




**Commission of
Correction**

ALLEN RILEY
Chairman

THOMAS J. LOUGHREN
Commissioner

YOLANDA CANTY
Commissioner

MEMORANDUM

TO: COMMISSION MEMBERS
FROM: Brian Callahan, General Counsel 
RE: AGENDA FOR COMMISSION MEETING
DATE: January 25, 2023 at **11:00AM**

LOCATION: Alfred E. Smith Building, 80 So. Swan Street, 12th Floor,
Albany, New York and Ellenton, Florida 34222.

**Please be advised that proper identification is required at front desk.*

I. MINUTES

SCOC

December 20, 2022 Commission Meeting

CPCRC

January 12, 2023

MRB

Administrative Closures

December 15, 2022 Medical Review Board Meeting

II. VARIANCES

A. New York City Department of Correction

23-V-01 NEW

Sections 7004.1 and 7004.3

Incoming Prisoner Correspondence

B. New York City Department of Correction

George R. Vierno Center

23-V-02 NEW

Sections 7075.4(a)

Programming Desks

III. MFC

- C. Washington County Sheriff's Office
Washington County Jail
MFC Revision**

IV. CONSTRUCTION

- D. Utica Police Department
22-C-095
Removal of Holding Cells**
- E. Westchester County Department of Probation
Woodfield Detention Center
22-C-100
Modification to Gymnasium Door Lock**
- F. Westchester County Department of Probation
Woodfield Detention Center
22-C-101
Modification to Medical Observation Room**
- G. Fulton County Sheriff's Office
Fulton County Jail
22-C-084
Window Replacement**
- H. Ontario County Sheriff's Office
Ontario County Jail
22-C-059
Sub-Day Rooms**
- I. New York City Department of Correction
Rose M. Singer Center
22-C-102
New CAPS and PACE Medical Unit**
- J. New York City Department of Correction
Rose M. Singer Center
22-C-103
New Medical Observation Medical Unit**
- K. Westchester County Department of Correction
Westchester County Penitentiary
22-C-080
Outdoor Exercise Weather Barrier**

V. REGULATORY

L. Notice of Adoption

9 NYCRR section 7000.1, *et al*

Minimum standards for a program of medication assisted treatment in jails



Commission of Correction

ALLEN RILEY
Chairman

THOMAS J. LOUGHREN
Commissioner

YOLANDA CANTY
Commissioner

MINUTES Commission Meeting

STATE COMMISSION OF CORRECTION

LOCATION:

Albany Location
80 S. Swan Street, 12th Floor
Albany, New York 12210

DATE OF MEETING: December 20, 2022

Chairman Riley called the meeting to order at 11:00 a.m.

PRESENT:

Allen Riley, Chairman
Thomas Loughren, Commissioner
Yolanda Canty, Commissioner
Tricia Amati, Assistant to Chairman/Commissioner
Brian Callahan, Counsel
Debbie Slack-Bean, Associate Attorney
Terry Moran, Director of Operations
Keith Zobel, Deputy Director of Operations
Cynthia Allen, Correctional Specialist 3 (**WebEx**)
Amanda Grimes, Correctional Specialist 3
Chris Ost, Correctional Facility Specialist 3
Lloyd Robistow, Correctional Facility Specialist 3
Larry Roe, Correctional Specialist 3
Ellen Tryon, Correctional Specialist 3
Sean Desch, Correctional Specialist 1

I. MINUTES

SCOC
November 15, 2022 Commission Meeting

**Approved Unanimous
Canty/Loughren**

CPCRC
December 8, 2022

**Approved Unanimous
Canty/Loughren**

MRB

Administrative Closures

**Approved Unanimous
Canty/Loughren**

II. VARIANCES

**A. Beacon City Police Department
18-V-03**
Supervision of Female Prisoners
Section 7504.1(e)

**Approved Unanimous
January 1, 2024
Canty/Loughren**

**B. Fairport Police Department
20-V-02**
Supervision of Female Prisoners
Section 7504.1(e)

**Approved Unanimous
January 1, 2024
Canty/Loughren**

**C. Irondequoit Police Department
19-V-11**
Supervision of Female Prisoners
Section 7504.1(e)

**Approved Unanimous
January 1, 2024
Canty/Loughren**

**D. Medina Police Department
20-V-17**
Supervision of Female Prisoners
Section 7504.1(e)

**Approved Unanimous
January 1, 2024
Canty/Loughren**

**E. Poughkeepsie City Police Department
18-V-02**
Supervision of Female Prisoners
Section 7504.1(e)

**Approved Unanimous
January 1, 2024
Canty/Loughren**

**F. New York State Office of Children and
Family Services
Brookwood, MacCormick, Industry and
Goshen Secure Centers
22-V-16 NEW**
Mental Health Services
Section 7414.5(b)

**Approved Unanimous
January 1, 2024
Canty/Loughren**

III. MFC

**G. New York State Office of Children and
Family Services
Columbia Girls Secure Center
Zero Out MFC**

**Approved Unanimous
Canty/Loughren**

**H. New York State Office of Children and Family Services
Brookwood Secure Center
MFC Revision** **Approved Unanimous
Canty/Loughren**

IV. CONSTRUCTION

**I. New York City Department of Correction
Queens Criminal Court Temporary Holding
22-C-090** **Approved Unanimous
Canty/Loughren**
Convert Bathroom into ADA Compliant
Decontamination Shower

**J. New York City Department of Correction
Anna M. Kross Center
22-C-091** **Approved Unanimous
Canty/Loughren**
Install AC in Housing at Buildings 3, 4 and 5, Upper
and Lower

**K. Otsego County Sheriff's Office
Otsego County Jail
22-C-092** **Approved Unanimous
Canty/Loughren**
Exterior Door Replacement

**L. New York City Administration for Children's
Services
Crossroads Juvenile Detention Center
22-C-094** **Approved Unanimous
Canty/Loughren**
Admission Door Replacement

**M. Westchester County Department of Correction
Westchester County Penitentiary
22-C-080** **Tabled Unanimous
Canty/Loughren**
Outdoor Exercise Weather Barrier

**N. Notice of Emergency Adoption
9 NYCRR Section 7000.1, et al
Minimum Standards for a program of Medication**

**Approved Unanimous
Canty/Loughren**

Commissioner Loughren made a motion to go into executive session at 11:07 a.m. to discuss Construction and Medical Review Board items which was seconded by Commissioner Canty. Commissioner Canty made a motion to exit Executive Session and return to general session at 11:43 a.m., which was seconded by Commissioner Loughren.

The meeting resumed at 11:44 a.m. Motion was made by Commissioner Loughren to ratify actions taken in Executive Session regarding Construction and Medical Review Board items, seconded by Commissioner Canty. Commissioner Canty made a motion to adjourn at 11:44 a.m. which was seconded by Commissioner Loughren.

Respectfully submitted,

Tricia Amati
Assistant to Chairman/Commissioners



Commission of Correction

ALLEN RILEY
Chairman

THOMAS J. LOUGHREN
Commissioner

YOLANDA CANTY
Commissioner

EXECUTIVE SESSION

MINUTES

LOCATION:

Commission Meeting

STATE COMMISSION OF CORRECTION

LOCATION:

Albany Location
80 S. Swan Street, 12th Floor
Albany, New York 12210

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Chris Ost, Correctional Facility Specialist 3
Lloyd Robistow, Correctional Facility Specialist 3
Larry Roe, Correctional Specialist 3
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Sean Desch, Correctional Specialist 1

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Respectfully submitted,

Tricia Amati
Assistant to Chairman/Commissioners

CITIZENS' POLICY AND COMPLAINT REVIEW COUNCIL

January 12, 2023

NYS Commission of Correction
at
Alfred E. Smith Office Building
80 South Swan Street, 12th Floor
Albany, NY 12210
WEBEX Meeting

PRESENT:

Commissioner Canty

Council Members:

Albany:

Martin Stanton

Also Present:

Commissioner Loughren

Terry Moran

Deborah Slack-Bean

Jayne Lavigna-Jesmain

Cynthia Allen

Ellen Tryon

Zachery Horton

Vicky Connors

Commissioner Canty opened the meeting at 11:00 A.M.

Commissioner Canty asked for a motion to ratify all actions taken at the December 8, 2022 meeting. Martin Stanton made a motion to ratify all actions taken on December 8, 2022. Commissioner Canty seconded. Carried. Commissioner Canty asked for a motion to approve the minutes of the December 8, 2022 meeting. Martin Stanton made a motion to approve the minutes of the December 8, 2022 meeting. Commissioner Canty seconded. Carried.

Martin Stanton, Commissioner Canty, and Commissioner Loughren reviewed the Denied with Comment grievances for the month of January 2023. Martin Stanton and Commissioner Canty made motions to Deny with the appropriate comment the grievances that they reviewed. These motions were seconded by Commissioner Canty and Martin Stanton respectively, and unanimously passed. Upon the recommendation of Commissioner Loughren, Martin Stanton made a motion to Deny with the appropriate comment the grievances that Commissioner Loughren reviewed. This motion was seconded by Commissioner Canty, and unanimously passed.

Martin Stanton, Commissioner Canty, and Commissioner Loughren reviewed the Expedited grievances for the month January 2023. Martin Stanton and Commissioner Canty made motions to Deny the grievances that they reviewed. These motions were seconded by Commissioner Canty and Martin Stanton respectively, and unanimously passed. Upon the recommendation of Commissioner Loughren, Martin Stanton made a motion to Deny the grievances that Commissioner Loughren reviewed. This motion was seconded by Commissioner Canty, and unanimously passed.

The Council reviewed the remaining grievances.

ACCEPT IN PART

170417 168391 Cayuga CJ	Unanimous
170329 170328 Chenango	Unanimous
169998 Dutchess CJ	Unanimous
169971 Genesee CJ	Unanimous
169538 Onondaga CUS	Unanimous
169547 Ontario CJ	Unanimous
169976 Westchester CJ	Unanimous

DENIED WITH COMMENT

168958
Onondaga CUS

ADMINISTRATIVE CLOSURES

DENY

169846 Albany CJ	Unanimous
170187 Cattaraugus CJ	Unanimous
170421 170416 170355 170116 169624 169622 169620 169396 168393 Cayuga CJ	Unanimous

170562	
170403	
170236	
170140	
170081	
169927	
169633	
Chautauqua CJ	Unanimous
169777	
Chemung CJ	Unanimous
170792	
170496	
170326	
170325	
170183	
169903	
169902	
169901	
169900	
169899	
169722	
169720	
169405	
169404	
Chenango CJ	Unanimous
169756	
Clinton CJ	Unanimous
169856	
Columbia CJ	Unanimous
169896	
Cortland CJ	Unanimous
170686	
170145	
170143	
170118	
170080	
169959	
169799	
169798	
169797	
169796	
Delaware CJ	Unanimous

170716
170343
170342
170341
169457
169426
168325
168236
Dutchess CJ

Unanimous

170583
170582
170246
170244
170243
170242
170241
170240
170124
170078
170063
169916
169912
169904
169776
169741
169656
169635
169526
169525
Erie CF

Unanimous

170060
170059
170058
170057
169921
169920
169908
168267
Erie CJ

Unanimous

170330
Franklin CJ

Unanimous

170277
169411
Fulton CJ

Unanimous

169718
Genesee CJ

Unanimous

170558	
170179	
170178	
170177	
169683	
169682	
169681	
Herkimer CJ	Unanimous
170597	
Jefferson CJ	Unanimous
169632	
Lewis CJ	Unanimous
169748	
169346	
Livingston CJ	Unanimous
170753	
170696	
170346	
170331	
170164	
170084	
169972	
169676	
169596	
Madison CJ	Unanimous
170783	
170782	
170678	
170677	
170576	
170320	
170278	
170117	
169619	
Monroe CJ	Unanimous
170399	
170398	
169837	
169536	
Montgomery CJ	Unanimous
170577	
170356	
Nassau CJ	Unanimous

170789	
170568	
170557	
170259	
169778	
169743	
Niagara CJ	Unanimous
168957	
Onondaga CUS	Unanimous
170776	
170682	
170396	
169898	
169645	
169627	
169546	
169544	
Ontario CJ	Unanimous
169740	
169630	
Orange CJ	Unanimous
170658	
Orleans CJ	Unanimous
170571	
170336	
170260	
169739	
169738	
169737	
Oswego CJ	Unanimous
169836	
170245	
170279	
170186	
170142	
170125	
Putnam CJ	Unanimous
170756	
170694	
170685	
170600	
Rockland CJ	Unanimous

169560 169559 169527 Saratoga CJ	Unanimous
170247 170083 170068 170067 169970 Schenectady CJ	Unanimous
170580 170318 170317 170316 169522 169520 169144 St. Lawrence CJ	Unanimous
170141 169517 Steuben CJ	Unanimous
170400 Sullivan CJ	Unanimous
170219 169618 Tompkins CJ	Unanimous
170409 170406 170405 170354 170352 170351 170350 Ulster CJ	Unanimous
169816 169801 169800 169717 169685 169684 169435 169064 Warren CJ	Unanimous

170407
170123
169220
Wayne CJ Unanimous

170758
170752
170661
170660
170460
170459
170286
170285
170180
169926
169925
169924
169923
169910
169436
Westchester CJ Unanimous

170321
170284
169537
Wyoming CJ Unanimous

169996
169997
169528
Yates CJ Unanimous

DENIED WITH COMMENT

169956
169356
Cattaraugus CJ Unanimous

170420
170419
170418
168386
Cayuga CJ Unanimous

170404
169742
169541
Chautauqua CJ Unanimous

170036
Chemung CJ Unanimous

169725	
169724	
169723	
169719	
169628	
169449	
169406	
Chenango CJ	Unanimous
170283	
Cortland CJ	Unanimous
170144	
169960	
Delaware CJ	Unanimous
170062	
169657	
Erie CF	Unanimous
169964	
169963	
169962	
169961	
169957	
Essex CJ	Unanimous
169911	
Fulton CJ	Unanimous
169529	
Genesee CJ	Unanimous
170176	
Herkimer CJ	Unanimous
169928	
Jefferson CJ	Unanimous
170096	
169936	
169929	
Madison CJ	Unanimous
170347	
170332	
Monroe CJ	Unanimous
170258	
169967	
169966	

169779 169686 169479 169425 Niagara CJ	Unanimous
170156 Onondaga CUS	Unanimous
170397 169877 169545 169422 Ontario CJ	Unanimous
170334 170324 170323 170322 170281 169736 Oswego CJ	Unanimous
170287 170280 170185 Putnam CJ	Unanimous
170757 169780 Rockland CJ	Unanimous
169678 169377 Saratoga CJ	Unanimous
169644 169626 Schenectady CJ	Unanimous
170289 Seneca CJ	Unanimous
169680 169679 St. Lawrence CJ	Unanimous
169696 169677 169481 169480 Steuben CJ	Unanimous

170182	
170119	
169552	
Suffolk CJ	Unanimous
170575	
170357	
170181	
169897	
169876	
169256	
Sullivan CJ	Unanimous
169496	
Tioga CJ	Unanimous
170218	
169617	
169616	
Tompkins CJ	Unanimous
170408	
170353	
170197	
170184	
169576	
Ulster CJ	Unanimous
169716	
169339	
Warren CJ	Unanimous
169965	
169634	
Westchester CJ	Unanimous
170290	
169631	
Yates CJ	Unanimous

The next CPCRC meeting will be held on Thursday February 9, 2023 at 11:00 A.M. via WebEx.

Commissioner Canty requested a motion to adjourn the meeting, which was made by Martin Stanton, seconded by Commissioner Canty, and carried. The meeting adjourned at 11:25 A.M.

Respectfully submitted,

Victoria Connors
Administrative Assistant

Name of Facility: New York City DOC Variance # 23-V-01

New: **Renewal:** **Relief from Standard:** 7004.3

Application by: NYCDOC Commissioner Louis Molina **Date Request Rec:** 01/05/23

Last Approved: 00/00/00 **Length of Approval:** N/A **Expiration:** N/A

Write-up Prepared by: Larry Roe

Recommendation by Field Staff: Approve until August 1, 2023 [REDACTED]

Recommendation at Briefing:

Final Recommendation: _____

SUMMARY OF VARIANCE REQUEST

NYC DOC's is requesting relief from 7004.3 as they are working on going digital and issue Incarcerated Individuals with tablets for multiple use including correspondence. The facility would like to use a third party vendor to scan general correspondence and email to individuals in custody tablets. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]. In the past year, there have been three confirmed deaths from fentanyl, and three additional suspected deaths. [REDACTED]
[REDACTED].

RECOMMENDED CONDITIONS IF APPROVED

Below are the conditions for this variance. Each element shall be incorporated into written Department policy and procedures and submitted to the Commission.

1. Non-privileged correspondence and accompanying envelope may be scanned or photocopied and provided to the recipient prisoner. The original non-privileged incoming correspondence and accompanying envelope shall be placed in the recipient prisoner's personal property.
2. The facility shall ensure that any general or legal privileged correspondence received by the vendor is not to be opened and must immediately be forwarded to the facility. If any such correspondence is opened in error, it is to be immediately forwarded to the facility.
3. Incoming general and legal privileged correspondence may only be opened and inspected for contraband in the presence of the recipient prisoner.
4. Outside the presence of recipient prisoner, the facility may use a drug detecting device to scan incoming general and legal privileged correspondence for illicit drugs without opening the envelope. In instances where the envelope must be opened in order to perform such scan, the opening and scanning of the envelope must occur only while in the presence of the recipient prisoner.

5. Incoming general and legal privileged correspondence and accompanying envelope may only be photocopied in the presence of the recipient prisoner. The original incoming general and legal privileged correspondence and accompanying envelope shall, in the presence of the recipient prisoner, be placed in a sealed envelope in a manner that does not allow the correspondence to be read, and thereafter secured in the recipient prisoner's personal property. **The scanning of incoming general and legal privileged correspondence is strictly prohibited.**
6. As long as the facility continues to scan incoming non-privileged correspondence, all incarcerated individuals shall be provided, at no cost, with an electronic device which permits them to access incoming digital correspondence. At the facility's discretion, a fee may be imposed through the incarcerated individual commissary, to those who opt to access other features (i.e., movies, digital books, e-mail, etc.) on such devices.
7. Except during times when electronic devices require charging or loss of such devices as a result of a disciplinary hearing, incarcerated individuals shall be permitted to possess such devices at all times.
8. Any incarcerated individual who loses access to such electronic device as part of a disciplinary sanction, or for any other reason, shall be provided paper photocopies of all incoming and previously-received correspondence for the duration of such deprivation.
9. The facility shall prohibit the vendor from reading any correspondence it receives.
10. Incoming general and legal privileged correspondence shall continue to be forwarded to the facility directly by the USPS and is not to be part of the vendor searching and scanning process.
11. Cash, checks or money orders discovered by the vendor shall be secured and immediately to the chief administrative officer for disposition in accordance with facility rules and regulations.
12. Incoming correspondence that is found by the vendor to contain contraband shall be forwarded to the chief administrative officer for disposition.
13. Prior to the vendor forwarding correspondence to the facility, scanning for illicit drugs shall be completed.
14. Approval of this variance does not relieve the facility from its duty to comply with United States Postal Services' regulations and statutes.
15. Except for incoming non-general and legal privileged correspondence forwarded to the chief administrative officer, the facility shall make available correspondence for incarcerated individual view within one business day of delivery by the United States Postal Service.
16. The facility shall ensure that incarcerated individuals are provided, **at no cost**, the opportunity to:

- a. be provided with their original correspondence and enclosed contents (i.e., photos, cards, etc.), that are non-criminal in nature, immediately upon release/transfer from the facility; and
- b. be permitted to designate a person(s) who may obtain such original correspondence from the facility.

17. The facility shall provide incarcerated individuals the opportunity to have their original correspondence forwarded to a third party.

18. All relevant protocols concerning the photocopying of correspondence shall be included in the facility’s incarcerated individual rulebook. If the rulebook is not yet scheduled for reprinting, such information shall be posted conspicuously in all housing areas until such reprinting has been completed and issued.

19. Any costs associated with the correspondence photocopying program shall be borne by the facility and not through the use of commissary profits.

20. The facility shall ensure that all correspondence-related reportable incidents are submitted to the Commission in accordance with Part 7022, Reportable Incidents.

VARIANCE HISTORY

New

CONSTRUCTION/RENOVATION PLANS

Not applicable

OTHER VARIANCES IN EFFECT

OTC – Permanent

10-V-02 – Commissary Kiosk fees

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

On-going

DATE OF LAST CYCLE VISIT THAT STANDARD VIOLATIONS WERE IDENTIFIED:

Multiple in 2022

ANY OPEN MINIMUM STANDARD VIOLATIONS:

- [REDACTED]
 - [REDACTED]
 - [REDACTED]
- **Admissions**
 - [REDACTED]
 - [REDACTED]
 - Facility staff do not consistently complete an initial screening and risk assessment (ADM 330) on all prisoners upon admission
 - Not all Admissions staff are trained in Classification Theory and Technique
 - [REDACTED]

- [REDACTED]
- Need to Update Inmate Rule and Handbook (last done in 2007 despite several policy and practice changes)
- [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
- **Prisoner Personal Hygiene**
 - Not Providing laundry services twice a week for personal clothing
 - Not consistently issuing pillows and pillow cases
 - Not consistently issuing uniforms due to order shortage
- **Discipline**
 - Facility Directive and Inmate Rulebook Issues
 - Disciplinary Hearing Processing Issues
 - Sanction Issues
 - Hearing Appeal Issues
- **Good Behavior Allowances**
 - Documentation Issues
- **Visitation**
 - Identification and Registration Issues
 - Department Policy and Procedure Issues
 - [REDACTED]
- **Food Service**
 - Policy and Procedure Issues on Nutritional Adequacy
 - Policy and Procedure Issues on Medical & Religious Diets
- **Sanitation**
 - Water Leaks and Water Damage Issues
 - Rust Issues
 - Peeling Paint Issues
 - Vermin Control/Sanitation Issues
 - Mold Issues
 - Repair Issues
 - Food Accumulation Issues
 - Clutter Issues
- **Commissary**
 - Commissary operation is not self-supporting
 - Commissary profits not deposited in a separate bank account
 - Commissary account not maintained in a manner which fully substantiates all purchases, sales, and expenditures
 - Last audit was in 2004
 - Unclaimed funds from inmate accounts are transferred to the Police Property Payable Fund
 - Department's commissary audit needs to include an audit of the accounting system being utilized (IFCOM) by the Department for inmate funds

- No conspicuously posted signs that outlined the requirements of section 7016.2(e)

- **Religion**
 - Due to religious service advisor retirements and illnesses, some religious services programs have been canceled
- **Packages**
 - Each Facility had a different way of processing outgoing prisoner packages, and some did not have the prisoner package their outgoing package
 - Facility Staff and not the CAO were determining whether or not a prisoner could place personal property in secured property
 - Not consistently providing written notice to any person affected by the CAO determination to deny property or deem contraband

- **Exercise**
 - [REDACTED]
 - Not consistently providing outdoor exercise for all housing areas
- **Legal Services**
 - Department does not consistently provide access to a list of available legal reference materials that are sufficiently indexed to allow for component request by a chapter, article, and section; for prisoners who do not have direct access to such legal reference materials
 - Not consistently providing access to a notary within one business day of request
- [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]

- **Inmate Confinement and Deprivation**
 - Policy and Procedure Issues
 - Lack of documentation for out of cell time
 - Lack of documentation regarding record keeping

ANY VIOLATIONS WHICH PERTAIN TO THE VARIANCE'S CONDITIONS:

None

JUSTIFICATION FOR WHY VARIANCE SHOULD OR SHOULD NOT BE EXTENDED:

As noted by the facility, part of the intent is to help reduce contraband from entering the facilities [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] In the past year, there have been three confirmed deaths from fentanyl, and three additional suspected deaths. Thus, keeping fentanyl out of the facilities is a paramount priority to promote safety of individuals in custody.

[REDACTED]

[REDACTED]

REVIEWED BY REGIONAL SUPERVISOR: Larry Roe DATE: 01/09/23

REVIEWED BY DIRECTOR: Terry Moran DATE: 1/20/23

COMMENTS BY DIRECTOR:

OFFICIAL USE ONLY:

NOTES OF MEETING:



January 4, 2023

BY EMAIL

Mr. Allen Riley, Chairman
New York State Commission of Correction
Alfred E. Smith State Office Building
80 South Swan Street, 12th Floor
Albany, NY 12210

Dear Chairman Riley:

Pursuant to §7050.1(a)(1) of the Commission’s standards, I write on behalf of the New York City Department of Correction (DOC) to seek a variance from minimum standard §7004.3(a) relating to incoming correspondence to incarcerated individuals. As discussed below, the variance is needed to allow DOC to employ an outside vendor to open and scan (but not read) incoming correspondence to tablets that will be distributed to all individuals.

As you may know, the Department is in the process of contracting with a vendor to provide incarcerated individuals access to a broad variety of content, including educational material, e-books, religious material, radio programs, and legal material. Each individual would have their own tablet, which they can use in the privacy of their cell or the common area. As part of the plan, it is the Department’s intention for individuals to use the tablets to read their incoming correspondence. The goal of the tablets is to keep contraband out of our facilities, reduce idleness and increase efficiency of mail processing.

[REDACTED]

[REDACTED]

[REDACTED]

¹ Fentanyl is a synthetic opioid that is up to 50 times stronger than heroin and 100 times stronger than morphine.

[REDACTED]

Notably, our request does not include a provision for retaining the original correspondence - - letter and envelope - - and making it available to individuals on their release. Such a provision, we believe, would prove burdensome and of little value. Each year, incarcerated individuals on Rikers Island receive upwards of 300,000 pieces of non-privileged mail. Given our population of approximately 6,000 incarcerated individuals that is close to 50 incoming letters per individual. Moreover, our length of stays exceed any other facility in the state (and probably the nation). At present, we have more than a 1000 incarcerated individuals who have been here more than 1 year, and more than 200 who have been here more than three years. Finally, from conversations with other jurisdictions, it is our understanding that few, if any, incarcerated individuals request their correspondence upon release. Storing correspondence, [REDACTED] for lengthy periods on the off chance that a few individuals might request it does not seem essential to a sound policy.

I ask that the Commission to resolve this request promptly so that we can move forward with this promising plan. If you need additional information, please contact Paul Shechtman, the Department’s General Counsel and Allie Robertson, Executive Director of Intergovernmental Affairs.

Sincerely,



Louis A. Molina



**Commission of
Correction**

VARIANCE APPLICATION FORM

Non-Capacity Variance

County Jail and NYCDOC



New York State
Commission of Correction
80 S. Swan Street, 12th Floor
Albany, New York 12210
518-485-2346
correspondence@scoc.ny.gov

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: _____ Section: _____ Subdivision: _____

- 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.

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.**

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

_____ 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.**

F. Has this variance been previously approved by the Commission?

Yes ____ If yes, include the variance number _____ No ____

Signature (Sheriff), (Commissioner), (Chief Administrative Officer) _____ Date

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



MAXIMUM FACILITY CAPACITY

For the

Washington County Jail

Fort Edward, New York

January 25, 2023

Allen Riley
Chairman

Thomas J. Loughren
Commissioner

Yolanda Canty
Commissioner

WASHINGTON COUNTY JAIL – MFC 2023

NOTE: INDIVIDUAL OCCUPANCY HOUSING UNITS AND MULTIPLE OCCUPANCY HOUSING UNITS WHICH MEET THE FOLLOWING REQUIREMENTS PURSUANT TO 9 NYCRR PART 7040 ARE TO BE INCLUDED IN THE MAXIMUM FACILITY CAPACITY FORMULATION.

I. INDIVIDUAL OCCUPANCY HOUSING UNITS:

1. Each such unit shall only house one (1) incarcerated individual and contain at least 60 square feet of floor space.
2. Each such individual occupancy housing unit shall contain:
One (1) bed and mattress;
One (1) functioning toilet; and
One (1) functioning sink.
3. Sufficient showers shall be available to permit each incarcerated individual to shower daily.
4. Each tier or section of individual housing units constructed after the effective date of 9 NYCRR 7040 shall provide dayroom space adjacent and accessible to such tier or section.

EXCEPTIONS:

1. A unit may contain less than 60 square feet of floor space if such unit was originally constructed for single occupancy prior to the effective date of 9 NYCRR Part 7040.
2. Each such unit used to house incarcerated individuals apart from general population for the purpose of medical observation or treatment shall have a minimum of 80 square feet of floor space.

II. MULTIPLE OCCUPANCY HOUSING UNITS:

1. Each such unit shall provide a minimum of 50 square feet of floor space per incarcerated individual in the sleeping area.
2. Each such unit shall house no more than 60 incarcerated individuals.
3. Each such unit shall have a bed and mattress for each incarcerated individual.
4. Each such unit shall have at least:
One (1) functioning toilet for every 12 incarcerated individuals;
One (1) functioning shower for every 15 incarcerated individuals; and
One (1) functioning sink for every 12 incarcerated individuals.
5. Each such unit shall provide a minimum of 25 square feet of dayroom space immediately adjacent and accessible to the sleeping area.

EXCEPTIONS:

1. Each such unit used to house incarcerated individuals apart from general population for the purpose of medical observation or treatment shall have a minimum of 80 square feet of floor space.

WASHINGTON COUNTY JAIL – MFC 2023

III. UNITS CONTAINING BOTH INDIVIDUAL AND MULTIPLE OCCUPANCY HOUSING:

1. The requirements as stipulated in I and II apply to all housing units consisting of both individual and multiple occupancy housing units.

EXCEPTIONS:

1. A unit may contain less than 60 square feet of floor space if such unit was originally constructed for single occupancy prior to the effective date of 9 NYCRR Part 7040.
2. Each such unit used to house incarcerated individuals apart from general population for the purpose of medical observation or treatment shall have a minimum of 80 square feet of floor space.

IV. NON-HOUSING AREAS USED FOR THE TEMPORARY DETENTION OF INDIVIDUALS

1. These are used to identify areas within the facility that are used for the temporary detention of individuals. These areas do not increase the capacity of the facility.

WASHINGTON COUNTY JAIL – MFC 2023

IA. INDIVIDUAL OCCUPANCY HOUSING UNITS USED FOR GENERAL HOUSING

Name of Housing Area/Section	Number of Individual Housing Units	Total Size of Unit (Sq. Ft. of Floor Space)	Number of Showers Available per Section	Maximum Incarcerated Individual Capacity
Not Applicable				0

Individual General Housing Unit Total: 0

IB. INDIVIDUAL OCCUPANCY HOUSING UNITS USED FOR ADMISSIONS/ORIENTATION, MEDICAL AND MENTAL HEALTH OBSERVATION

Name of Housing Area/Section	Type of Housing	Number of Individual Housing Units	Total Size of Unit (Sq. Ft. of Floor Space)	Number of Showers Available	Maximum Incarcerated Individual Capacity
E174 – Intake	Medical and Mental Health Observation	1	88 sq. ft.	1	1
C Pod SHU Med-1 See Note	Medical and Mental Health Observation	1	91 sq. ft.	1	1

Note: Med-1 is a cell located within the C Pod SHU section and has a dedicated shower within it.

Individual Admissions/Orientation, Medical and Mental Health Observation Housing Unit Total: 2

IC. INDIVIDUAL OCCUPANCY HOUSING UNITS USED FOR SPECIAL HOUSING

Name of Housing Area/Section	Type of Special Housing	Number of Individual Housing Units	Total Size of Unit (Sq. Ft. of Floor Space)	# of Showers Available per Section	Maximum Incarcerated Individual Capacity
C Pod Special Housing Unit	Punitive and Administrative Segregation	9	9 @ 100 sq. ft.	1	9

Note: This housing area may be used for general or quarantine housing purposes when not used for the segregation of incarcerated individuals for punitive or administrative reasons.

Individual Special Housing Unit Total: 9

WASHINGTON COUNTY JAIL – MFC 2023

IIA. MULTIPLE OCCUPANCY HOUSING UNITS USED FOR GENERAL HOUSING

Name of Housing Area/Section	Number of Toilets	Number of Sinks	Number of Showers	Total Size of Unit (Sq. Ft. of Floor Space)	Maximum Incarcerated Individual Capacity
C1 Dorm	1	1	1	695 sq. ft.	9
C2 Dorm	1	1	1	785 sq. ft.	10
C4 Dorm See Note	2	2	2	2316 sq. ft.	24

NOTE: As C4 Dorm has only two showers, the number of beds is limited to 24.

Multiple General Housing Unit Total: 43

IIB. MULTIPLE OCCUPANCY HOUSING UNITS USED FOR ADMISSIONS/ORIENTATION, MEDICAL AND MENTAL HEALTH OBSERVATION

Name of Housing Area/Section	Type of Housing	Number of Toilets	Number of Sinks	Number of Showers	Total Size of Unit (Sq. Ft. of Floor Space)	Maximum Incarcerated Individual Capacity
Not Applicable						0

Multiple Admissions/Orientation, Medical and Mental Health Observation Housing Unit Total: 0

IIC. MULTIPLE OCCUPANCY HOUSING UNITS USED FOR SPECIAL HOUSING

Name of Housing Area/Section	Type of Special Housing	Number of Toilets	Number of Sinks	Number of Showers	Total Size of Unit (Sq. Ft. of Floor Space)	Maximum Incarcerated Individual Capacity
Not Applicable						0

Multiple Special Housing Unit Total: 0

WASHINGTON COUNTY JAIL – MFC 2023

IIIA. UNITS CONTAINING BOTH INDIVIDUAL AND MULTIPLE OCCUPANCY HOUSING USED FOR GENERAL HOUSING

Name of Housing Area/Section	Number of Housing Units	Total Size of Unit (Sq. Ft. of Floor Space)	Number of Showers Available	Maximum Incarcerated Individual Capacity
A Pod			3	29
Main	3	3 @ 100 sq. ft.	1	3
Cell # 2 See Note #1	1	1 @ 100 sq. ft.		2
Dorm See Note #2	1	2004 Sq. ft.	2	24
B Pod			6	50
Main	32	32 @ 100 sq. ft.		22
Main-Cells 11-20 See Note #1	10	10 @ 100 sq. ft.		20
Subdivision (3-10)	8	8 @ 100 sq. ft.		8
D Pod			6	50
Main	22	22 @ 100 sq. ft.		22
Main-Cells 1-10 See Note #1		10 @ 100 sq. ft.		20
Subdivision (11-18)	8	8 @ 100 sq. ft.		8

NOTES:

1. These cells are authorized to house two incarcerated individuals.
2. As A Pod Dorm has only two showers, the number of beds is limited to 24.

Individual and Multiple Occupancy General Housing Unit Total: 129

IIIB. UNITS CONTAINING BOTH INDIVIDUAL AND MULTIPLE OCCUPANCY HOUSING USED FOR ADMISSIONS/ORIENTATION, MEDICAL AND MENTAL HEALTH OBSERVATION

Name of Housing Area/Section	Type of Housing	Number of Housing Units	Total Size of Unit (Sq. Ft. of Floor Space)	Number of Showers Available	Maximum Incarcerated Individual Capacity
Not Applicable					0

Individual and Multiple Occupancy Admissions/Orientation, Medical and Mental Health Housing Unit Total: 0

WASHINGTON COUNTY JAIL – MFC 2023

IIIC. UNITS CONTAINING BOTH INDIVIDUAL AND MULTIPLE OCCUPANCY HOUSING USED FOR SPECIAL HOUSING

Name of Housing Area/Section	Type of Special Housing	Number of Housing Units	Total Size of Unit (Sq. Ft. of Floor Space)	Number of Showers Available	Maximum Incarcerated Individual Capacity
Not Applicable					0

Individual and Multiple Occupancy Special Housing Unit Total: 0

WASHINGTON COUNTY JAIL – MFC 2023

IV. NON-HOUSING AREAS USED FOR THE TEMPORARY DETENTION OF INDIVIDUALS

Name of Area/Section	Number of Toilets	Number of Sinks	Total Size of Area (Sq. Ft. of Floor Space)	Description of Use
E165 – Intake	1	1	170 sq. ft.	The facility may hold up to eleven (11) incarcerated individuals.
E169 – Intake	1	1	100 sq. ft.	The facility may hold up to six (6) incarcerated individuals.
E170 – Intake	1	1	100 sq. ft.	The facility may hold up to six (6) incarcerated individuals.

Note:

*Non-housing areas may be used only for temporary holding for up to the number of incarcerated individuals as prescribed. The facility shall limit individual occupancy holding to **twelve (12) hours**. Multiple occupancy holding shall be limited to **four (4) hours**. Any other use is prohibited. Whenever incarcerated individuals are placed in non-housing areas, at a minimum, Active Supervision shall be maintained.*

WASHINGTON COUNTY JAIL – MFC 2023

HOUSING TYPE	TOTALS
Subtotal Individual Occupancy Housing Units Used for General Housing	0
Subtotal Individual Occupancy Housing Units Used for Admissions/Orientation, Medical and Mental Health Observation	2
Subtotal Individual Occupancy Housing Units Used for Special Housing	9
Subtotal Multiple Occupancy Housing Units Used for General Housing	43
Subtotal Multiple Occupancy Housing Units Used for Admissions/Orientation, Medical and Mental Health Observation	0
Subtotal Multiple Occupancy Housing Units Used for Special Housing:	0
Subtotal Units Containing both Individual and Multiple Occupancy Housing Used for General Housing	129
Subtotal Units Containing both Individual and Multiple Occupancy Housing Used for Admissions/Orientation, Medical and Mental Health Observation	0
Subtotal Units Containing both Individual and Multiple Occupancy Housing Used for Special Housing	0
MAXIMUM FACILITY CAPACITY:	183

Other identified areas not rated as part of Maximum Facility Capacity: Yes (X) No ()

The above-noted capacity is based upon the following:

1. The number of properly equipped individual occupancy housing units, including the number of properly equipped admissions, medical and mental health and any other special housing units;
2. The number of properly equipped multiple occupancy housing units, including the number of properly equipped admissions, medical and mental health and any other special housing units; and
3. The facility's ability to provide required programs and services and to comply with other rules and regulations of 9 NYCRR Chapter IV which are related to facility capacity.

JUSTIFICATION FOR CHANGE IN MFC

Revised to reflect addition of a Special Housing Unit.

Reviewed by: Keith Zobel



Deputy Director 1/3/23

Approved by: Terrence Moran



Director 1/3/23

Notice of Adoption

Correction, State Commission of
(SUBMITTING AGENCY)

- This adoption will amend the NYCRR.
 This adoption will not amend the NYCRR.

NOTE: Typing and submission instructions are at the end of this form. Please be sure to COMPLETE ALL ITEMS. Incomplete forms will be cause for rejection of this notice. change in text

1. Action taken:

Addition of sections section 7001.1(g) and Part 7011, amendment of sections 7002.6, 7002.9(a)(2) and 7013.7(c) of Title 9 NYCRR.

"X" box if the rule was originally proposed as a consensus rule making.

2. Effective date of rule:

Date this notice is published in the *State Register*.

This is a "rate making" as defined in SAPA §102(2)(a)(ii), and, is effective as follows:

Date of filing.

Other date (*specify*):

Other date (*specify*):

_____ days after filing.

3. Statutory authority under which the rule was adopted:

Correction Law section 45(6), (15) and (18).

4. Subject of the rule:

Medication assisted treatment.

5. Purpose of the rule:

Set minimum standards for a program of medication assisted treatment in jails.

6. Terms and identification of rule :

A. I.D. No. of original notice of **proposed** or **emergency/proposed** rule making: CMC-43-22-00002 - EP

B. Comparison of the proposed rule to the adopted rule (CHECK ALL THAT APPLY):

No changes were made to the proposed rule.

● *Text/Summary does not need to be republished in the State Register. If the last previously published RIS, RFA, RAFA or JIS remain adequate and do not require correction, SKIP ITEMS 9-12 and do NOT attach any such statements. If any of the most recently published statements were deemed inadequate or required correction, complete Item 9, 10, 11, or 12 as applicable, do NOT attach previously published statements. Be sure to complete C (if applicable), and D, as well as remaining Items 7-8 and 13-14.*

Nonsubstantive changes were made in [Parts, sections, subdivisions or paragraphs]:

[Redacted boxes]

● *Text/Summary is required to be republished in the State Register. Attach the original of the text as adopted (if proposed as full text, submit full text; if proposed as a summary, submit a summary) typed in scannable format. Do not skip Items 9-12; revised statements or explanatory statements are required.*

Text attached.
 Summary attached.

This is a "rate making" as defined in SAPA §102(2)(a)(ii) and, pursuant to SAPA §202(7)(b), the agency elected to submit an original copy of a description of the substance. Substantial revisions were made in the following Parts, sections, subdivisions or paragraphs:

[Redacted boxes]

C. List the publication date and I.D. No. of any previously published notice(s) of **revised** rule making:

Publication date: _____, I.D. No. _____ -
Publication date: _____, I.D. No. _____ -

D. Signed certification of adoption and full text of the rule are attached:

- Signed certification of adoption (scanned pdf).
- Full text of the rule (MS Word).

7. The text of the final rule and any required statements and analyses may be obtained from:

Agency contact Deborah Slack-Bean, Associate Attorney
Agency name New York State Commission of Correction
Office address Alfred E. Smith State Office Building
80 S. Swan Street, 12th Floor, Albany, New York 12210
Telephone (518) 485-2346 E-mail: Deborah.Slack-Bean@scoc.ny.gov

8. Additional matter required by statute:

Yes (include below material required by statute).

[Redacted box]

No additional material required by statute.

9. Revised Regulatory Impact Statement (RIS)

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached Revised RIS contains:

- The full text of the Revised RIS.
- A summary of the Revised RIS.

B. A **statement is attached** explaining why a revised RIS is not required (check one box):

- Changes made to the last published rule do not necessitate revision to the previously published RIS.
- This is a technical amendment exempt from SAPA §202-a.

C. A revised RIS is **not** attached because this rule is a “rate making” as defined in SAPA §102(2)(a)(ii).

A revised RIS is **not** attached because this rule was proposed as a consensus rule as defined in SAPA

10. **Revised Regulatory Flexibility Analysis (RFA) for small businesses and local governments**

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached Revised RFA contains:

The full text of the Revised RFA.

A summary of the Revised RFA.

B. A **statement is attached** explaining why a revised RFA is not required (check one box):

Changes made to the last published rule do not necessitate revision to the previously published RFA.

The changes will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses or local governments. The attached statement sets forth this agency’s findings and the reason(s) upon which the findings were made, including what measures were used to determine those findings.

C. A revised RFA is **not** attached because this rule is a “rate making” as defined in SAPA §102(2)(a)(ii).

A revised RFA is **not** attached because this rule was proposed as a consensus rule as defined in SAPA §102(11).

11. **Revised Rural Area Flexibility Analysis (RAFA)**

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached Revised RAFA contains:

The full text of the Revised RAFA.

A summary of the Revised RAFA.

B. A **statement is attached** explaining why a revised RAFA is not required (check one box):

Changes made to the last published rule do not necessitate revision to the previously published RAFA.

The changes will not impose any adverse impact or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas. The attached statement sets forth this agency’s findings and the reason(s) upon which the findings were made, including what measures were used to determine those findings.

C. A revised RAFA is not attached because this rule is a “rate making” as defined in SAPA §102(2)(a)(ii).

A revised RAFA is **not** attached because this rule was proposed as a consensus rule as defined in SAPA §102(11).

12. **Revised Job Impact Statement (JIS)**

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached Revised JIS contains:

The full text of the Revised JIS.

A summary of the Revised JIS.

B. A **statement is attached** explaining why a revised JIS is not required (check one box):

Changes made to the last published rule do not necessitate revision to the previously published JIS.

The changes will not impose a substantial impact on jobs and employment opportunities. The attached statement sets forth this agency’s findings that the rule will have a positive impact or no impact on jobs and employment opportunities; except when it is evident from the subject matter of the rule that it could only have a positive impact or no impact on jobs and employment opportunities, the statement shall include a summary of the information and methodology underlying that determination.

C. A revised JIS is **not** attached because:

This rule is a “rate making” as defined in SAPA §102(2)(a)(ii).

This rule was proposed by the State Comptroller or Attorney General.

13. **Assessment of Public Comment** (includes legislative comments)

(COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS):

- Attached is an assessment of public comment.
No particular form is required, and it need **only** include comments not addressed in any previously published assessment for this rule. However, the assessment must be based on any written comments received by the agency or any comments presented at any public hearing held by the agency about this rule (include legislative comment). It must contain a summary and an analysis of the issues raised and significant alternatives suggested, a statement of the reason(s) why any significant alternatives were not incorporated, and a description of any changes made as a result of such comments.
- An assessment is not attached because no comments were received.
- An assessment is not required because this action is for a “rate making” as defined in SAPA §102(2)(a)(ii).

14. **Referenced material** (check one box):

- No information is being incorporated by reference in this rule.
- This rule contains referenced material in the following Parts, sections, subdivisions or paragraphs:

--	--	--	--

15. **Initial Review of Rule** (SAPA §207)

(SELECT AND COMPLETE ONE)

- A. As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year _____ which is no later than the 3rd year after the year in which this rule is being adopted.
- B. As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year _____ which is the 4th or 5th year after the year in which this rule is being adopted. This review period, justification for proposing same, and invitation for public comment thereon, were contained in a RFA, RAFA or JIS:
 - Attached is an assessment of public comment on the issue of the 4 or 5-year initial review period; or
 - An assessment of public comment on the 4 or 5-year initial review period is not attached because no comments were received on the issue.
- C. As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2028, which is no later than the 5th year after the year in which this rule is being adopted.
- D. Not Applicable. This is a “rate making” or a “consensus rule,” or a repeal of a rule.

AGENCY CERTIFICATION (To be completed by the person who PREPARED the notice)

I have reviewed this form and the information submitted with it. The information contained in this notice is correct to the best of my knowledge.

I have reviewed Article 2 of SAPA and Parts 260 through 263 of 19 NYCRR, and I hereby certify that this notice complies with all applicable provisions.

Name Brian M. Callahan Signature _____

Address NYS Commission of Correction, 80 S. Swan Street, Albany, New York 12210

Telephone (518) 485-2346 E-mail Brian.Callahan@scoc.ny.gov

Date 01/25/2023

Please read before submitting this notice:

1. Except for this form itself, all text must be typed in the prescribed format as described in the Department of State's *Register* procedures manual, *Rule Making in New York*.
2. Rule making notices, with any necessary attachments (in MS Word unless otherwise specified), should be e-filed via the Department of State website.

Text:

A new subdivision (g) of section 7000.1 of Title 9 is added to read as follows:

(g) On or before the first day of February of each year, each sheriff, superintendent, commissioner, or other officer in charge of a local correctional facility, in conjunction with the jail physician, shall submit a report to the Commission of Correction detailing the operation, function and effectiveness of the facility's substance use disorder treatment and transition services program during the preceding calendar year. Such report shall be submitted in a form and manner prescribed by the Chair of the Commission.

Section 7002.6 of Title 9 is amended to read as follows:

A medical screening questionnaire shall be administered by facility staff at the time of admission or prior to the placement of an individual [prisoner] in a facility housing unit. Any screening response indicating a history of alcohol or substance abuse shall result in an immediate referral for additional medical screening pursuant to section 7011.5 of this Title.

Paragraph (2) of subdivision (a) of section 7002.9 of Title 9 is amended to read as follows:

(2) available health services, including physician visits, [and] sick calls and substance use disorder treatment and transition services;

A new Part 7011 of Title 9 is added to read as follows:

Part 7011

Substance Use Disorder Treatment and Transition Services

(Statutory authority: Correction Law §§45(6), 45(15), 45(18))

Sec.

7011.1 Purpose

7011.2 Definitions

7011.3 Policy

7011.4 Plan for providing services

7011.5 Program screening, placement and participation

7011.6 Program requirements

7011.7 Recordkeeping

§ 7011.1 Purpose.

The purpose of this Part shall be to ensure that each local correctional facility implement a jail-based substance use disorder treatment and transition services program that supports the initiation, operation and enhancement of substance use disorder treatment and transition services for incarcerated individuals with substance use disorder.

§ 7011.2 Definitions.

As used in this Part, the following definitions shall apply to the terms listed below:

- (a) *Commissioner* shall mean the Commissioner of the New York State Office of Addiction Services and Supports.
- (b) *Jail physician* shall mean the physician appointed or designated pursuant to section 501 of the Correction Law.
- (c) *Medication assisted treatment* shall mean the treatment of chemical dependence or abuse and concomitant conditions with medications requiring a prescription or order from an authorized prescribing professional.
- (d) *Chief administrative officer* shall mean the highest-ranking official of the facility.
- (e) *Sheriff* shall mean the individual having custody of a local correctional facility pursuant to subdivisions (1) and (2) of section 500-c of the Correction Law.

§ 7011.3 Policy.

Consistent with the requirements of this Part, each facility shall establish and implement policies and procedures for the operation of a substance use disorder treatment and transition services program pursuant to a plan approved by the Commissioner in accordance with section 19.18-c of the Mental Hygiene Law.

§ 7011.4 Plan for providing services.

- (a) Services to be provided by a facility's substance use disorder treatment and transition services program shall be in accordance with a plan developed by participating local governmental units, in collaboration with the sheriff, taking into account local needs and available resources.
- (b) Any such plan required by subdivision (a) of this section shall include, but not be limited to, the following:
- (1) Alcohol, benzodiazepine, heroin and opioid withdrawal management;
 - (2) At least one formulation of every form of medication assisted treatments approved for the treatment of a substance use disorder by the Federal Food and Drug Administration necessary to ensure that each individual

participating in the program receives the particular form found to be the most effective at treating and meeting their individual needs. The Commissioner may allow a facility a limited exemption to providing opioid full agonist treatment medications where the Commissioner determines that no providers that have received the required accreditation are located within a reasonable distance of the facility. A facility that does not have the resources available to meet standards set forth herein may apply to the Commissioner for a limited exception allowing such facility to enter into an agreement with a community- or jail-based program offering substance use disorder treatment and transition services to provide such services to individuals in the facility. Any such determination shall be reviewed on a regular basis;

(3) Group and individual counseling and clinical support;

(4) Peer support;

(5) Discharge planning; and

(6) Re-entry and transitional supports.

(c) Prior to implementation, the plan required by subdivision (a) of this section shall be approved by the Commissioner.

(d) A copy of the plan required by subdivision (a) of this section, any and all amendments and revisions thereof, and any approvals, exemptions and exceptions granted by the Commissioner shall be maintained within the facility by both the chief administrative officer and the jail physician.

§ 7011.5 Program screening, placement and participation.

(a) Without unnecessary delay, but no later than seventy-two (72) hours following a referral, an incarcerated individual shall receive a medical screening to determine if the individual suffers from a substance use disorder for which medication assisted treatment exists.

(b) Following the medical screening, an incarcerated individual who is determined to suffer from a substance use disorder for which medication assisted treatment exists shall be offered placement in the medication assisted treatment program. Placement in such program shall not be mandatory. The offer of placement shall be made in writing, and the decision to accept or deny placement shall be verified by the incarcerated individual's signature and witnessed and signed by an appropriate staff member. If, for any reason, the incarcerated individual is not able to verify, or refuses to verify the decision, the same must be recorded in writing on the offer of placement and witnessed and signed by two (2) appropriate staff members.

(c) Participation in the medication assisted treatment program shall not be unreasonably withheld from a qualified incarcerated individual. An incarcerated individual using medication assisted treatment prior to such individual's incarceration shall be eligible to, upon request by such individual, continue such treatment in the medication assisted treatment program for any period of time during such individual's incarceration.

(d) No individual shall be denied participation in the program on the basis of a positive drug screening upon entering custody or upon intake into the program; nor shall any individual receive a disciplinary infraction for such positive drug screening. No individual shall be removed from, or denied participation in the program on the basis of having received any disciplinary infraction before entry into the program, or during participation in the program.

(e) An incarcerated individual may enter into such program at any time during the individual's incarceration, and an individual's request to participate in the program shall result in an immediate referral for additional medical screening pursuant to subdivision (a) of this section.

§ 7011.6 Program requirements.

- (a) Each participating incarcerated individual shall work with an authorized specialist to develop an individualized treatment plan, including an appropriate level of counseling and planning for continuity of care upon return to the community.
- (b) Decisions regarding type, dosage, or duration of any medication regimen shall be made by a qualified health care professional licensed or certified under Title VIII of the Education Law who is authorized to administer such medication in conjunction with the incarcerated individual.
- (c) Such program shall also include conditions for a reentry strategy for incarcerated individuals who have participated in medication assisted treatment. Such strategy shall include, but not be limited to, providing each participating incarcerated individual with information on available treatment facilities in their area, information on available housing and employment resources, and any other information that will assist the incarcerated individual in continued recovery once released. Such program shall also assist the incarcerated individual in Medicaid enrollment, prior to release.
- (d) Such program shall provide participating incarcerated individuals preparing for release from the facility with a one-week supply of any necessary medication, where permissible under federal laws and regulations to continue their medication assisted treatment in an effort to prevent relapse.

§ 7011.7 Recordkeeping.

- (a) Records detailing each individual's screening, placement and participation, and each participating individual's program required by sections 7011.5 and 7011.6 of this Title including, but not limited to, the offer of placement, individualized treatment plan, medication regimen, conditions for a reentry strategy, and medication supply to released individuals, shall be maintained in writing or electronically, and shall sufficiently report the name of the incarcerated individual, the names of all facility/program staff involved, the date, and the name of the recording individual.

(b) Contemporary medication administration records shall be maintained for every incarcerated individual receiving medication assisted treatment pursuant to a facility's substance use disorder treatment and transition services program.

(c) The jail physician and other designated facility health staff shall retain all records required by this section in the facility, or shall otherwise have the ability to immediately access such records as necessary.

Subdivision (c) of section 7013.7 of Title 9 is amended to read as follows:

(c) An immediate decision concerning the disposition of each incarcerated individual [inmate] shall be made on the basis of information gathered during initial screening and risk assessment. Such disposition may include, but is not limited to, referrals to outside medical and mental health service providers. Any gathered information indicating a history of alcohol or substance abuse shall result in an immediate referral for additional medical screening pursuant to section 7011.5 of this Title.