methodology is one of personal choice. It is recommended that the form be adopted for two reasons:

- it is simple to use and may make the task easier than other methods, and
- consistency in use by jails throughout the state could provide some leverage for those wardens who may face resistance from the local courts, or individual judges to this change. It is expected that there will be a judge or two who will take exception to a warden restricting his ability to sentence inmates in this category to the local jail.

5 – This may be very difficult, as it will be an almost certain argument with the courts should a warden choose to take this route, i.e. the jail is not considered overcrowded, but the warden refuses to certify the jail for the sentencing of inmates in 2 to 5 year (max) range; takes this option away from the court. During discussions, we believed that this option was part of the legislative intent to recognize that each jail in PA is unique, faces individual challenges, and, an overcrowding definition aside, if a local jail should not house inmates in this sentence range, it is the warden who will know this, and why it is so.

6 – It is obvious that if a warden is using the form provided to provide certification to the court, the same form can be used to revoke certification. Not mentioned above is the recommendation that the local warden establish a regular interval of notification to the President Judge, District Attorney, and Public Defender; perhaps bi-monthly, or quarterly. – Should a warden wish to avail himself of the option discussed in number 5 above, the form provided is not suggested as appropriate. In this case a letter that outlines the reasons of “necessity” seems more appropriate.

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9 – As wardens review subsequent Q&A sections the term capacity is given definition. Following is both the personal advice of the writer (a warden) and other participating wardens:

Do not transfer or share this responsibility. This determination is not assigned to the President Judge, a County Commissioner, a Prison Board----or the local PTA. It is yours. And it indicates that the legislature in PA places their faith in your ability to know what is correct for your jail.

10- And now, the fun one. What were some to the considerations discussed when developing the “rated capacity” model for jails in PA? Below are some examples:

- Large jails have entire housing units dedicated to the confinement of special inmate populations. The larger the jail the greater the number of these specialized housing units: Quarantine/Orientation, Protective Custody, Medical, Mental Health, Discipline, etc. When defining capacity in a large jail, double ceiling can realistically take place in General Population housing units, but should not take place in specialized units like those noted above. So, simply counting total cells cannot be an acceptable methodology. Further, a number of beds in General Population must be kept available to allow for movement of inmates from one unit to another (classification changes, “keep separates”, etc.), i.e. for operational considerations.
- Medium jails may have some specialized units, but not to the same degree as large jails, and so allowance for empty beds in General Population housing units becomes more important and the percentage of cells that must be reserved for this purpose becomes larger.
- Small jails often have few if any special housing areas/units, and the need for reserving bed space in any available housing units is critical to effective operation.

When reviewing possible formulas and methods for calculating rated capacity for jails in PA the discussion focused upon finding a single method for this calculation that would be acceptable to those who administer the jails of various sizes. Perhaps an example of how simply the chosen method accommodates the field can be illustrated by examining the three major alternatives that were researched and considered, and how they are both similar and disparate.

A. In a large jail, a very detailed method to calculate capacity is illustrated here:

Housing unit	<i>Design capacity</i> (# of cells)	(# of beds)	<i>Total capacity</i>
A	62	124	82
B	62	124	82
C	52	100	69
D	48	82	48*
E	48	96	64
F	63	94 24*	79*
G	48	96	48*
H	48	96	64
I	48	96	64
J	48	96	64
K	48	96	64
L	48	96	64
M	48	96	64
N	19	19	19*
O	20	20	20*
	710	1,355	895
Dorm (temporary)		40	40
Reentry Center	136	136	136
Total	846	1,491	1,031

The number of beds for "Total Capacity" is generally 130% of the jail's Design Capacity. In some housing units (*) it is limited/determined by classification factors. The term Total Capacity refers to the maximum number of inmates that should be housed in a given housing unit in order to maintain optimum effective supervision, program participation, and accesses to services; while remaining in compliance with design and operational standards (living space, recreational space, air exchanges, etc.).

The actual Operational Capacity of an institution should not exceed 90% of its Total Capacity. Therefore, this Jail has a Design Capacity of 846;

a Total Capacity of 1,100; and
an Operational Capacity of 990.

It is obvious that this is complex...that it will not be as effective for medium jails, and will be wholly ineffective for small jails.

B. A simpler method of calculating capacity for a large jail is to define capacity as only the number of beds in General Population housing units (does not include temporary beds). In the more complex illustration of the large jail noted above, that would be a capacity of 970. Note the very close final result in each (990 and 970). This method of definition may be almost as effective for a medium jail as it is for a large jail...but once again, it cannot account for the needs of small jails, where most or all cells may be used as General Population (or restrictive housing, as needed). A small jail with 40 beds would have a capacity of 40 using this method.

C. Finally let us consider the methodology reached by the working group, and outlined in the Q&A handout. Applied to the large jail example above we find that capacity equals total number of permanent beds in jail system multiplied by a percentage (1,491 X 65%) In this jail that is 1,491 X .65 = 969. Again remarkably consistent with the results of both of the previous methods discussed (990 and 970); far simpler. And, using this method the operational considerations of medium and small jails can be addressed. A small jail with 40 beds will have a capacity of 26 using this method; allowing for operational effectiveness.

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12 – The Act does not affect transfers (Warden’s Agreements) between counties, either.

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