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# Colorado

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## Criminal Justice Reform Coalition

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*Prevention, treatment, and alternatives work  
Prison should be the last resort*

**Southern Regional  
Office**

January 28, 2002

2508½ W. Colorado Ave.  
Suite 3  
Colorado Springs, Colorado  
80904

Lizette Benedi  
Office of Legal Policy  
U.S. Department of Justice  
950 Pennsylvania Ave., NW  
Washington, DC 20530

**phone**

(719) 475-8059

**fax**

(719) 475-0530

Re: Jeanna's Act / AG Order No. 2539-2001 / RIN 1105-AA77

Dear Ms. Benedi:

I am writing in response to the proposed rules published in the *Federal Register* on December 17, 2001 regarding the Interstate Transport of Dangerous Criminals Act of 2000 (PL 106-560 or "the Act"). We respectfully submit these comments and ask that they be considered by the Department of Justice ("the Department") in the rulemaking process.

The Colorado Criminal Justice Reform Coalition (CCJRC) is a network of over eighty organizations and faith communities in Colorado which have united to call for responsible, humane, and effective criminal justice policies. We have an interest on a national and state level to advocate for responses to crime that actually address the harm which has been done and that respect the human rights of those who are accused and/or convicted of committing crimes.

**Headquarters**

c/o Rocky Mountain Peace and  
Justice Center  
P.O. Box 1156  
Boulder, Colorado  
80306

**phone**

(303) 444-6981

**fax**

(303) 444-6523

We are generally opposed to the housing and transportation of prisoners by for-profit entities, but so long as this practice does exist we support standards such as those outlined in the Act. We do, however, have the following comments on the proposed regulations published at 66 FR 64944-46.

**(1) Applicability.** In the definitions given at 66 FR 64944, clarification is necessary in defining a "private prisoner transport company." In several states, including Colorado, the legal status of private operators of correctional facilities is made murky the when privately-operated facilities are legally designated as "county" facilities, with the host county "subcontracting" the operation to a private company. In order to avoid similar confusion in the case of private prisoner transport companies ("transport companies"), language should be included to clarify that such subcontracting arrangements do not exempt private companies from compliance with the Act.

**(2) Background Checks and Employee Training.** We support the conducting of background checks and requiring employee training in the private prisoner transport industry, however we feel that certain vital training subjects have been

**website**

[www.ccjrc.org](http://www.ccjrc.org)

omitted from the proposed rules. We acknowledge that the Department is limited by Congress's restriction of requiring no more than 100 hours of preservice training [PL 106-560 § 4(b)(2)]; however, we feel that even within the Congressionally imposed framework, it is reasonable to require employees to:

- a. obtain a commercial drivers license (CDL), and
- b. complete an advanced first aid course administered by an accredited entity.

The CDL requirement would help reinforce professionalism among employees of transport companies by using existing rules and regulations which have been promulgated with transportation safety in mind. The first aid requirement is of particular importance since many of the correctional facilities that prisoners are transported to are in isolated rural areas where emergency medical services may not be readily accessible. In fact, more extensive training (such as First Responder certification) would be desirable but is problematic due to the restrictions in the Act. An advanced first aid course would be reasonable, however, and is essential for ensuring the safety of prisoners, as described in § 4(b)(10) of the Act.

**(3) Guard-to-prisoner ratio.** This section of the proposed rules is by far the most troubling. With all due respect to Congress's instructions, a ratio of one guard to six prisoners is not sufficient in many cases. Particularly worrisome is the possibility, under the proposed rules, that one guard could be solely responsible for two to six prisoners. Moreover, in our interpretation of the Act we do not see a clear prohibition against establishing a ratio of 1:6, with an additional provision that there shall never be fewer than two guards on duty at any given time. A 1:6 ratio with a minimum of two employees is a standard which we would like to see in place of the current proposed ratio. Additionally, we take issue with the Department's hesitancy to impose multi-tiered ratios because "compliance...would be complex for private entities lacking the Department's resources" (66 FR 64938). Since transport companies are performing public safety functions which are inherently governmental, there should be no hesitancy to impose rigorous standards to ensure that public safety does not suffer.

**(4) Employee Uniforms.** On at least one occasion, an employee of a private correctional facility in Colorado has impersonated a peace officer while wearing his uniform when off duty. In order to avoid any incidents such as this, we ask the Department to add language specifying that uniforms must clearly state the name of the transport company and under no circumstances may uniforms imply that the employee is a sworn peace officer.

**(5) Prisoner Uniforms.** We have no objections to the requirements included in the proposed rules on inmate clothing, but we feel that they should be amended to include a requirement that inmate clothing must be appropriate to the climate and weather conditions which can reasonably be expected to occur during the transport. Especially since prisoner uniforms are usually designed for indoor use, special attention should be given to ensuring that uniforms for transport are appropriate for applicable conditions including extreme temperatures, precipitation and high winds.

**(6) Restraints.** Any requirements for prisoner restraints must take into account that wearing restraints during long transports can lead to physical or psychological problems in otherwise healthy inmates. Thus, we ask the Department to consider removing the requirement for waist chains when prisoners are in a vehicle. In addition, we feel that regulations should require that prisoners be

housed in a secure facility (such as a county jail) and have all restraints removed and be allowed to sleep for at least 8 hours for every 48-hours spent in transit.

**(7) Notification of Local Law Enforcement Regarding Stops.** We strongly support the concept of requiring transport companies to report stops to local law enforcement agencies. The one flaw in the proposed language at 66 FR 64945 is that the requirement applies only to “predetermined” stops. The ability of transport companies to manipulate the definition of a predetermined stop causes us great concern. One possible addition which we ask the Department to consider is requiring transport companies to contact local law enforcement as soon as any non-predetermined stop exceeds 5 hours.

**(8) Use of Technological Equipment.** The decision to not require the use of “specific technological equipment...such as the installation of a satellite tracking system that is linked to law enforcement” (66 FR 64940) seems rooted in the Department’s desire to not place any significant burdens on transport companies. Again, we do not feel that the Department should be sensitive to regulatory burdens at the expense of public safety. An acceptable compromise that we advocate is to gradually phase in required satellite tracking equipment on all new vehicles purchased by transport companies.

**(9) Safety Policies.** It is our assertion that the proposed regulations concerning prisoner safety are too vague to satisfy the statutory requirement that the regulations shall provide “[m]inimum standards for the safety of violent prisoners” [PL 106-560 § 4(b)(10)]. The proposed regulations at 66 FR 64945-46 do not establish minimum standards, but instead merely require transport companies to have policies which address safety issues. We ask the Department to add the following requirements:

- a. The Department’s regulations should specify a required vehicle maintenance schedule which is analogous to those schedules adhered to by the BOP, INS, and USMS, and is harmonious with guidelines issued by the General Services Administration concerning fleet maintenance.
- b. Any medical or psychological incident or any incident that involves staff use of force must be documented in a standard report format and submitted to the Attorney General or his designee.
- c. Any prisoner who has a serious medical or psychological conditions that develops or becomes acute during a transport and poses a threat to life or limb must be immediately transported to a hospital or other adequate medical facility.
- d. Stops must be made at least every five hours to allow inmates to eat and use restroom facilities.

Thank you for your consideration of these comments. If I may be of any assistance, please do not hesitate to contact me at (719) 475-8059 or via email at [stephen@epimethian.org](mailto:stephen@epimethian.org).

Sincerely,

Stephen Raher  
Co-Coordinator