

NEW YORK STATE COMMISSION OF CORRECTION

Albany, New York



**In the Matter of the Escape of Edwin Ortiz
an Inmate of
the Schenectady County Jail**

August 2006

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Chairman

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Commissioner

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PREFACE

Pursuant to Article 3, §45(2) and §45(3) of the New York State Correction Law, the New York State Commission of Correction conducted an investigation into the February 21, 2006 escape of inmate Edwin Ortiz from the Schenectady County Jail in Schenectady, New York.

This report details the investigation conducted by Commission staff members Terrence Moran, Keith Zobel, Richard Kinney, Deborah Clark, Deane McGeary and Elisha Hamilton, under the direction of James E. Lawrence, Director of Operations. It discusses the incident, then presents the Commission's findings and consequent actions required.

I. EXECUTIVE SUMMARY

On February 21, 2006, inmate Edwin Ortiz escaped from the Schenectady County Jail. Ortiz shed his orange inmate jumpsuit under which he was wearing a homemade belt pouch containing personal possessions and contraband street clothes, leaving it to be picked up by a confederate. Sometime between 5:10 p.m. and 6:10 p.m., inmate Ortiz kicked the frame of the 'left side' (easternmost) gate leading to the outer perimeter of the recreation area, then detached and pulled up the chain-link fence portion of the gate. He crawled through the gate's fencing and climbed the recreation area's 20-foot perimeter fence. Upon reaching the top, Ortiz walked on the fence's cross-beam and fence top and then jumped approximately 12 feet down to a lower roof of the facility's dormitory housing area. Once on the lower roof, Ortiz climbed up to a second level roof of the dormitory and jumped down to an adjacent lower roof. He then dropped down a wall to the street level approximately 10 feet from the front entrance of the jail on Veeder Avenue. The correction officer posted in the outdoor exercise area claims to have neither witnessed nor heard any of this activity.

Ortiz's escape from the confines of the facility would remain undetected by the staff and administration of the Schenectady County Jail for one and one-half hours, during which time all of the inmates who had been in the outdoor exercise area with Ortiz were escorted to their housing area (C-Block) uncounted, received there and lodged in their cells, again uncounted, and thereafter subjected to four housing area supervisory visits. Based upon an analysis of Schenectady's facility housing area logbooks, correction officers rarely entered the true and accurate times of their security/supervision rounds of inmate housing areas. In the case of C-Block, Tier 4 at the time of Ortiz's escape, the housing area officer wrongfully recorded four false uneventful supervisory checks inferring Ortiz's presence precisely on the quarter hour between 6:15 p.m. and 7:00 p.m. on the evening

of February 21, 2006. This calls into question whether any of the supervisory visits were, in fact, made.

The investigation makes it clear that facility executives, managers and line staff simply did not know how to respond to an emergency involving a short inmate count with an associated missing inmate. When the correction officer in charge of Ortiz's C-Block housing area first missed Ortiz at 7:15 p.m., he did not contact the lieutenant in command of the facility until approximately 7:38 p.m., 23 minutes later, to inform him that he could not locate Ortiz. The officer chose instead to first make telephone calls to ascertain Ortiz's whereabouts and to determine if Ortiz was taken off of the floor without his knowledge, actions beyond the scope of his discretion and authority under state regulations. Of graver import is that, although staff directly responsible for Ortiz knew that Ortiz was supposed to be in C-Block, their statements and behaviors confirm that they considered it entirely possible that Ortiz may legitimately have been in any one of several other facility locales *without their knowledge*. The housing area officer claimed to be uninformed and unaware of what action to take when inmates cannot be located. His logbook entries, which indicated that all inmates were accounted for, were false, i.e., not based upon an actual visual accounting of the presence of inmates.

The facility's written procedures on escape/abscondance are fragmented, vague and not sufficient to mount a timely and effective response to an escape. The procedures lack information on several areas critical to any escape response. Interviews of facility staff show a clear breakdown in facility command function, resulting in an inadequate and ineffectual response to Edwin Ortiz's escape. There was a general lack of direction given to staff as to their response to the escape. Some staff took it upon themselves to search various interior and exterior areas or move randomly about the facility. Some line staff indicated that they took direction from other line officers. Staff also searched the outdoor recreation area on several occasions for Ortiz and possible security breaches, finding neither. There was a lack of communication via radio or otherwise among supervisors and staff throughout the search process. Some staff were not provided with flashlights to aid

in the subsequent outside search for Ortiz. Other staff indicated that they had to remove flashlights from housing areas to assist in the outdoor search. Facility management did not establish a master incident logbook to document various events, activities and information. The facility did not immediately establish a fixed perimeter around the jail building. Only after interior and adjacent exterior searches were exhausted did the facility assign staff to fixed perimeter vehicular posts.

Facility records indicate that Schenectady-area law enforcement agencies were not notified of the escape of Edwin Ortiz until 9:30 p.m. February 21, 2006, 3 hours and 20 minutes after he escaped and 2 hours and 15 minutes after being discovered missing. This caused an unnecessary and unwarranted threat to public safety and to the lives and safety of community law enforcement personnel. Ortiz was apprehended in the City of Schenectady on February 22, 2006, approximately 19 hours after his escape and returned to the Schenectady County Jail.

At approximately 10:45 p.m., Undersheriff Pollard called off the internal search for Ortiz. The facility administration did not complete a formal debriefing with supervisory or line staff subsequent to the in-facility search effort or after the February 22 apprehension of Edwin Ortiz. Staff working the 3:15 p.m. - 11:15 p.m. shift were directed to leave the facility. Lieutenant Lachanski requested only that some staff prepare written statements and then only as to their involvement in the search. Some staff members did not complete statements until the following day. During the investigation, facility managers claimed that the current collective bargaining agreement between the County of Schenectady and the union representing the facility's correction officers, sergeants and lieutenants prohibits the facility from mandating staff to work overtime at the jail, even in the event of a public safety emergency such as the escape of Edwin Ortiz. Such a collective bargaining agreement provision may be contrary to public policy.

Edwin Ortiz is a 42 year old single Hispanic male who stands 5'10" tall and weighs 185 pounds. His most recent New York domicile was Syracuse. He is a native of Reading,

Pennsylvania. He had no occupation in New York. He is the subject of a September 20, 2005 fugitive warrant from the Pennsylvania Board of Probation and Parole. He escaped in 1982 from the State Correctional Institution at Camp Hill, a maximum security Pennsylvania state prison. On October 22, 2005, Edwin Ortiz was arrested by the Rotterdam Police Department on multiple charges of Robbery and Criminal Possession of a Weapon. He also had multiple arrests in the Capital District for Robbery, Weapons Possession and Criminal Impersonation. He was remanded to the Schenectady County Jail without bail. Upon arriving at the Schenectady County Jail, facility intake officers completed an initial risk assessment. Ortiz was classified as maximum security and placed in the facility's Special Housing Unit. Edwin Ortiz is a dangerous felon, a known escape risk and a threat to public safety. This was known to management and uniformed staff of the Schenectady County Jail.

The outdoor exercise area at the Schenectady County Jail is in the center of the service core structure of the jail complex and is accessed via the first floor of the new (1993) jail section. On February 21, 2006, the yard was rectangular in shape, divided into two distinct sections situated east and west, separated by a chain-link fence. Movement between the two sections was accomplished via a single locking connecting gate. The access gate leading to the service core door is on the west. Another gate provides access to the fenced walkway on the easternmost side of the east recreation area. The facility administration erected a recreation officer's shelter outside of and adjacent to the recreation area's south fence enclosure. It was constructed of plywood, complete with a door and windows. One window features an air conditioner and there is a portable heater on the interior floor. The Commission has no record that the construction of this shelter was approved by the Commission as required by New York State Correction Law §45(10). The shelter has been demolished since Ortiz's escape.

Commission staff's inspection of this shelter revealed significant impairment of sight lines with blind spots caused by the shelter's configuration in conjunction with the perimeter fencing and fence posts. Facility managers stated that staff posted to supervise inmates

in the exercise area are not required to remain inside the shelter during recreation periods but routinely do so. Correction officers are not required by the facility administration to patrol the recreation area from its perimeter. Because officers in the shelter cannot readily communicate orally with and respond to inmates in emergency situations while remaining inside the shelter, the requirements for 'active supervision' set forth in state regulations were not met by officers in a static position within the enclosed shelter area.

From the time of the escape of Ortiz through to the present, the Schenectady County Jail has been severely and chronically understaffed. The Commission's 2001 Position and Staffing Analysis prepared pursuant to *Minimum Standards Part 7041 Staffing Requirements*, requires 101 daily posts to operate the facility, which in turn requires 161 full-time equivalent security staff. Due to an allowance for the use of part time staff and overtime, the 2001 Analysis requires that 146 of the 161 staff must be full-time, with the balance covered by part time staff and overtime. Since there is little or no use of part time staff, the facility is short approximately 27 uniformed employees. A review of facility records found that the facility routinely abandoned essential security staff posts at the time of Ortiz's escape and continues to do so at present, a violation of *Minimum Standards* §7041.2(c). A review of facility operations and the staffing data found that currently only 134 out of 146 required full time positions filled are performing jail functions (some correction officers have been assigned court security or to a library detail, etc.).

In addition to the staffing deficiencies outlined above, Commission staff noted instances where correction officers were voluntarily working 24 to 32 consecutive hours. These extraordinarily deleterious working conditions have caused officers to become fatigued and will continue to interfere with duty performance, thereby creating a substantial risk of recurrent lapses of security and supervision. Therefore, the Commission finds that the Schenectady County Jail is in violation of the inmate safekeeping provision of NYS Correction Law Section 500-c, Custody and control of prisoners. Staff who work in excess of two consecutive shifts on a consistent basis, when an emergency has not been declared, are overburdened, fatigued and create a safety threat to the jail, the inmates and

to themselves.

The investigation into Ortiz's escape revealed that procedures for inmate movement within the Schenectady County Jail are deficient and, in some cases, violate facility policy. Inmate groups are not counted by escort officers prior to leaving one locale en route to another. Escorting officers are not required to report a verified count of the inmates they have escorted when turning them over to officers supervising the destination locale. In the case of the Ortiz incident, the facility policy requiring the outdoor recreation officer to relay a count of inmates en route to the housing area and the housing area officer to acknowledge receipt of a definite count of inmates from the recreation area by radio message was not observed.

Observation of facility operations during the escape investigation revealed that staff did not conduct effective inspections of the recreation areas before and after recreation periods; in particular, officers did not inspect equipment, locks, gates, screens and other securing devices upon assuming the outdoor recreation post. This constitutes violations of *Minimum Standards* §7003.6(c) and §7028.5. Moreover, Commission interviews of staff, supervisors and managers revealed that sergeants and lieutenants play no role in assuring effective supervision of outdoor recreation.

Also relevant to the inquiry into the February 21 escape is the finding by Commission investigators that off-going and on-coming staff do not perform concurrent inmate population counts, as required by *Minimum Standards*, §7003.5(a)(2). In most county jails, a pre-shift line up is utilized to allow for communication between each shift, communication between shift management and line staff as well as to allow time for staff to conduct concurrent inmate counts with the oncoming and off-going staff. This is not the case at the Schenectady County Jail. Moreover, the total shift counts tallied by the booking staff are not compared to a master list of all inmates committed to the custody of the Sheriff. Commission staff also noted that there is no mechanism in place which enables the facility to maintain an ongoing perpetual count of the inmate population. The routine

movement of inmates throughout the facility is not consistently communicated to the appropriate staff nor is it documented, and so the whereabouts of any particular inmate are often unknown to the staff directly responsible for custody. These lapses played a direct role in the failure to discover Ortiz's escape for an extended time period.

Commission staff found that the facility administration no longer holds monthly meetings with administrative and supervisory staff. The lack of these meetings can only aggravate the *ad hoc* communications and inconsistent dissemination of information seen during the investigation

Although the investigation into the escape of Edwin Ortiz from the Schenectady County Jail identified specific correction officers who were negligently derelict in their duties to supervise inmates and prevent inmate escape, the Commission investigation more importantly revealed serious managerial and executive level operational and policy and procedure breakdowns of proportions which rise to the level of negligence and professional incompetence. These include, but are not limited to, operation of a large urban jail facility in a dangerously understaffed condition such that correction officers work triple or quadruple shifts; intentional abandonment of mandated security posts, particularly in security-sensitive areas; multiple disparate chains of command such that there is virtually no accountability up and down the line of authority and responsibility; failure to require adequate maintenance of facility logbooks; inadequate and ineffective inmate count procedures; multiple breaches of generally accepted security protocols for the movement of inmates in correctional settings; a lack of knowledge and direction imparted to staff as to what to do in case of unaccounted-for inmates or inmate escape; and, a failure to hold regular meetings between executive administrators and supervisors at the Schenectady County Jail.

Similarly, the immediate response of the executives and managers in charge of the Schenectady County Jail to the escape of Edwin Ortiz was incompetent. The most egregious lapses include, but are not limited to, a nearly complete breakdown in command

function to ascertain whether Ortiz had indeed escaped and to seek his recapture; breakdowns in communications that resulted in a lack of response coordination via radio; failure to issue flashlights for an exterior nighttime search; failure to immediately and thoroughly search the recreation area (where Ortiz was last seen) after Ortiz was discovered missing; failure to establish an immediate armed exterior perimeter around the facility; failure to immediately notify community law enforcement agencies of Ortiz's escape, thereby endangering both the public and community law enforcement personnel who were at risk of unexpectedly encountering a dangerous and desperate escapee; failure to establish a master chronological incident log; failure to debrief supervisory or line staff responsible for custody of Ortiz and those involved in the search for him in the immediate aftermath of his escape; and, directing facility staff involved in the Ortiz escape to leave the facility without debriefing or filing statements or reports.

Based upon the findings of the investigation into the escape of Edwin Ortiz, the Commission concludes that the Schenectady County Jail, as presently organized and managed, is neither a safe nor stable institution and is presently incapable of adequately fulfilling its role in the public safety establishment of the Capital Region. Assiduous and timely implementation of the Actions Required as set forth herein is absolutely essential to public safety and will be the subject of further Commission action should full compliance and remediation not be forthcoming. The Commission's findings in this case are of grave and consequential import. Schenectady County and the Sheriff are earnestly advised to heed them.

II. METHODOLOGY

The Commission of Correction's preliminary investigation commenced on February 21, 2006 with the assignment of two Field Operations staff members to monitor the search efforts for Edwin Ortiz and gather information surrounding his escape. At the direction of Director of Operations James Lawrence, Commission staff members Terrence Moran,

Keith Zobel, Richard Kinney, Deborah Clark and Elisha Hamilton commenced a comprehensive investigation into the events leading to the escape of inmate Edwin Ortiz.

The findings of this report are based on Commission staff interviews with Schenectady County Jail correctional staff, reviews of facility records, including written facility policies and procedures, official staff statements, inspection tours of the facility, and direct observations of facility operations and the conduct of uniformed staff.

Due to ongoing criminal investigations, Commission of Correction staff did not interview inmate Edwin Ortiz or any other inmates during the investigation of this incident.

As part of its investigation, Commission staff completed interviews with the following Schenectady County Jail staff as to their involvement in this incident:

STAFF

ASSIGNMENT ON FEBRUARY 21, 2006

Joseph Araszewski	Court Transport
James Dickinson	A-Block Housing
Katie Caulfield	Court Transport
Scott Warren	B-Block Housing
David Garhartt	Medical Officer
Dean Harper	E-Block Housing
William Traficante Jr.	Dispatch
William Verone	Court Transport
Sergeant Chris Booth	Floor Sergeant
Michael DiGiancchio	Trustee Supervisor
Correction Officer Jaymie Paul	Outdoor Recreation
Correction Officer Gerald Treacy	C-Block Housing
Correction Officer William Markle	D-Block Housing
Correction Office Brian Gage	Runner/Escort
Correction Officer Sherri Crandell	Runner/Escort
Lieutenant Daniel Lachanski	Shift Commander
Sergeant Jack Purdy	Correction Sergeant
Lieutenant William Menzies	Correction Lieutenant
Sergeant Sherri Jones	Correction Sergeant
Correction Officer Don LaBrake	Booking

III. INVESTIGATION

Edwin Ortiz is a 42 year old single Hispanic male who stands 5'10" tall and weighs 185 pounds. His most recent New York domicile was Syracuse. He is a native of Reading, Pennsylvania. He had no occupation in New York. On October 22, 2005, Edwin Ortiz was arrested by the Rotterdam Police Department on multiple charges of Robbery and Criminal Possession of a Weapon. His criminal record in the Capital District featured multiple arrests for robbery, weapons possession and criminal impersonation. He was remanded to the Schenectady County Jail without bail. Upon arriving at the Schenectady County Jail, facility intake Officers completed an initial risk assessment and suicide screening and it was determined that Ortiz was not suicidal. During the intake process, the facility discovered that Ortiz was wanted by the Pennsylvania Board of Probation and Parole for absconding from parole supervision on September 20, 2005. At this time, the facility also became aware of Ortiz's 1982 escape from the State Correctional Institution at Camp Hill, a maximum security facility in Pennsylvania. Upon completion of the initial classification process, Ortiz was classified as maximum security and placed in the facility's Special Housing Unit.

On November 1, 2005, Ortiz was transferred from the Special Housing Unit to the C-Block housing area, Tier 4, cell #24. On December 5, 2005, Ortiz was moved from cell #24 to cell #22 on the same tier. During his incarceration, Ortiz was subject to multiple disciplinary infraction reports for possession of contraband (pen, letter, extra pair of sneakers). He was found guilty on three separate occasions and given a suspended sentence of lock-in time. The remainder of his incarceration, until his escape, was apparently uneventful. Edwin Ortiz is a dangerous felon, an escape risk and a threat to public safety. This was known to the management and uniformed staff of the Schenectady County Jail.

The Schenectady County Jail: Facility Description - Incident Locale

The original 1912 Schenectady County Jail, with a design capacity of 88 beds, became chronically overcrowded in the 1980's and was supplemented by a newly constructed dormitory for 80 men in 1989. An entirely new facility consisting of 192 beds was planned and constructed in 1993 directly adjacent to the 1912 jail. Although the old jail was slated to be decommissioned, continued inmate crowding in Schenectady County resulted in renovation and re-occupation of the 1912 facility in 1997.

The facility is presently configured with a reception/intake unit for 33 inmates and eight linear cell blocks (A-H) of 24 cells each, both in the 'new' 1993 facility. There are four dormitories with a combined capacity of 98 inmates. The 'old' facility, adjacent and connected to the 1993 jail consists of four cellblocks of 20 cells on each of four floors and a Special Housing Unit cell block on the 5th Floor consisting of eight cells.

The Maximum Facility Capacity of the complex is 378 inmates. The Commission has authorized a variance for housing 16 additional female inmates in G-Block and H-Block. The facility is chronically overcrowded, operating at approximately 97% of design capacity and boarding about 15 excess inmates daily at other county jails in the region.

The C and D Block housing area is a linear array of cells, approximately 200 feet in length, oriented north and south. It is subdivided into eight distinct housing areas or *tiers*, each consisting of six single-capacity cells. As one enters the complex, the south four housing tiers (two on each side), comprise C-Block while D-Block consists of the north four housing areas (two on each side). The C and D Blocks each house 24 inmates, for a cumulative total of 48 inmates. There are two housing block officer posts (desks) located directly across from each other at the mid-way point where C and D blocks meet.

The outdoor exercise area is in the center of the service core structure of the Schenectady County Jail complex and is accessed via the first floor of the new (1993) jail section. On February 21, 2006, the area was rectangular in shape, divided into two distinct sections situated east and west, separated by a chain-link fence. Movement between the

two sections was accomplished via a single locking connecting gate. The facility administration erected a recreation officer's shelter outside of and adjacent to the recreation area south fence enclosure. It was constructed of wood, complete with a door and windows. One window features an air conditioner and there is a portable heater on the interior floor. The Commission has no record that the construction of this shelter was approved by the Commission as required by New York State Correction Law §45(10). The shelter was demolished after Ortiz's escape.

Commission staff's inspection of this shelter revealed significant impairment of sight lines with blind spots caused by the shelter's configuration in conjunction with the perimeter fencing and fence posts. When interviewed by Commission investigators, facility administrators stated that they were aware that the view from the shelter was obstructed. Facility managers stated that staff posted to supervise inmates in the exercise area are not required to remain inside the shelter during recreation periods, nor are they required to patrol the exercise area from its perimeter. The only controlling order is to the effect that officers supervising inmates may not enter the exercise area enclosure, according to facility management. With the exception of this apparent prohibition against correction officer entry of the recreation enclosure, there appear to be no rules, orders, or other procedural direction or duty performance requirements for outdoor inmate recreation. Interviews of staff and observation of facility operations reveal that line supervisors and facility managers do not oversee the exercise areas or their operation.

Events of February 21, 2006

3:15 p.m. to 11:15 p.m. Work Shift

Lieutenant Dan Lachanski, Shift Commander

4:40 p.m. According to C-Block housing area logbook entries, Officer Gerald Treacy left the C-Block housing area post at 4:40 p.m. He stated to Commission staff that he left the area for 'chow' (meal break). No relief officer was assigned to supervise C-block during Treacy's absence. As is common

practice, the officer assigned to the adjacent housing area (D-Block), in this case Officer William Markle assumed the additional responsibility for the supervision of C-Block housing during Treacy's absence. Officer William Markle was therefore left to supervise both the C-Block and D-Block housing areas. Officer Treacy and several other line and supervisory staff informed Commission staff that such reassignment of staff from housing posts without proper relief was a common practice that occurred at the direction of facility supervisors and with the authorization of the facility administration. This constitutes a violation of *Minimum Standards* §7041.2(c).

4:47 p.m. Officer Jaymie Paul informed Commission staff that he searched the outdoor recreation area at the conclusion of the G-block and H-block recreation period. He also informed Commission staff that he deemed this also to be the required search prior to the commencement of the C-block and D-block outdoor recreation period. He stated that his security inspections generally consisted of a visual inspection of the area and fencing, including the connecting gate but not an inspection of the integrity of the fencing. Officer Paul stated that he does not physically touch the fence for purposes of integrity testing and did not do so during the February 21 inspection. Since Edwin Ortiz broke through the gate screening without any delay when he escaped, it is reasonable to infer that the gate screening was to some extent compromised before Ortiz broke through. The failure to perform effective inspections of the recreation area gate and its screening constitutes a violation of *Minimum Standards* §7003.6, as well as a violation of facility policy.

Commission staff reviewed Officer Paul's outdoor exercise area logbook entries and were unable to determine the precise time of his inspections due to the use of graphic charting instead of timed serial entries signed by the respective correction officer. The failure to properly enter security

architecture and equipment inspections in the appropriate logbook is a violation of *Minimum Standards* §7003.3(j).

4:48 p.m. According to C-Block housing area logbook entries, Officer Treacy returned to the C-Block housing area post.

4:50 p.m. According to D-Block housing area logbook entries, Officer Markle left the D-Block floor from 4:50 p.m. until 5:15 p.m. Officer Markle informed Commission staff that he left the floor to provide meal relief for officers assigned to other housing areas. No relief officer was assigned to supervise D-block during Markle's absence. Officer Treacy assumed responsibility for supervision of the D-Block and C-Block housing area during Markle's absence. This is a violation of *Minimum Standards* §7041.2.

5:08 p.m. Officer Paul was assigned to the outdoor exercise area post. He stated to Commission staff that prior to the start of the C/D-Block recreation period, he entered the outdoor exercise area shelter and remained there for the duration of the period.

At about the same time, Officer Sherri Crandell escorted 12 inmates, including Edwin Ortiz, from the C-Block housing area to the outdoor exercise area. Officer Crandell secured the inmates in the left side exercise area and then returned inside the facility to resume her escort responsibilities. Officer Brian Gage escorted seven inmates from the D-Block housing area to the outdoor exercise area, placed them into the 'right side' (west) exercise area and then returned inside the facility to resume his escort responsibilities.

**5:10 p.m. -
6:10 p.m.** Officer Paul documented in the outdoor exercise area logbook that the recreation period for C and D blocks commenced at 5:10 p.m. As previously

noted, Officer Paul informed Commission staff that he remained in the outdoor exercise area shelter for the duration of the C/D-Block recreation period. Officer Paul stated to Commission staff that he believed that he was supposed to remain in the shelter during recreation periods, despite there being no facility policy or procedure to that effect. Officer Paul could not readily hear or communicate orally with inmates or immediately respond to emergencies from inside the shelter. Moreover, Officer Paul acknowledged to Commission staff that while stationed in the shelter, he could not see the entire exercise area due to blind spots created by the shelter and various fence posts surrounding the exercise area. Officer Paul informed Commission staff that he never reported the blind spot issue to anyone. Officer Paul also acknowledged to Commission staff that he read a magazine off and on during the February 21, 2006 C-Block and D-Block outdoor recreation period. Officer Paul had no basis for a belief that he should place himself in, and remain in a location within his post, from which he could not effectively perform 'active supervision' as defined in the *Minimum Standards* and was therefore derelict in his duty.

Sometime between 5:10 p.m. and 6:10 p.m., inmate Ortiz kicked the frame of the 'left side' (easternmost) gate leading to the outer perimeter of the exercise area. He was then able to immediately pull up the chain-link fence portion of the gate. He crawled through the gate door's fencing and climbed the exercise area's 20-foot perimeter fence. Upon reaching the top, Ortiz walked on the fence's cross-beam and fence top and then jumped approximately 12 feet down to a lower roof of the facility's dormitory housing area. Once on the dormitory lower roof, Ortiz climbed up to a second level roof of the dormitory and jumped down to another adjacent lower roof. He then dropped down a wall to the street level approximately 10 feet from the front entrance of the jail on Veeder Avenue. Officer Paul claimed to have neither witnessed nor heard any of this activity.

6:10 p.m. The D-Block housing inmates were escorted back from the outdoor exercise area to the D-Block housing area by Officer Crandell. The inmates were received by D-Block housing Officer Markle, who, along with Officer Treacy, secured the inmates in their respective tiers. Officer Markle documented in the D-Block housing area logbook that there were 23 inmates present in D-Block.

During interviews with Commission staff, neither Officer Paul nor Officer Crandell indicated they conducted any type of inmate headcount procedure in order to account for the inmates being released from exercise for escort back to the D-Block housing area. Officer Paul acknowledged to Commission staff that he did not count the D-Block inmates upon their departure from the outdoor exercise area. Further, Officer Paul did not convey the returning D-Block inmate count to Officer Markle. Commission staff reviewed the facility's written policy on *Outdoor Recreation* and noted that it requires the outdoor recreation officer to relay a count to the appropriate housing officers of the number of returning inmates. Officer Paul claimed to Commission staff that he was unaware that he was required to complete headcounts upon the completion of recreation periods. Whether or not Officer Paul was oriented to and understood the requirements of his post, he was derelict in his duty to count the inmates for whom he was responsible, a dereliction which contributed to the successful escape of Edwin Ortiz.

Officer Markle and Officer Crandall followed no discernable security procedure as part of transferring of inmates from escort officer supervision to D-Block housing officer supervision.

6:12 p.m. Officer Gage escorted the C-Block inmates from the outdoor exercise area to the C-Block housing area. Officer Paul and Officer Gage failed to notice

that inmate Edwin Ortiz was not among the group of inmates returning from the outdoor exercise area. As noted above in the movement to D-Block, Officer Paul again acknowledged to Commission staff that he did not count the C-Block inmates upon their departure from the outdoor exercise area.

Officer Gage acknowledged to Commission staff that he did not count the C-Block inmates prior to escorting them back to C-Block nor did he ask Officer Paul what the count was.

According to the C-Block housing area logbook, Officer Gage arrived at the C-Block housing area with C-Block inmates at 6:12 p.m. They were received by Officer Treacy and Officer Markle. Officer Treacy informed Commission staff that Officer Gage did not provide him with the number of inmates he was returning, nor did he (Treacy) request that information from Gage. As previously noted, Officer Paul did not contact either Officers Treacy or Markle with the count of returning inmates. It should be noted that neither Officers Treacy or Markle contacted Officer Paul to ascertain an accurate count of the returning inmates. Commission staff reviewed the facility's written policy on *Outdoor Recreation* and noted that it requires the housing officer to respond by radio to the exercise area officer upon receiving inmates for the purpose of verifying the inmate headcount. This was not done by either Officer Treacy or Officer Markle and thus both officers were derelict in their duty.

Officer Treacy informed Commission staff that he secured C-Block inmates in the Tier 4 (Ortiz's) housing area and that Officer Markle secured C-Block inmates in the Tier 3 housing area. Officer Treacy documented in the C-Block housing logbook that 12 C-Block inmates returned from the outdoor exercise area at 6:12 p.m and that the C-Block housing area headcount was 24. Officer Treacy also documented in the C-Block housing area logbook's 'chart' that Ortiz returned from outdoor recreation at 6:12 p.m. Commission

staff determined that Edwin Ortiz was not among the inmates returning to C-Block from outdoor recreation. Officer Treacy failed to note the absence of Edwin Ortiz at this time, and in fact wrongfully documented his presence.

6:15 p.m. According to C-Block housing area logbook entries, Officer Treacy completed a supervisory tour and headcount at this time and documented 24 inmates were present. Officer Treacy failed to note the absence of Edwin Ortiz at this time, again wrongfully documenting his presence. During the interview with Commission staff, Officer Treacy stated that he was required to complete and enter a “head count” (inmate count) every time he completed a round. Officer Treacy also acknowledged to Commission staff that he did not always complete such “head counts” during rounds.

6:30 p.m. According to C-Block housing area logbook entries, Officer Treacy completed a supervisory tour and headcount and again documented that 24 inmates were present. Officer Treacy failed to note the absence of Edwin Ortiz at this time, once again wrongfully documenting his presence.

6:30 p.m. According to C-Block log book entries, Sergeant Booth toured the C-Block housing area between 6:30 p.m. and 6:35 p.m. Sergeant Booth entered his signature in the logbook but did not enter the time of his visit nor any other information.

6:35 p.m. According to C-Block housing area logbook entries, Officer Treacy left the C-Block floor to take a break. No relief officer was assigned to supervise C-Block during Officer’s Treacy’s absence. Officer Treacy informed Commission staff that he was authorized by Sergeant Booth to leave the floor and that the sergeant actually walked with him off the floor. As previously noted in this report, this was a common practice authorized by supervisors and the facility administration. Post abandonment constitutes a

violation of *Minimum Standards* §7041.2.

Officer Markle informed Commission staff that he knew he was responsible for the care and custody of C-Block inmates during Officer Treacy's absence. However, Officer Markle informed Commission staff that he was focused on maintaining his assigned post (D-Block) and did not complete a supervisory tour of C-Block during the ten minutes Officer Treacy was off the floor. Officer Markle also stated to Commission staff that Treacy did not provide him with information (e.g., inmate count, etc.) relating to C-Block prior to leaving the floor. Markle further stated to Commission staff that he did not request this information from Treacy prior to Treacy's departure.

6:45 p.m. Officer Treacy returned to the C-Block floor. According to C-Block housing area logbook entries, Officer Treacy completed a supervisory tour and headcount and documented 24 inmates were present. Officer Treacy failed to note the absence of Edwin Ortiz at this time, wrongfully documenting his presence for the third time.

6:50 p.m. Officer Markle informed Commission staff that he was directed by Sergeant Purdy to report to the 'packages post.' Officer Markle left the D-Block housing area post and no relief officer was assigned to supervise D-block during Markle's absence. This left Officer Treacy alone to supervise the C-Block and D-Block housing areas. These actions constitute violations of *Minimum Standards* §7003.3 and §7041.2.

6:55 p.m. A new admission (Boone) was brought to the D-Block Housing area. Officer Treacy, still alone on the post, placed inmate Boone in D Block cell #39.

7:00 p.m. According to C-Block housing area logbook entries, Officer Treacy completed a supervisory tour and headcount of C-Block and documented 24

inmates were present. Officer Treacy failed to note the absence of Edwin Ortiz at this time, wrongfully documenting his presence for the fourth time.

7:15 p.m. According to D-Block housing area logbook entries, Officer Treacy commenced handing out razors to eight D-Block inmates. According to C-Block housing area logbook entries, Officer Treacy then handed razors out on C-Block Tier 4. When questioned by Commission staff, Officer Treacy stated that he handed one razor out to an inmate and then called out inmate Ortiz's name, as Ortiz had signed up for a razor. Officer Treacy did not hear a response from Ortiz. It was at this time that Officer Treacy noticed Ortiz was not in the C-Block Tier 4 housing area. Officer Treacy asked the inmates in the C-Block Tier 4 housing as to Ortiz's whereabouts, but none responded. Officer Treacy stated to Commission investigators that he then walked down the C-Block and D-Block housing corridors in an attempt to locate Ortiz.

7:15 p.m. Officer Treacy documented in his 7:15 p.m. entry into the C-Block housing area logbook that Ortiz was missing. Officer Treacy informed Commission staff that he then called the Booking Unit to ascertain Ortiz's location. He was informed by Officer Don LaBrake that Ortiz was not out to court or any other outside location. Officer Treacy then called several other locations throughout the facility, seeking information on Ortiz's possible whereabouts. While awaiting return phone calls from various posts, Treacy walked up and down the C-Block and D-Block housing areas in an attempt to locate Ortiz.

7:38 p.m. Officer Treacy called the Booking Unit and informed Officer LaBrake that he could not locate Ortiz. Lieutenant Menzies then spoke to Officer Treacy and directed him to immediately call Lieutenant Lachanski. Officer Treacy then called Lieutenant Lachanski at approximately 7:38 p.m. and informed him

that he could not locate Ortiz. Lieutenant Lachanski stated to Commission staff that Officer Treacy informed him that he was “certain” he had seen Ortiz in the C-Block housing area subsequent to the C-Block inmates’ return from outdoor recreation. Based on this information, Lieutenant Lachanski narrowed the focus of the search to the facility proper. Approximately 23 minutes elapsed between the time Officer Treacy discovered Ortiz was not in C-Block, Tier 4 and the time he notified Lieutenant Lachanski. This is a violation of *Minimum Standards* §7003.5(e).

Commission staff questioned Officer Treacy as to the facility’s protocol on reporting discrepancies in inmate counts and the time lapse between noticing Ortiz was missing and the time he notified Lieutenant Lachanski. Officer Treacy informed Commission staff that he was uninformed and unaware of what action to take when inmates cannot be located. He further informed Commission staff that he chose to first make calls to ascertain Ortiz’s whereabouts and to determine if Ortiz was taken off of the floor without his (Treacy) being notified. These actions were beyond the scope of his discretion and authority under state regulations.

Commission staff indeed noted that the facility does not have written policies and procedures pertaining to the actions officers are to take when a discrepancy in a head count exists or it is determined that an inmate cannot be located.

Upon receiving Officer Treacy’s call, Lieutenant Lachanski immediately notified all staff via radio to stop inmate movement in the facility and to secure all inmates where possible. He then ordered staff previously assigned to the Package Room to report to the Booking Unit. He informed those staff who were present in the Booking Unit that Ortiz could not be located and directed them to initiate a search of the facility and to remain

paired up with another staff member at all times. He ordered Sergeant Booth, Sergeant Purdy, and Correction Officers Myers, Arajzewski, Caulfield and Varone to search the outside perimeter. Those individuals initiated searches of various perimeter areas and surrounding neighborhoods. Other staff members remained in the facility and conducted an entire facility search, including all housing areas, kitchen, indoor exercise, medical, and program areas. Staff also searched the outdoor exercise area on several occasions for Ortiz and for possible security breaches, apparently finding none, even though Ortiz had breached the fencing covering the 'left' gate.

8:00 p.m. Lieutenant Lachanski notified Undersheriff Pollard of the situation. Pollard instructed Lieutenant Lachanski to notify Sheriff Buffardi. Lieutenant Lachanski took no action at this time to establish a secure perimeter around the exterior of the facility.

**8:30 p.m. -
9:15 p.m.** Various facility staff interviewed stated to Commission staff that Undersheriff Pollard, during a tour of the outdoor exercise area, discovered the breach in the area's 'left side' (easternmost) gate. As noted previously in this report, facility staff searched the outdoor exercise area on several occasions but did not locate Ortiz or any security breaches. Facility staff involved in the search stated to Commission investigators that they were searching for inmate Ortiz and not necessarily looking for security breaches.

9:30 p.m. According to the facility's dispatch records, it was not until this time that multiple law enforcement agencies in and around Schenectady were notified of inmate Edwin Ortiz's escape from the jail.

9:34 p.m. Lieutenant Menzies notified the Commission of Correction of the escape via telephone and spoke to Field Operations Supervisor William Benjamin. After

consulting with James Lawrence, Director of Operations, Mr. Benjamin dispatched Field Operations staff members Keith Zobel and Deane McGeary to provide technical assistance and to monitor the initial apprehension efforts undertaken by the Sheriff's Office.

10:45 p.m. Lieutenant Lachanski stated to Commission staff that he was instructed by Undersheriff Pollard to discontinue the search efforts at 11:15 p.m., have the 3:15p.m.-11:15p.m. staff return their weapons, then leave. Lachanski stated that Undersheriff Pollard made this decision because he was of the opinion that inmate Ortiz was not inside the facility.

11:15 p.m. Staff assigned to the 3:15 p.m. - 11:15 p.m. shift were allowed to end their shift and leave the facility. Only some staff were asked to complete written reports as to their involvement in the search for Edwin Ortiz. The facility administration did not initiate any debriefing sessions with this staff.

Facility Incident Response - February 21, 2006

Based upon extensive staff, supervisory and managerial interviews and a review of all records relevant to the escape of Edwin Ortiz, the Commission established that the Schenectady County Jail's written procedures on escape/abscondance are fragmented, vague and not sufficient to mount a timely and effective response to an escape. The procedures lack information on several areas critical to an escape response. The entire procedure, as it applies to an escape from the facility, is approximately one double-spaced page in length. Important information relative to the establishment and staffing of a command center, the issuance of staff assignments, emergency staff deployments, implementing perimeter security plans, and specific emergency post orders, are all missing from the written procedures. No reference is made to the interaction between correction and patrol officers. The procedures do not include drawings of the facility's floor plan and

does not describe any emergency command structure.

Interviews of facility staff showed a clear breakdown in facility command function resulting in an inadequate and ineffectual response to Edwin Ortiz's escape. There was a general lack of direction given to staff as to their responsibilities in response to the escape. Some staff took it upon themselves to search various areas or move randomly about the facility. Some line staff stated that they took direction from other line officers.

There was a lack of equipment, communication and documentation. According to staff interviews there was little or no communication via radio or otherwise among supervisors and staff throughout the search process. Some staff were not provided with flashlights to aid in the outside search for Ortiz. Other staff indicated that they had to remove flashlights from housing areas to assist in the outside search. The facility administration did not complete a formal debriefing with supervisory or line staff subsequent to the in-facility search effort or after the later apprehension of Edwin Ortiz. The facility command did not establish a master incident logbook to document various events, activities and information relevant to the incident and the response.

The Sheriff's Office did not deploy staff in a manner adequate for an effective escape response. The Sheriff's Office did not immediately establish a fixed perimeter around the jail building. Only after interior and adjacent exterior search activity was exhausted did command personnel assign staff to fixed perimeter vehicular posts. At approximately 10:45 p.m., Undersheriff Pollard called off the internal search for Ortiz. Staff working the 3:15 p.m.-11:15 p.m. shift were directed to leave the facility. Lieutenant Lachanski requested that only some staff to prepare written statements and then only as to their involvement in the search. Some staff members did not complete statements until the next day. During the investigation, facility management claimed that the current collective bargaining agreement between the County of Schenectady and the union representing the facility's correction officers, sergeants and lieutenants, prohibits the facility from mandating staff to work overtime at the jail, even in the event of a public safety

emergency such as the escape of Edwin Ortiz. Facility records indicate that Schenectady-area law enforcement agencies were not notified of the escape of Edwin Ortiz until 9:30 p.m. February 21, 2006, long after Ortiz was known to have escaped. This caused an unnecessary and unwarranted threat to public safety and to the lives and safety of community law enforcement personnel.

Schenectady County Jail: Staffing, Management and Operations on February 21, 2006

Although the investigation into the escape of Edwin Ortiz from the Schenectady County Jail identified specific correction officers and supervisory staff who were negligently derelict in their duties to supervise inmates and prevent inmate escape, the Commission investigation also revealed serious Sheriff's Office and managerial level operational and policy and procedure breakdowns of proportions which rise to the level of negligence and professional incompetence. These include, but are not limited to, operation of a large urban jail facility in a dangerously understaffed condition such that correction officers work triple and quadruple shifts; intentional abandonment of mandated security posts, particularly in security-sensitive areas; multiple disparate chains of command such that there is virtually no accountability up and down the line of authority and responsibility; failure to require adequate maintenance of facility logbooks; inadequate and ineffective inmate count procedures; multiple breaches of generally accepted security protocols for the movement of inmates in correctional settings; a lack of knowledge and direction imparted to staff as to what to do in case of unaccounted-for inmates or inmate escape; and, a failure to hold regular meetings between executive administrators and supervisors at the Schenectady County Jail.

Similarly, the immediate response of the managers and executives in charge of the Schenectady County Jail to the escape of Edwin Ortiz was incompetent. The most egregious lapses include, but are not limited to, a nearly complete breakdown in command function to ascertain whether Ortiz had indeed escaped and to seek his recapture; breakdowns in communications that resulted in a lack of response coordination via radio;

failure to issue flashlights to officers; failure to immediately and thoroughly search the exercise area (where Ortiz was last seen) after he was discovered missing; failure to establish an immediate armed exterior perimeter around the facility; failure to immediately notify community law enforcement agencies of Ortiz's escape, thereby endangering both the public and community law enforcement personnel who were at risk of unexpectedly encountering a dangerous and desperate escapee; failure to establish a master chronological incident log; failure to debrief supervisory or line staff responsible for custody of Ortiz and those involved in the search for him in the immediate aftermath of his escape; and, directing facility staff involved in the Ortiz escape to leave the facility without debriefing or filing statements or reports.

At the time of the February 21 incident through to the present, the Schenectady County Jail has been severely and chronically understaffed. The Commission's 2001 Position and Staffing Analysis prepared pursuant to *Minimum Standards* Part 7041 requires 101 daily posts to operate the facility, which in turn requires 161 full-time equivalent security staff. Due to an allowance for the use of part time staff and overtime, the 2001 analysis requires that 146 staff must be full-time. However, since the Schenectady County Jail is in the process of phasing out part time personnel, a review of the staffing sheets confirms that part time personnel are seldom used to fill posts required in the jail.

A review of facility records over a 28 day period in May and June 2006 found that the facility routinely vacates essential posts, Further review of overtime usage for 2005 found that on average, 13 positions per day were filled through overtime and the facility continued to vacate essential and mandated posts due to the lack of personnel, a violation of *Minimum Standards* §7041.2(c). Commission staff noted that critical posts were abandoned in housing areas C and D on the date of the Ortiz escape, February 21, 2006. The facility continues to the present time to fail to fill the required minimum number of posts. Due to the fact that the facility administration claims that its collective bargaining agreement prohibits mandatory overtime to ensure compliance with the minimum number

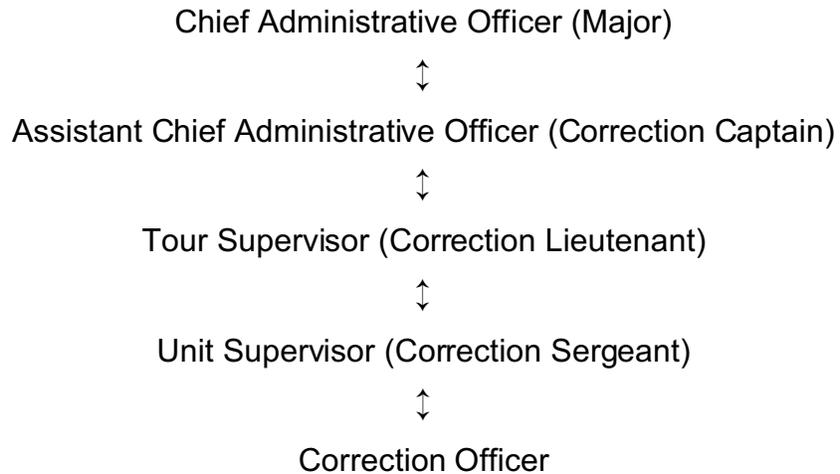
of posts, and that the use of part-time personnel is being discontinued, the Commission recently served notice on the jail administration that it will no longer recognize the part-time/overtime policy as an element of compliance with Part 7041, Staffing Requirements at the Schenectady County Jail. A further review of facility operations and staffing data found that currently only 134 out of 146 required positions filled are performing jail functions (some correction officers have been assigned court security or to a library detail, etc.). The facility administration was notified that the Commission will henceforth require the facility to be staffed with **161** full time staff, assigned solely to jail functions. Consequently, the facility has a staff deficiency of approximately 27 full time uniformed employees.

Moreover, Commission staff noted instances in which officers were working 24 to 32 consecutive hours. These extraordinarily deleterious conditions persist at present and will continue to cause officers to become fatigued and will interfere with duty performance, thereby creating a substantial risk of a lapse of security and supervision. The Commission therefore finds that the Schenectady County Jail is in violation of Correction Law §500-c which states, in part,

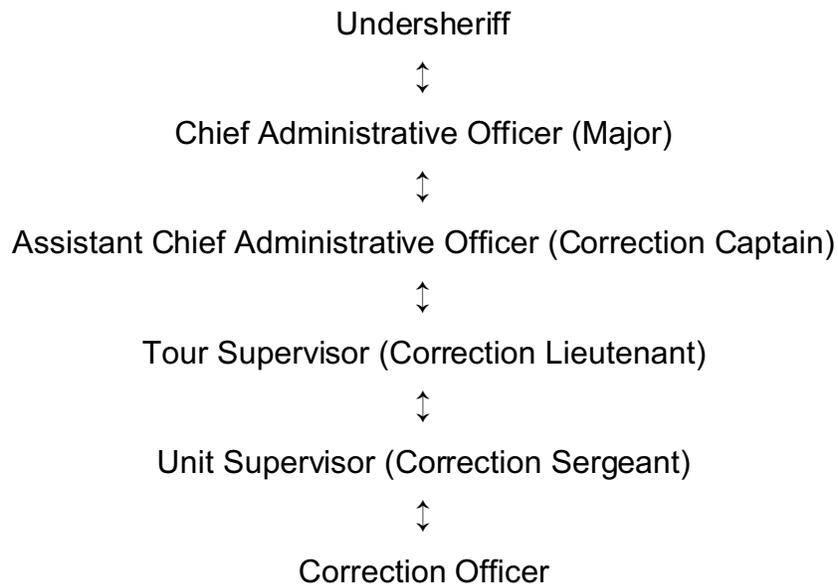
The chief administrative officer shall receive and safely keep in the county jail of his county each person lawfully committed to his custody . . . nor shall he without lawful authority let any such person out of jail.

Staff who work in excess of two consecutive shifts on a consistent basis, when an emergency has not been declared, are overburdened, fatigued and create a safety threat to the jail, the inmates and to themselves.

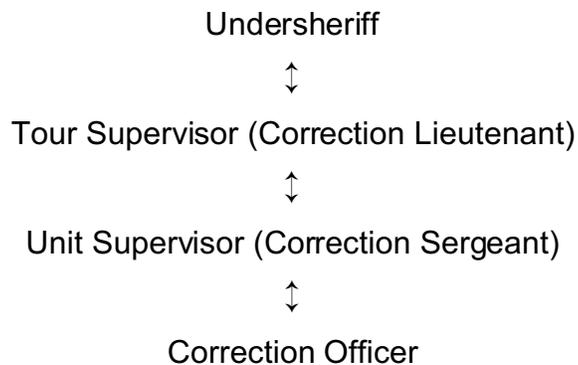
The 2001 Position and Staffing Analysis for the facility requires, pursuant to *Minimum Standards* Part 7041, a chain of command that is consistent with other comparable facilities and that is in accordance with generally accepted correctional practice. The chain of command as outlined in the 2001 Position and Staffing Analysis shows the following as the rank structure to be filled and utilized at the facility:



In the course of interviews with all of the staff directly involved in this incident, together with direct observation of facility operations during the investigation and in subsequent site visits and conferences with management, the Commission found that there are two disparate chains of command employed at the facility, neither of which conforms to the 2001 Position and Staffing Analysis. The ostensibly 'official' chain of command is shown in the diagram below:



The aberrant, *de facto* command structure actually in operation on a daily basis eliminates the major (jail administrator) and the entire corps of captains:



The Commission finds that the Schenectady County Jail does not require or use a unitary chain of command. This causes confusion among the staff, which negatively affects facility operations, including a lack of communication through the various ranks, and a reduction in the effectiveness of written policies, both of which were evident throughout in the facility in the staff response to Ortiz's escape, and during the investigation and subsequent site

visits.

The Commission's investigation revealed deficiencies in supervision of, and accountability for, inmates at the Schenectady County Jail. Commission staff noted that in addition to routine log book entries, all housing post logbooks contain an activity chart which allows staff to check off various services (e.g., exercise, razor issuance, etc.) provided to inmates. Staff do not provide their signatures after entries made into these logbook charts. The use of such charts also introduces white space gaps into the logbooks. The regulations governing documentation of inmate supervision as set forth in *Minimum Standards* do not provide for graphic charts or summary check-offs of events or activities, rather requires timed, linear entries signed by the correction officer who actually observed events or conducted activities.

Furthermore, while the facility administration requires housing area staff to complete supervisory tours every 15 minutes, a review of housing area logbooks by Commission staff revealed that facility staff routinely document such tours as occurring exactly every 15 minutes, precisely on the quarter hour. Given the numerous activities that occur in facility housing areas, it is a virtual impossibility that supervisory tours are always completed precisely on the quarter hour. These spurious entries are germane to the February 21 incident, in view of the fact that the Commission's investigation revealed that housing area officers apparently made uneventful supervisory checks of Ortiz's housing area for nearly one hour after he escaped. Also relevant to the inquiry into the February 21 escape is the finding by Commission investigators that off-going and on-coming staff do not perform concurrent inmate population counts, as required by *Minimum Standards*, §7003.5(a)(2). In most county jurisdictions, a pre-shift line up is utilized to allow for communication between each shift, communication between management and line staff and to allow time for staff to conduct inmate counts concurrent with off-going staff. That is not the case at the Schenectady County Jail. Moreover, the total shift counts tallied by the booking staff are not compared to a master list of all inmates committed to the custody of the Sheriff. Commission staff also noted that there is no mechanism in place which

enables the facility to maintain an ongoing overall perpetual count of the inmate population. The routine movement of inmates throughout the facility is not consistently communicated to the appropriate staff nor is it documented.

Based upon interviews with those staff directly involved, the investigation into Ortiz's escape revealed that procedures for inmate movement within the Schenectady County Jail are deficient and in some cases violate facility administration policy. Inmate groups are not counted by escort officers prior to leaving one locale en route to another. Escorting officers are not required to report a verified count of the inmates they have escorted when turning them over to officers supervising the destination locale. In the case of the Ortiz incident, the facility policy requiring the outdoor recreation officer to relay a count of inmates en route to the housing area, and the housing area officer to acknowledge receipt of a definite count of inmates from the exercise area by radio message was not observed.

Interviews with staff and management together with direct observation of facility operations during the escape investigation revealed that staff do not conduct effective inspections upon assuming the recreation officer post; in particular officers do not inspect equipment, locks, gates, screens and other securing devices upon assuming the outdoor recreation post. This constitutes a violation of *Minimum Standards* §7003.6(c) and §7028.5. Moreover, Commission interviews of staff, supervisors and managers revealed that sergeants and lieutenants play no role in oversight or management of outdoor recreation or of exercise areas.

Interviews with facility staff and management made it clear that facility executives and managers and line staff simply did not know how to respond to an emergency involving a short inmate count with an associated missing inmate. Line staff did not report Ortiz missing to a supervisor for 23 minutes, instead waited for return calls from various locations in the facility in answer to inquiries as to where Ortiz might be. Furthermore, and of graver import, although staff directly responsible for Ortiz knew that Ortiz was supposed to be in C-Block, their statements and behaviors confirm that they considered it entirely

possible that Ortiz may legitimately have been in any one of several other facility locales *without their knowledge*.

Commission staff noted that the facility administration no longer holds monthly meetings with administrative and supervisory staff. The lack of these meetings can only aggravate the lack of communication and inconsistent dissemination of information, aggravating the deleterious effects of disparate, *ad hoc* chains of command.

CONCLUSION

Based upon the findings of the investigation into the escape of Edwin Ortiz, the Commission concludes that the Schenectady County Jail, as presently organized and managed, is neither a safe nor stable institution and is presently incapable of adequately fulfilling its role in the public safety establishment of the Capital Region. Assiduous and timely implementation of the Action(s) Required as set forth herein is absolutely essential to public safety and will be the subject of further Commission action should full compliance with law and regulations and remediation of violations not be forthcoming. The Commission's findings in this case are of grave and consequential import. Schenectady County and the Sheriff are earnestly advised to heed them.

IV. FINDINGS

It is the finding of the Commission of Correction that the following deleterious conditions, policy and procedural lapses, violations of *Minimum Standards*, and executive, managerial and line personnel negligence and incompetence were the proximate causes of Edwin Ortiz's undetected escape from the outdoor exercise area of the Schenectady County Jail on February 21, 2006:

Facility Executive Management

1. The escape of Edwin Ortiz occurred in large part due to serious Sheriff's Office executive and managerial-level operational and policy and procedure breakdowns of proportions which rise to the level of negligence and professional incompetence. These include, but are not limited to, operation by the Sheriff's Office of a large urban jail facility in a dangerously understaffed condition such that correction officers work triple or quadruple shifts; intentional abandonment of mandated security posts, particularly in security-sensitive areas; multiple disparate chains of command such that there is little or no accountability up and down the line of authority and responsibility; failure to remedy known conditions in the exercise area which prevented active supervision of inmates; failure to require adequate maintenance of facility logbooks; inadequate and ineffective inmate count procedures; multiple breaches of generally accepted security protocols for the movement of inmates in correctional settings; a complete lack of knowledge and direction imparted to staff as to what to do in case of unaccounted-for inmates or inmate escape; and, a failure to hold regular meetings between executive administrators and supervisors at the Schenectady County Jail. The facility administration is in violation of 9NYCRR, *Minimum Standards for the Management of County Jails and Penitentiaries*, Parts 7003, Security and Supervision and 7041, Staffing Requirements.

2. The immediate response of the Sheriff's Office executives and managers in charge of the Schenectady County Jail to the escape of Edwin Ortiz was incompetent. The most egregious lapses include, but are not limited to, a nearly complete breakdown in command function to ascertain whether Ortiz had indeed escaped and to seek his recapture; an inadequate emergency preparedness and response plan; breakdowns in communications that resulted in a lack of response coordination via radio; failure to issue flashlights to the outside search details; failure to thoroughly search the exercise area; failure to establish an immediate armed exterior perimeter around the facility; failure to notify community law enforcement agencies of Ortiz's escape for a period of 3 hours and 20 minutes after he escaped and 2 hours and 15 minutes after he was discovered missing, thereby endangering both the public and community law enforcement personnel who were at risk of unexpectedly encountering a dangerous and desperate escapee; failure to establish a master chronological incident log; failure to debrief supervisory or line staff responsible for custody of Ortiz and those involved in the search for him in the immediate aftermath of his escape; and, directing facility staff involved in the Ortiz escape to leave the facility without debriefing or filing statements or reports.

Outdoor Exercise

3. The facility's written procedures on the *Outdoor Recreation* program are vague, and have resulted in confusion among supervisory and line staff. Facility managers state that staff posted to supervise inmates in the exercise area are not required to remain inside the shelter during recreation periods, nor are they required to patrol the exercise area from its perimeter. The only controlling order is to the effect that officers supervising inmates may not enter the exercise area enclosure, according to facility management. With the exception of an apparent prohibition against correction officer entry of the recreation enclosure, there appear to be no rules, orders, or other procedural direction or duty performance requirement for outdoor

inmate recreation. Supervisors and managers are not involved in oversight of exercise areas or their operation. The written policy predates and does not account for the construction of an outdoor recreation shelter. Nearly all staff assigned to outdoor recreation remain inside the enclosed shelter whereby active supervision as required by *Minimum Standards* cannot be performed, due to the inability to maintain uninterrupted oral communications with inmates and to immediately respond in emergencies, a violation of §7003.2(c).

4. The construction and positioning of the outdoor recreation shelter was not approved in advance by the Commission, a violation of NYS Correction Law §45(10). It created blind spots, resulting in staff's inability to effectively supervise the entire exercise area area while positioned within the shelter. Staff positioned inside the shelter are unable to observe portions of the east section of the area. It was from this section that Edwin Ortiz escaped.
5. The facility's administration acknowledged that prior to Ortiz's escape, they were aware of the obstructed view from inside the outdoor recreation shelter. Despite this knowledge, they failed to take action to correct this deficiency. The facility administration also failed to revise the operational policy on officers' positioning during recreation to account for the erection of the unauthorized shelter.
6. Officer Jaymie Paul was derelict in his duty in that he failed to supervise the C-Block and D-Block inmates in the outdoor exercise area on February 21, 2006 by positioning himself and remaining in the outdoor recreation shelter throughout the entire recreation period reading a magazine. He failed to account for Edwin Ortiz during and subsequent to the outdoor recreation period. He admitted that he could not see the entire outdoor exercise area while positioned inside the shelter. He also could not continuously communicate and respond to the inmates in his charge, a violation of *Minimum Standards* §7003.2(c).

On a previous occasion, Officer Paul was verbally reprimanded by Lieutenant Lachanski for reading personal materials (e.g., magazines) during the supervision of inmate indoor recreation. It does not appear that facility officials ever issued a policy statement advising officers that such practices were prohibited. Facility management did issue such a policy memorandum, but on the day following the Ortiz escape.

7. Officer Jaymie Paul was derelict in his duty in that he failed to properly search and examine the outdoor exercise area prior to the C-Block and D-Block recreation period upon assuming the post of recreation area officer on February 21, 2006. His search focused only on the identification of contraband and a visual inspection of the fence. He did not employ any methods to assess the physical integrity of the fencing (e.g., shaking the fence, inspecting for loose or missing ties, etc.). This is a violation of *Minimum Standards* §7003.6(c). During and subsequent to the C-Block and D-Block recreation period, Officer Jaymie Paul failed to discover the breach of the security fence gate from which inmate Ortiz escaped.
8. The facility has no policy/procedure in place which requires outdoor recreation staff to convey to the escorting officer the number of inmates being returned to housing areas. Neither Officer Paul nor Officer Gage noted the absence of inmate Ortiz at the conclusion of C/D Block exercise.
9. Officer Paul was derelict in his duty in that he failed to observe the facility's policy which requires the outdoor recreation officer to communicate (by radio) to housing staff the number of inmates returning from outdoor recreation. Facility supervisors also failed to enforce this policy.

The Commission notes that Officer Jaymie Paul was terminated from employment at the Schenectady County Jail by Sheriff Harry Buffardi

10. Facility sergeants and lieutenants routinely failed to properly supervise the facility's outdoor recreation program. It is the responsibility of facility sergeants and lieutenants to conduct tours of their assigned areas over the course of their shift. As a matter of routine practice at the Schenectady County Jail, supervisors do not enter the outdoor exercise area to assess the performance of staff, ascertain the overall climate of the inmate population participating in exercise, or review and sign the area logbook. Supervisory tours of the outdoor exercise area during facility rounds amount to a cursory view of the area through a door window leading to the outdoor exercise area. The view of the outdoor exercise area from the window is restricted.

Housing Area Supervision

11. Based upon an analysis of facility housing area logbooks, correction officers do not enter the true and accurate times of their security/supervision rounds of inmates housing areas. In the case of C-Block, Tier 4 at the time of Ortiz's escape, the housing area officer wrongfully recorded four false uneventful supervisory checks inferring Ortiz's presence precisely on the quarter hour between 6:15 p.m. and 7:00 p.m. on the evening of February 21, 2006. This calls into question whether any of the supervisory checks were in fact made.
12. There is no written facility policy requiring the escort officer to report an accurate inmate headcount of escorted inmates to the receiving housing area officer upon return from outdoor recreation.
13. Officer Treacy, after having not received a radio transmission from Officer Paul advising him of the number of returning C-Block inmates, failed to contact Officer Paul to obtain that information.
14. Officer Treacy was derelict in his duty in that he failed to properly account for inmate

Edwin Ortiz upon the return of the C-Block inmates from the outdoor exercise area at 6:12 p.m. His entry into the C-block logbook chart indicating that Ortiz returned at 6:12 p.m. was false. His serial logbook entry, which indicated that 12 inmates returned from outdoor recreation, was also false, i.e., not based upon an actual visual count.

15. Correction Officer Treacy failed to notice that inmate Edwin Ortiz was missing, wrongfully accounting for his presence during head counts he completed at 6:15 p.m., 6:30 p.m., 6:45 p.m. and 7:00 p.m. Officer Treacy stated that he did not always account for the number of inmates present during supervisory rounds. His logbook entries, which indicated that all inmates were accounted for, were false, i.e. not based upon an actual visual accounting of the presence of inmates.
16. Approximately 23 minutes elapsed from the time Officer Treacy noticed inmate Edwin Ortiz was not in his housing tier to the time he notified Lieutenant Lachanski. This delayed the determination by facility officials that inmate Ortiz had escaped. The Commission found that the facility has no written procedures to be followed when an inmate is unaccounted for. This investigation makes it clear that facility executives, managers and line staff simply did not know how to respond to an emergency involving a short inmate count with an associated missing inmate.

The Commission notes that Officer Gerald Treacy was terminated from employment at the Schenectady County Jail by Sheriff Harry Buffardi.

Staffing and Active Supervision

17. At the time of the February 21 incident through to the present, the Schenectady County Jail was severely and chronically understaffed. The Commission's 2001 Position and Staffing Analysis prepared pursuant to *Minimum Standards Part 7041* requires 101 daily posts to operate the facility, which in turns requires a 161 full-time

equivalent security staff. Due to an allowance for the use of part time staff and overtime, the 2001 analysis requires that 146 staff must be full-time. However, since the Schenectady County Jail is in the process of phasing out part time personnel, a review of the staffing sheets confirms that part time personnel are seldom used to fill posts required in the jail. This leaves the jail staff-deficient by approximately 27 full time employees. Moreover, due to a provision in the uniformed staff collective bargaining agreement, the facility cannot mandate overtime to ensure that all the required posts are filled. A review of facility records over a 28 day period in May and June 2006 found that the facility routinely vacates essential posts; Further review of overtime usage for 2005 found that on the average, 13 positions per day are filled through overtime and the facility continues to vacate essential and mandated posts due to the lack of personnel, a violation of *Minimum Standards* §7041.2(c). Commission staff noted that critical posts were abandoned in housing areas C and D on the date of the Ortiz escape, February 21, 2006. A review of the facility operations and the staffing data found that currently only 134 out of 146 required positions filled are performing jail functions (some correction officers have been assigned court security or to a library detail, etc.). Moreover Commission staff noted instances where officers were working 24 to 32 consecutive hours. These extraordinarily deleterious conditions persist at present and will continue to cause officers to become fatigued and will interfere with duty performance, thereby creating a substantial risk of a recurrence of a lapse in security and supervision.

The Commission therefore finds that the Schenectady County Jail is in violation, or is about to violate, Correction Law Section 500-c Custody and control of prisoners, which states, in part,

The chief administrative officer shall receive and safely keep in the county jail of his county each person lawfully committed to his custody, . . . nor shall he, without lawful authority, let any such person out of jail.

Staff who work in excess of two consecutive shifts on a consistent basis, when an emergency has not been declared, are overburdened, fatigued and create a safety threat to the jail, the inmates and to themselves.

18. The facility administration and supervisors routinely authorized and allowed housing area staff to leave housing posts without proper staff relief. In such instances, the facility violated requirements outlined in *Minimum Standards*, Parts 7003, Security and Supervision and 7041, Staffing Requirements. Such actions also jeopardized the safety of staff and inmates. In the instant case, such actions contributed to the facility staff's failure to notice Ortiz's absence subsequent to the completion of the C/D block outdoor recreation program.

At 4:40 p.m. on February 21, 2006, Officer Treacy left the C-Block housing post without being relieved by another Officer. Furthermore, at 6:35 p.m., Sergeant Booth authorized Officer Treacy to leave the C-Block housing post for a break. Both actions left the C-Block housing area post deficient one correction officer, thereby leaving Officer William Markle to supervise both the C-Block and D-Block housing areas in Treacy's absence. These actions are in violation of *Minimum Standards* Part 7041, Staffing Requirements. These actions are also in violation of *Minimum Standards* §7003.2(c), Security and Supervision as it relates to active supervision. Commission staff determined that such post abandonment was a routine practice authorized by facility supervisors and administration. The failure to deploy required staff in the C-Block housing area contributed to the facility staff's failure to notice the absence of Edwin Ortiz for one hour subsequent to the return of C-Block inmates from the outdoor exercise area.

19. Correction Officer William Markle was responsible for assuming the duties of C-Block upon the improper departure of Officer Treacy. Officer Markle failed to review the C-Block logbook entries for that tour and failed to complete a security inspection of C-Block. This is a violation of *Minimum Standards*, §7003.6(c). The facility

does not have written policy which outlines procedures to be followed when staff assume the duties of a post at times other than at the shift change.

20. At 6:50 p.m., on February 21, 2006, Sergeant Purdy improperly reassigned Officer Markle from the mandated D-Block Housing post without providing staff relief prior to such reassignment. This action left the D-Block housing area post deficient one correction officer and left Officer Treacy to supervise both the C-Block and D-Block housing areas in Markle's absence. This action is a direct violation of *Minimum Standards*, Part 7041 Staffing Requirements. This action is also a direct violation of *Minimum Standards* §7003.2(c), Security and Supervision as it relates to active supervision.

Escape Response

21. The facility administration's response to the escape of Edwin Ortiz was incompetent and ineffective. There was breakdown in facility command function resulting in an inadequate and ineffectual response to Edwin Ortiz's escape. There was a general lack of direction to staff as to the critical incident response to the escape. Some staff took it upon themselves to search various areas or move randomly about the facility. Some line staff indicated that they took direction from other line officers. According to staff interviews, there was a lack of communication via radio or otherwise among supervisors and staff throughout the search process. Some staff were not provided with flashlights to aid in the outside search for Ortiz. Other staff indicated that they had to remove flashlights from housing areas to assist in the outside search. The facility administration did not complete a formal debriefing with supervisory or line staff subsequent to the in-facility search effort or after the later apprehension of Edwin Ortiz. The facility did not establish a master incident logbook to document various events, activities and information. The facility did not immediately establish a fixed perimeter around the jail building. Only after interior and adjacent exterior searches were exhausted did the facility assign staff to fixed

perimeter vehicular posts. Community law enforcement agencies were not notified until long after Ortiz was known to have escaped. At approximately 10:45 p.m., Undersheriff Pollard called off the internal search for Ortiz. Staff working the 3:15 p.m.-11:15 p.m. shift were directed to leave the facility. Lieutenant Lachanski requested only some staff to prepare written statements and then only as to their involvement in the search. Some staff members did not complete statements until the next day. No critical incident debriefing was conducted. During the investigation, facility management claimed that the current collective bargaining agreement between the County of Schenectady and the union representing the facility's correction officers, sergeants and lieutenants, prohibits the facility from mandating staff to work overtime at the jail, even in the event of a public safety emergency such as the escape of Edwin Ortiz.

V. ACTIONS REQUIRED

Minimum Standards Compliance, Executive Performance

1. The Sheriff of Schenectady County shall take immediate action to comply with *Minimum Standards for the Management of County Jails and Penitentiaries* and NYS Correction Law §500-c, to address issues of executive and managerial negligence and professional incompetence, and to otherwise improve the executive-level management of the Schenectady County Jail. Dangerously low staffing levels shall be remedied by the County and the Sheriff based upon the Commission's 2001 Position and Staffing Analysis completed pursuant to *Minimum Standards* Part 7041, Staffing Requirements with the understanding that absent such remediation, the Commission may act to reduce the Maximum Facility Capacity of the facility in accordance with *Minimum Standards* Part 7040. The Schenectady County and the Schenectady County Jail shall employ and make available for duty at the jail not less than **161** full time uniformed staff. The Sheriff shall take special care to

immediately comply with 9NYCRR, *Minimum Standards and Regulations for the Management of County Jails and Penitentiaries*, Parts 7003, Security and Supervision and 7041, Staffing Requirements, the inmate safekeeping provisions of NYS Correction Law §500-c, Custody and control of prisoners and the prior Commission approval or rejection of facility improvement plans set forth in §45(10). Correction officers shall not be allowed to work more than 16 consecutive hours without a break in duty of at least eight hours. The Sheriff shall prevent intentional abandonment of mandated security posts, particularly in security-sensitive areas. Implementation of a unitary, consistent chain of command such that there is accountability up and down the line of authority and responsibility is a critical requirement. The facility security architecture and procedural framework should be reviewed and security hazards rectified. A comprehensive review of the state of knowledge of, and direction to, staff as to action in case of unaccounted-for inmates or inmate escape should be undertaken and remedied as warranted. Regular meetings between executive administrators and supervisors at the Schenectady County Jail should be scheduled and held, with proceedings recorded and distributed. Officer William Markle, Sergeant Jack Purdy, Sergeant Christopher Booth and Lieutenant Daniel Lachanski should be counseled regarding their participation in violations of *Minimum Standards* in this case.

2. The Sheriff of Schenectady County shall undertake a top-to-bottom review of emergency response policy and procedures at the Schenectady County Jail. Breakdowns in command function should be identified and addressed. Procedures for the earliest possible identification of incidents of a high threat level to facility and public security should be reviewed and improved, with drills conducted at least annually. Emergency communications require improvement. The facility shall develop written emergency policies and procedures which direct the actions of staff in situations of unaccounted-for inmates or escape of an inmate under their care and custody. In-house emergency search procedures require wholesale reorganization with exercises conducted at least annually. Effective procedures to

establish an emergency armed exterior security perimeter around the facility with the earliest possible notification to community law enforcement agencies of a threat to public and law enforcement safety should be formulated and exercised.

Under no circumstances should staff and supervisors involved in a major security threat incident and/or emergency response leave the facility absent filing of written reports and critical incident debriefing, collective bargaining agreements notwithstanding.

3. The Sheriff of Schenectady County, in achieving compliance with the inmate safekeeping requirements of Correction Law 500-c, shall consult with the Schenectady County Attorney as to whether the uniformed staff collective bargaining agreement provision against imposition of mandatory overtime service are contrary to public policy and should be nullified and voided.

Outdoor Recreation

4. The facility is prohibited from using the main outdoor exercise area until security enhancements have been verified and use has been authorized by the Commission.
5. The facility shall revise its written policies and procedures pertaining to the Outdoor Recreation program to require that facility staff understand, in detail, and are accountable for, the various protocols to be observed by facility staff. Facility supervisors shall be made fully aware of the revisions and enforce them on a consistent basis. Further, the facility shall ensure that all facility staff have access to the revised policy and receive formal training on the policy.
6. The facility shall take the necessary action to ensure that facility staff assigned to supervise the outdoor exercise area are positioned in such a manner that provides

a complete view of the outdoor exercise area and complies with *Minimum Standards* Part 7003 with respect to active supervision. Further, the facility shall effectively require that staff assigned to the outdoor exercise area do not engage in activities (e.g., reading materials) that prevent them from properly supervising inmates under their care and custody as required by state regulations pertaining to active supervision.

7. The facility shall implement procedures specific to the outdoor recreation program whereby staff exchange inmate count information at the following stages:
 - a. Between housing officer and escort officer prior to inmates being escorted to the outdoor exercise area;
 - b. Between escort officer and outdoor recreation officer upon arrival at the outdoor exercise area;
 - c. Between the outdoor recreation officer and escort officer(s) at the completion of outdoor recreation and immediate return of inmates to housing areas; and
 - d. Between the escort officer(s) and housing area officer upon return of inmates from the outdoor exercise area.
8. The facility shall implement procedures whereby staff assuming the outdoor exercise area post(s) are required to perform inspections of the area which test the physical integrity of the fencing, in accordance with the requirements of *Minimum Standards* §7003.6(c)
9. The facility shall enforce existing policy which requires supervisors to complete tours of the facility. Such tours shall include visits to the outdoor exercise area, and all

such tours shall be recorded in the appropriate facility logbook by the supervisor making the tour.

Housing Area Supervision

10. All correction officers and supervisors shall be required to enter true and accurate times for all log entries required by *Minimum Standards* or by facility policy.
11. In compliance with facility policy, the administration shall provide remedial training to staff relating to the proper completion of inmate headcounts during supervisory tours. Such tours shall be in accordance with the requirements of *Minimum Standards* §7003.2(1)(2). The facility administration shall require that facility shift counts in housing areas be performed concurrently by the off-going and oncoming housing area officers consistent with the requirements of *Minimum Standards* §7003.5. Shift counts shall be cleared against a master listing of all committed inmates. A perpetual inmate count of all inmates, by housing area, shall be maintained which accounts for all movement within and outside of the facility. Group movement of inmates shall be the subject of a count made by staff in charge before leaving one locale en route to another, communication of such count to the destination locale, and another count by staff in charge at the destination locale upon their arrival.
12. Consistent with the requirements of *Minimum Standards* § 7003.3(j), the facility administration shall require that all events and activities in housing areas be the subject of written serial logbook entries, timed and signed by a correction officer. The use of handwritten 'charts' in which pre-entered activities are checked off shall be discontinued.

Staffing and Active Supervision

13. The facility shall immediately comply with *Minimum Standards* Part 7041, Staffing Requirements, i.e., discontinue the practice of allowing staff to leave or be redeployed from required posts without first being properly relieved by another staff member. Further, the facility shall develop written policy which requires proper relief for officers prior to leaving housing posts. Facility supervisors and line staff shall be oriented to, and made fully accountable for this policy.