



STATE OF WEST VIRGINIA
DEPARTMENT OF HOMELAND SECURITY
DIVISION OF CORRECTIONS
AND REHABILITATION



WILLIAM K. MARSHALL, III
COMMISSIONER

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CABINET SECRETARY

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September 25, 2024

Sara N. Whitaker
West Virginia Center on Budget & Policy
1610 Washington Street E, Suite 200
Charleston, West Virginia 25311

RE: FOIA Request for adult inmate count as of 09/03/2024, deaths in custody and certain policy directives (25)

Please be advised that the West Virginia Division of Corrections and Rehabilitation received your September 3, 2024, Freedom of Information Act request. Pursuant to West Virginia Code § 29B-1-3(a) you have the general right to inspect public records within the custody of a state agency, subject to certain limitations.

This response is being provided to you on behalf of Commissioner William K. Marshall, III, who is the custodian of records for the West Virginia Division of Corrections and Rehabilitation.

You requested:

- “1. A copy of the ‘West Virginia Division of Corrections and Rehabilitation Adult Inmate Count’ for September 3, 2024.
2. A copy of the “West Virginia Division of Juvenile Services Race & Gender Report” for September 3, 2024.
3. A log of all people who died in the custody of the Division of Corrections and Rehabilitation from July 31, 2024 through the date of this request. This request includes people who died following a DCR administrative release, as well as any people who died after a transfer from DCR to an ambulance, a hospital, or other medical facility. For each person who died during the period above, please provide the following information in an excel spreadsheet:
 - a. Date of Death,
 - b. Admission Date,
 - c. Date of Birth,
 - d. Race,
 - e. Gender,
 - f. Age at Death,
 - g. County that initiated custody (for example, though a pretrial hold or sentencing commitment),
 - h. Case Number underlying custody (for example, 20-F-304),
 - i. Facility where death occurred or where the person died,
 - j. Manner of Death,
 - k. Cause of Death, and
 - l. Custody Status (for example, pretrial, convicted, etc.).

4. A copy of all DCR policy directives with an effective date of July 31, 2024, or later.”

The public records which currently exist, which are not exempt from disclosure and which have been identified as responsive to your requests have been attached hereto.

Regarding your request for production of a *Vaughn* index, one will not be provided now as such is only appropriate in litigation and there is no error if the index is provided during litigation. In *Farley v. Worley*, 215 W.Va. 412 (2004), it is noted "the *Vaughn* index is implicated by FOIA litigation-not simply by a FOIA denial. See *Natural Resources Def Council v. Nuclear Reg. Comm'n*, 216 F.3d 1180, 1190 (D.C. Cir. 2000) (*Vaughn* index is a 'rule that governs litigation in court and not proceedings before the agency.')." Thus, "[t]here is no requirement that an agency provide a 'search certificate' or a '*Vaughn*' index on an initial request for documents." *Id.*

To the extent you consider any part of this response a denial, the responsibility of the West Virginia Division of Corrections and Rehabilitation to respond to your initial request is at an end. If you feel the information contained in this response is contrary to law you may institute an action for declaratory and/or injunctive relief in the Circuit Court of the county in which you assert the records are kept, subject to all jurisdictional procedural prerequisites, which are specifically not waived.

Attachments

West Virginia Division of Juvenile Services

Race & Gender Report as of 9/3/2024

Run Date: 9/3/2024

Run Time: 07:10

Page 1 of 1

Race	Female	Male	Total
Black Hispanic	0	3	3
Black Non-Hispanic	7	39	46
Native Hawaiian/Pacific Islander	0	1	1
Other	3	8	11
Other - Hispanic	0	5	5
White Hispanic	3	4	7
White Non-Hispanic	32	172	204
Total	45	232	277

Facility	Totals				Grand Totals	Capacity
	Under 18		Over 18			
	Female	Male	Female	Male		
Donald R. Kuhn Juvenile Center	11	14	2	5	32	46
Gene Spadaro Juvenile Center	3	21	0	1	25	23
J.M. "Chick" Buckbee Juvenile Center	0	20	0	2	22	24
James H. "Tiger" Morton Juvenile Center	7	18	1	3	29	23
Kenneth "Honey" Rubenstein Juvenile Center	0	25	0	13	38	66
Lorrie Yeager Jr. Juvenile Center	4	23	0	1	28	24
Robert L. Shell Juvenile Center	4	26	0	2	32	23
Ronald C. Mulholland Juvenile Center	8	24	0	2	34	25
Sam Perdue Juvenile Center	0	12	0	5	17	20
Vicki V. Douglas Juvenile Center	5	13	0	2	20	23
Total	42	196	3	36	277	297

YRC COUNTS	
Facility	Enrolled
Brook/Hancock County Youth Report Center	10
Boone/Logan Youth Report Center	27
Cabell County Youth Report Center	32
Fayette County Youth Reporting Center	26
Greenbrier Youth Reporting Center	16
Harrison County Youth Report Center	38
Jackson County Youth Reporting Center	9
Jefferson County Youth Report Center	8
Kanawha County Youth Report Center	33
Lincoln County Youth Report Center	8
Marion County Youth Report Center	29
Mason County Youth Report Center	15
Mercer County Youth Report Center	11
Monongalia Youth Reporting Center	16
Pocahontas County Youth Reporting Center	6
Putnam County Youth Report Center	22
Raleigh County Youth Reporting Center	10
Randolph County YRC	28
STARS Youth Report Center	8
Wood County Youth Report Center	26
Wetzel-Tyler Youth Reporting Center	23
TOTAL	401

Aftercare	
TOTAL	119

West Virginia Division of Corrections and Rehabilitation - Adult Inmate Count

Run Date: 9/3/2024

Run Time: 07:11

Bureau of Prisons and Jails - Jails

Facility	CF Convicted Felon		CM Convicted Misdemeanor		DOC Division of Corrections Inmate		FP Federal Inmate Pretrial		FS Federal Inmate Sentenced		ICE Immigration and	PTF Pretrial Felon		PTM Pretrial Misdemeanor		Total		Grand Total	Capacity
	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male		Female	Male	Female	Male	Female	Male		
CRJ	2	28	11	18	18	65	3	7	15	2	0	37	116	9	21	95	257	352	312
ERJ	6	36	8	21	5	70	15	64	1	0	0	44	205	14	30	93	426	519	448
NCRJ	24	104	8	40	13	60	6	26	1	1	0	82	358	25	72	159	661	820	564
NRJ	4	23	5	7	6	70	5	52	0	0	0	17	136	12	24	49	312	361	289
PHRJ	5	27	1	8	3	76	1	5	0	1	0	7	62	9	17	26	196	222	312
SCRJ	6	40	3	13	6	141	0	53	1	3	3	31	178	26	82	73	513	586	460
SRJ	6	46	5	30	10	138	4	17	0	0	0	47	222	13	60	85	513	598	468
SWRJ	13	30	4	4	7	156	0	0	0	0	0	49	159	12	28	85	377	462	468
TVRJ	4	33	10	24	18	109	4	19	0	0	0	21	134	9	39	66	358	424	368
WRJ	8	72	1	19	1	210	1	9	0	1	0	40	228	17	46	68	585	653	576
Total	78	439	56	184	87	1095	39	252	18	8	3	375	1798	146	419	799	4198	4997	4265

West Virginia Division of Corrections and Rehabilitation - Adult Inmate Count

Run Date: 9/3/2024

Run Time: 07:11

Bureau of Prisons and Jails- Prisons

Facility	Active Inmate			Out To Court	Out to Court Other State	Out to Medical	Out to Medical	Out To Treatment	Total			Grand Total	Capacity
	Female	Male	Unspecified	Male	Male	Male	Male	Male	Female	Male	Unspec ified		
DCC	0	191	0	0	0	0	0	0	0	191	0	191	240
HCC	0	1120	0	0	1	0	0	0	0	1121	0	1121	1141
HWC	0	25	0	0	0	0	0	0	0	25	0	25	52
LCC	556	1	1	0	0	0	0	0	556	1	1	558	607
MCC	0	119	0	0	1	0	0	0	0	120	0	120	120
MCDO	0	322	0	0	1	0	0	0	0	323	0	323	324
MOCC	0	994	0	0	0	0	0	1	0	995	0	995	1013
NCC	0	246	0	0	0	0	0	0	0	246	0	246	253
OCCC	0	53	0	0	0	0	0	0	0	53	0	53	66
PCC	0	282	0	0	1	0	0	0	0	283	0	283	369
SCC	0	340	0	0	0	0	0	0	0	340	0	340	372
SMCC	0	640	0	1	1	4	4	0	0	650	0	650	700
SWC	0	4	0	0	0	0	0	0	0	4	0	4	48
Total	556	4337	1	1	5	4	4	1	556	4352	1	4909	5305

West Virginia Division of Corrections and Rehabilitation - Adult Inmate Count

Run Date: 9/3/2024

Run Time: 07:11

Bureau of Community Corrections

Facility	Active Inmate		Active-in Inmate		Work Release Furlough	Work Release Out to Pass	Work Release Out to Work		Total		Grand Total	Capacity
	Female	Male	Female	Male	Male	Female	Female	Male	Female	Male		
BCC	0	55	0	0	0	0	0	19	0	74	74	109
CCC	40	25	0	0	0	2	3	22	45	47	92	128
PBCC	0	160	1	3	2	0	0	0	1	165	166	344
Total	40	240	1	3	2	2	3	41	46	286	332	581

All Offenders by Race & Gender as of 9/3/2024

Race	Female	Male	Unspecified	Total
American Indian/Alaska Native	4	6	0	10
Asian	3	7	0	10
Black	112	1365	0	1477
Hispanic or Latino	11	113	0	124
Multi-Racial or Other	8	82	0	90
Native Hawaiian or Pacific Islander	0	2	0	2
Unspecified	0	0	1	1
White	1263	7261	0	8524
Total	1401	8836	1	10238

Parolees

Total
2980

DOC Available for Transfer Jail Backlog as of 9/3/2024

Booking Type	In Jail Available for Transfer		
	Female	Male	Total
*Regular	10	549	559
Anthony Center	2	0	2
Community Corrections Rev	0	3	3
Electronic Monitoring	0	1	1
Home Confinement Parole Revoked	0	1	1
Home Confinement Revoked	0	19	19
Probation Violator Felony	0	11	11
Probation Violator Technical	6	72	78
Revocation of Supervised Release	0	18	18
Total	18	674	692

DOC Unavailable for Transfer Jail Backlog as of 9/3/2024

Booking Type	In Jail – Diagnostic Complete		In Jail Unavailable For Transfer			Total
	Male	Total	Female	Male	Total	
*Regular	0	0	44	317	361	361
Community Corrections Rev	0	0	0	3	3	3
Diagnostic	2	2	0	2	2	4
Home Confinement Parole Revoked	0	0	0	1	1	1
Home Confinement Revoked	0	0	2	17	19	19
ICOTS	0	0	4	40	44	44
Probation Violator Felony	0	0	1	8	9	9
Probation Violator Technical	0	0	11	66	77	77
Revocation of Supervised Release	0	0	0	7	7	7
Total	2	2	62	461	523	525

Date of Death	Admission Date	Race	Gender	Age at time of death	County	From Location	Manner of Death	Cause of Death	Offender Status
8/14/2024	2/14/2003	White	Male	43	Kanawha; Logan; Mingo; Putnam	NCC	Pending	Other/unknown	Convicted
8/16/2024	8/12/2024	White	Male	36	City Of South Charleston; Kanawha	SCRJ	Pending	Other/unknown	PTF Pretrial Felon
8/28/2024	10/10/2008	White	Male	53	Kanawha	MOCC	Pending	Other/unknown	Convicted

GENERAL DISTRIBUTION

**WEST VIRGINIA
DIVISION OF CORRECTIONS
& REHABILITATION**

NUMBER: 202.06

EFFECTIVE DATE: 04 September 2024

**SUBJECT: SINGLE-OCCUPANCY
CELLS/ROOMS**

POLICY DIRECTIVE

PURPOSE:

To provide policy and procedure requiring single-occupancy cells/rooms are available when indicated.

REFERENCE:

WV Code §15-12-2a; ACA Expected Practices 5-ACI-2C-02, 5-ALDF-2A-32, 4-JCF-5B-03, and 3-JDF-2C-02-1; Prison Rape and Elimination Act (PREA) §§115.42 and 115.342; and *State ex rel. Berry v. McBride*.

RESPONSIBILITY:

No additional written instructions on this subject are required.

CANCELLATION:

Any previous written instruction on the subject, including DCR Policy Directive 202.06, dated 01 June 2021.

APPLICABILITY:

All facilities within the Division of Corrections and Rehabilitation (DCR). This Policy is available for general distribution.

DEFINITIONS:

Cell: A room which is a component of a housing unit separated by walls and lockable doors. The term “cell” does not refer to dormitory style housing.

Multiple-Occupancy Cell or Room: A cell or room that houses more than one inmate or resident.

POLICY:

- I. The housing of adult inmates and juvenile residents in multiple-occupancy cells/rooms is permitted unless there is a need for single-occupancy cells/rooms for an inmate or resident in one of the groups listed below.

- II. Single-occupancy cells/rooms shall be available, when indicated, for the following. The caveat “when indicated” refers to determinations made by the classification system, medical diagnosis, or other professional conclusion. All determinations shall be entered into the Offender Information System (OIS).
 - A. Inmates or residents with severe medical disabilities and inmates or residents suffering from serious mental illness.
 1. Healthcare or mental health staff (as appropriate), based on a review of the inmate’s/resident’s medical/mental health record and assessment of the inmate/resident, will present information which justifies a single-occupancy cell/room assignment to the Chief of Security/Chief Correctional Officer for appropriate determination and document this information in the inmate’s/resident’s healthcare record.
 2. Healthcare staff will also document an inmate’s/resident’s medical condition or disabilities that preclude an upper bunk assignment in the inmate’s/resident’s healthcare record and notify the Chief of Security/Chief Correctional Officer.

 - B. Sexual predators.
 1. As determined by the PREA Screening Assessment (attachment to the DCR PREA Manual), a Sexual Predator will never be housed in the same cell with a Potential Victim or Victim. Nor shall a Sexual Predator be housed in dormitory style housing. (Any logistical issues will be presented on a case-by-case basis to the DCR Director of PREA Compliance for determination.)
 2. An inmate whom a court of competent jurisdiction has determined is a sexually violent predator as required by WV Code §15-12-2a. will be housed in a single-occupancy cell/room.

 - C. Inmates or residents likely to be exploited or victimized by others.
 1. An inmate/resident with a substantiated and documented pattern of being victimized by other inmates/residents resulting in serious physical injury or sexual assault may require a single-occupancy cell/room assignment.

2. This information, when determined, will be presented by appropriate staff (e.g., booking, counseling, classification, etc.) to the Chief of Security/Chief Correctional Officer for appropriate determination.

D. Inmates or residents who have other special needs for single housing.

ATTACHMENT(S):

None.

APPROVED SIGNATURE: _____

William K. Marshall III

William K. Marshall III, Commissioner

Sept. 4, 2024

Date