MEMORANDUM

TO: COMMISSION MEMBERS

FROM: Terry Moran, Director of Operations

RE: AGENDA FOR SUPPLEMENTAL COMMISSION MEETING

DATE: June 2, 2022 at 9:30 AM

LOCATION: Alfred E. Smith Building, 80 So. Swan Street, 12th Floor, Albany, New York.

Note: In the interest of public health and as authorized by Chapter 1 of the Laws of 2022, members of the public are currently prohibited from attending in person. The meeting will be live streamed at: https://scoc.ny.gov/commissionmeetings.htm

I. VARIANCE

A. Fulton County Sheriff’s Office
   Fulton County Jail
   20-V-30
   Visitation
   7008.2(b) and 7008.3(c)

B. Tompkins County Sheriff’s Office
   Tompkins County Jail
   20-V-04
   Visitation
   7008.2(b) and 7008.3(c)
**Name of Facility:** Fulton County Jail  
**Variance #:** 20-V-30

**New:** x  
**Renewal:** x  
**Relief from Standard:** 7008.2(b) + 7008.3(b)

**Application by:** Captain Keith Ackerknecht  
**Date Request Rec:** 5/26/2022

**Last Approved:** 03/29/2022  
**Length of Approval:** 1 months  
**Expiration:** 5/01/2022

**Write-up Prepared by:** Richard Cellini CFS I  
**Recommendation by Field Staff:** approve until July 1, 2022

**Recommendation at Briefing:**

**Final Recommendation:**

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**SUMMARY OF VARIANCE REQUEST**

The facility is requesting continue use of physical barriers between incarcerated individuals and visitors to prevent the spread of COVID-19 into the facility. The facility further states they are in a high-risk county per the CDC and the director of the local health authority advised against removing the physical barriers at this time.

**VARIANCE HISTORY**

This variance was initially granted in November 2020 and has been approved for extension 5 times since.

**CONSTRUCTION/RENOVATION PLANS**

Facility placed barrier in visiting room with first approval. There is no indication that further construction will take place with this extension.

**OTHER VARIANCES IN EFFECT**

22-V-05 Correspondence

**STAFF INFORMATION AFTER SITE VISIT (DATE OF LAST VISIT TO FACILITY):**

Not applicable

**DATE OF LAST CYCLE VISIT THAT STANDARD VIOLATIONS WERE IDENTIFIED:**

January 24-26, 2022

**ANY OPEN MINIMUM STANDARD VIOLATIONS:**

None

**OTHER INFORMATION**

**ANY VIOLATIONS WHICH PERTAIN TO THE VARIANCE’S CONDITIONS:**

None
JUSTIFICATION FOR WHY VARIANCE SHOULD OR SHOULD NOT BE EXTENDED:
To allow in-person visitation while maintaining the health/safety of incarcerated individuals, visitors, and staff. Additionally, a review of the CDC website for COVID-19 by County Community Level ratings was last rated as Medium.

RECOMMENDED CONDITIONS IF APPROVED
This variance is approved with the following conditions:

1. Any and all visitation limitations requires the ongoing review and determination of the chief administrative officer pursuant to 9 NYCRR §7008.8;

2. Upon expiration of this variance, renovations made will be removed and the visiting area will be restored to its previous design within seven (7) days;

3. The facility shall maintain a sufficient supply of Personal Protective Equipment (PPE) for staff and incarcerated individuals as part as part of the visitation program;

4. The screening of all prospective visitors shall include search, taking of temperature, symptomology observations and questionnaire;

5. The exception to any one visitor limitation is for any person accompanying a visitor under eighteen (18);

6. Incarcerated individuals and visitors shall wear face coverings;

7. Social distancing (at least six feet apart) between visitors shall be maintained;

8. The visitation schedule and scheduling procedures shall be implemented;

9. Incarcerated individuals shall have equal access to visitation;

10. Visitation areas shall be disinfected in between sessions

REVIEWED BY REGIONAL SUPERVISOR: Larry Roe   DATE: 5/27/22

REVIEWED BY DIRECTOR: T. Moran   DATE: 5/31/22

COMMENTS BY DIRECTOR:

OFFICIAL USE ONLY:

NOTES OF MEETING:
To: New York State Commission of Corrections

From: Captain Keith Ackerknecht

Date: May 26, 2022

Subject: Extension of Variance #20-V-30

I would like to request an extension of variance #20-V-30. Our county is currently designated as ‘high risk’ by the CDC. The Fulton County Public Health Director has advised against removing the physical barriers at this time.

Thank you,

[Signature]

Captain Keith Ackerknecht
Jail Administrator
Fulton County Correctional Facility
VARIANCE APPLICATION FORM

Non-Capacity Variance

County Jail and NYCDOC
County Jail/NYCDOC Non-Capacity Variance Application Form

INSTRUCTIONS TO SHERIFF, COMMISSIONER OR CHIEF ADMINISTRATIVE OFFICER:

Pursuant to New York State Minimum Standards Part 7050, Variances, please complete all portions of this form and e-mail to the attention of Chairman/Commissioner, using the above e-mail address.

Facility: ________________________________

Person requesting: ________________________________

(Sheriff/Commissioner/Chief Administrative Officer)

A. State the specific part, section and subdivision of New York State Minimum Standards for which the variance is requested: Example: 7008.2b states that, The visiting area shall be designed so as to allow physical contact between prisoners and their visitors. To request a variance to have physical barriers between inmates and visitors the citation should be listed as:

Ex. Part: 7008 Section: 2 Subdivision: b

Standard for which the variance is requested:

Part: 7008 Section: 2 Subdivision: b

B. In the space provided below include specific plans fully explaining and supporting the alternative manner of compliance. If you are requesting a modification to an existing variance please include that information in the area below as well. The number of characters you can type in the below space is limited. If necessary, please attach any additional information with your submittal.

Fulton County would like to keep physical barriers between inmates and visitors to prevent spread of COVID19
F. Has this variance been previously approved by the Commission?

Yes [ ] If yes, include the variance number 20-v-30 No [ ]

Signature (Sheriff), (Commissioner), (Chief Administrative Officer) Date 5/25/20

Additional copies of this form can be obtained by contacting the Commission, or by visiting www.scoc.ny.gov

Revised 9/2021
C. In the space provided below include a detailed description regarding why this variance is necessary. The number of characters you can type in the below space is limited. If necessary, please attach any additional information with your submittal.

We are requesting an extension of our previous variance to keep the physical barriers in place. This is due to the increased infection rate of CV19 in our county. This is upon recommendation of the county public health director.

D. Provide the amount of time for which the variance is requested, if applicable:

    [20] Days  [____] Weeks  [____] Months

E. Should this variance application be approved, please detail below any plans, provisions and timetables for achieving full compliance with the Minimum Standard regulation that is the subject of this application. The number of characters you can type in the below space is limited. If necessary, please attach any additional information with your submittal.
TO: Captain Keith Ackerknecht, Jail Administrator

FROM: Laurel Headwell, Public Health Director

DATE: 18 May 2022

RE: COVID NON-PHARMACEUTICAL INTERVENTIONS

As you are aware, Fulton County is currently seeing a spike in COVID cases. According to the CDC, COVID-19 County Check, Fulton County community level is considered Medium. Lately, Fulton County has fluctuated between the medium and high community spread.

The CDC recommends that when COVID-19 community level is medium/high or when a facility has indicated an increase to follow the precautions if a facility maintains an in-person visitation:

- Require visitors to wear well fitted masks while indoors
- Use protective barriers in visitation rooms and encourage physical distancing
- Consider visitors providing documentation of a negative SARS-COV-2 test results

Also recommended are non-pharmaceutical Interventions (NPIs). These are actions that we can take to help slow the spread during the pandemic. Apart from getting vaccinated, actions to reduce transmission include washing hands, social distancing, wearing a mask, using protective barriers, avoiding close contact with individuals. These actions are especially important in a congregate setting as people are in a close proximity of one another.

In the interest of public health and safety of the inmates I would strongly recommend continuing to encourage vaccinations, utilize barriers in place to reduce transmission, as well as other non-pharmaceutical interventions. If you have any additional questions or concerns, please don’t hesitate to contact me.
COVID-19 County Check

Find community levels and prevention steps by county. Data updated weekly.

Select a Location (all fields required)

New York  

Fulton County  

Go

< Start Over

High

In Fulton County, New York, community level is High.

- Wear a mask indoors in public
- Stay up to date with COVID-19 vaccines
- Get tested if you have symptoms
- Additional precautions may be needed for people at high risk for severe illness

People may choose to mask at any time. People with symptoms, a positive test, or exposure to someone with COVID-19 should wear a mask.

If you are immunocompromised, learn more about how to protect yourself.

Find out more about the COVID-19 situation in Fulton County, New York with COVID-19 Data Tracker.

May 19, 2022

Data Provided by CDC with updates every Thursday by 8 pm ET

How are these data measured?

Add This Widget To Your Site

What Prevention Steps Should You Take Based on Your COVID-19 Community Level?

Low

- Stay up to date with COVID-19 vaccines
- Get tested if you have symptoms

Name of Facility: Tompkins County Jail

Variance #: 20-V-04

New: Renewal: x

Relief from Standard: 7008.2(b) and 7008.3(b)

Application by: Captain Ray Bunce, Jail Administrator

Date Request Rec: 5/20/2022

Last Approved: 3/29/21

Length of Approval: 30 days

Expiration: 05/01/22

Write-up Prepared by: Larry Roe

Recommendation by Field Staff: Approve until 7/1/22.

Final Recommendation:

**SUMMARY OF VARIANCE REQUEST:** The facility has been conducting non-contact visitation due to the COVID-19 pandemic. The Commission granted variance approval for non-contact visitation since June 30, 2020. Facility documents hundreds of visits conducted and that the families are understanding and grateful to have the option to visit. Tompkins County submitted documentation that reports the COVID-19 Community Level is High.

**VARIANCE HISTORY:** The facility has been conducting non-contact visitation due to the COVID-19 pandemic. The Commission granted variance approval for non-contact visitation since June 30, 2020. Last Variance expired; however, the facility is reapplying as they still have a need and the COVID-19 Community Level for there are is reported as being High.

**CONSTRUCTION/RENOVATION PLANS:** None related to this variance request

**OTHER VARIANCES IN EFFECT:** None

**STAFF INFORMATION AFTER SITE VISIT (DATE OF LAST VISIT TO FACILITY):** None

**DATE OF LAST CYCLE VISIT THAT STANDARD VIOLATIONS WERE IDENTIFIED:** 2/7/22

**ANY OPEN MINIMUM STANDARD VIOLATIONS:**

Part 7075.5(b), Deprivation of essential services

**OTHER INFORMATION:** N/A
ANY VIOLATIONS WHICH PERTAIN TO THE VARIANCE’S CONDITIONS:

JUSTIFICATION FOR WHY VARIANCE SHOULD OR SHOULD NOT BE EXTENDED:
Continued health and safety threat of possible COVID-19 exposure for staff, visitors and incarcerated individuals. Additionally, a review of the CDC website for COVID-19 by County Community Level ratings was last rated as Medium.

RECOMMENDED CONDITIONS IF APPROVED

This variance is approved with the following conditions:

1. Any and all visitation limitations requires the ongoing review and determination of the chief administrative officer pursuant to 9 NYCRR §7008.8;

2. Upon expiration of this variance, renovations made will be removed and the visiting area will be restored to its previous design within seven (7) days;

3. The facility shall maintain a sufficient supply of Personal Protective Equipment (PPE) for staff and incarcerated individuals as part of the visitation program;

4. The screening of all prospective visitors shall include search, taking of temperature, symptomology observations and questionnaire;

5. The exception to any one visitor limitation is for any person accompanying a visitor under eighteen (18);

6. Incarcerated individuals and visitors shall wear face coverings;

7. Social distancing (at least six feet apart) between visitors shall be maintained;

8. The visitation schedule and scheduling procedures shall be implemented;

9. Incarcerated individuals shall have equal access to visitation;

10. Visitation areas shall be disinfected in between sessions

REVIEWED BY REGIONAL SUPERVISOR: Larry Roe       DATE:  5/26/22

REVIEWED BY DIRECTOR:       T. Moran       DATE:  5/31/22

COMMENTS BY DIRECTOR:

OFFICIAL USE ONLY:
NOTES OF MEETING:
5/20/22

NYS Commission of Corrections
80 South Swan Street, 12th floor
Albany, NY 12205

Re: Variance for non contact visitation - EXTENSION

Commissioner Riley –

We would like to extend our current non contact visitation variance #20-V-04.

The purpose of this variance remains the health and safety of all inmates and staff. Our current variance was supposed to expire on May 1st, however, on April 28th, we were advised that Tompkins County had been moved to a “high transmission area”. The variance indicated that “absent a significant change in community Covid-19 infection rate the variance would not be extended”. We continue to communicate with the Health Department to determine the need for continuing our non contact visit. We would ask that this variance be extended from May 1st until our county moves to a low transmission rate.

Thank you for your consideration in reviewing our request. Please contact us with any questions.

Sincerely,

Ray Bunce - Captain
Corrections Division
Tompkins County Sheriff’s Office
607-266-5423

Cc: Derek Osborne – Sheriff
    Jennifer Olin – Undersheriff
Tompkins County, New York

State or territory: New York
County or metro area: Tompkins County

COVID-19 Community Level

Recommended actions based on current level
Wear a mask indoors in public and on public transportation. Stay up to date with COVID-19 vaccines. Get tested if you have symptoms. If you are at high risk for severe COVID, consider taking additional precautions.

Weekly Metrics Used to Determine the COVID-19 Community Level

- Case Rate per 100,000 population: 372.87
- New COVID-19 admissions per 100,000 population: 13.4
- % Staffed inpatient beds in use by patients with confirmed COVID-19: 6.4%

Here are COVID-19 Community Level calculated:

Note: The COVID-19 Community level and associated metrics presented above are updated weekly on Thursday and may differ from the values for the same metrics presented below, which are updated daily.
VARIANCE APPLICATION FORM

Non-Capacity Variance

County Jail and NYCDOC
INSTRUCTIONS TO SHERIFF, COMMISSIONER OR CHIEF ADMINISTRATIVE OFFICER:

Pursuant to New York State Minimum Standards Part 7050, Variances, please complete all portions of this form and e-mail to the attention of Chairman/Commissioner, using the above e-mail address.

Facility: Tompkins County Jail

Person requesting: Ray Bunce - Jail Administrator

(Sheriff/Commissioner/Chief Administrative Officer)

A. State the specific part, section and subdivision of New York State Minimum Standards for which the variance is requested: Example: 7008.2b states that, The visiting area shall be designed so as to allow physical contact between prisoners and their visitors. To request a variance to have physical barriers between inmates and visitors the citation should be listed as:

Ex. Part: 7008 Section: 2 Subdivision: b

Standard for which the variance is requested:

Part: 7008 Section: 2 Subdivision: b+c

B. In the space provided below include specific plans fully explaining and supporting the alternative manner of compliance. If you are requesting a modification to an existing variance please include that information in the area below as well. The number of characters you can type in the below space is limited. If necessary, please attach any additional information with your submittal.

We have installed [ ] barriers between the inmate and visitor. This is in addition to policy that requires inmates and visitors to wear a face covering. This policy allows no more than 4 visitors in to the visiting room and these visitors must maintain social distance. We would continue to provide non-contact visitation instead of contact visitation.
C. In the space provided below include a detailed description regarding why this variance is necessary. The number of characters you can type in the below space is limited. If necessary, please attach any additional information with your submittal.

Due to the local Health Advisory from our health department and the CDC recommendations putting us in a High risk for transmission Copy attached with this application.

D. Provide the amount of time for which the variance is requested, if applicable:

180 Days 13 Weeks 6 Months

E. Should this variance application be approved, please detail below any plans, provisions and timetables for achieving full compliance with the Minimum Standard regulation that is the subject of this application. The number of characters you can type in the below space is limited. If necessary, please attach any additional information with your submittal.

We would like to remove these guidelines when our county is a low transmission rate.
F. Has this variance been previously approved by the Commission?

Yes ☑  If yes, include the variance number 20-V-04  No ☐

signature (Sheriff), (Commissioner), (Chief Administrative Officer)  5/24/22  Date

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