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Opinion No. 03-101

Authority of Tennessee Corrections Institute to Waive Compliance with Minimum Jail Standards

QUESTION

Does the Tennessee Corrections Institute have the authority to waive compliance with minimum jail standards?

OPINION

No. The Institute has no statutory authority to waive compliance with minimum jail standards other than in those specific situations outlined in Tenn. Code Ann. §41-4-140(b)(2), (d) and (e).

ANALYSIS

The Tennessee Corrections Institute (TCI) has the power and duty to establish minimum standards for local jails, lock-ups, and workhouses. These include standards for physical facilities, standards for correctional programs of treatment, education and rehabilitation, and standards for safekeeping, health and welfare of inmates. The standards "shall approximate, insofar as possible, those standards established by the inspector of jails, federal bureau of prisons, and by the American Correctional Association's Manual of Correctional Standards, or such other similar publications as the institute shall deem necessary." Tenn. Code Ann. §41-1-140(a)(1).

The TCI is required, at least once a year, to inspect all local jails, lock-ups, workhouses and detention facilities based on the established standards and publish the results of such inspections. Tenn. Code Ann.§ §41-4-140(a)(3) & (4); 41-7-103(4). If a facility meets the minimum standards for local correctional facilities, that fact is certified to the county mayor or other chief executive officer of the county and to the state judicial cost accountant. Tenn. Code Ann. §41-8-103(3). If a facility fails to meet the minimum standards, that fact is reported to the commissioner of correction, sheriff, county mayor, judge, mayor or head of the political subdivision, as appropriate, in which such jail or penal institution is located. Tenn. Code Ann. §41-4-140(a)(4). If a facility is determined not to be in compliance with the minimum standards, an extension of no more than sixty (60) days may be granted for the purpose of making improvements necessary to bring the facility into compliance with the minimum standards. Tenn. Code Ann. §41-4-140(b)(1). If an extension is

granted and only during the period of such extension, the facility maintains the same certification status as it had prior to the most recent inspection. *Id*. No additional extensions may be granted, and the certification status received upon reinspection is the facility's status until the next annual inspection. *Id*.

The statute provides only three instances in which a local correctional facility may receive a certificate of compliance despite a failure to comply with the minimum standards in their entirety. Tenn. Code Ann. §§41-4-140(b)(2) and (e) provide relief when a facility is crowded due to delayed intake into the Department of Correction pursuant to Title 41, Chap. 1, Part 5, or a federal or state court order. In addition, subsection (d) provides that no currently certified facility will be decertified if that local government has submitted a plan within sixty (60) days of the initial annual inspection which is reasonably expected to eliminate fixed ratio deficiencies and cause the facility to remain certified.

Beyond the instances discussed in the previous paragraph, there is no statutory authority for the TCI to waive compliance with the minimum standards. *See also* Op. Tenn. Atty. Gen. 82-434 (October 5, 1983). The only discretion given the TCI is in determining the nature of the standards to be established. Tenn. Code Ann. §41-4-140(a)(1).

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