



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: December 20, 2022 at **11:00AM**

LOCATION: Alfred E. Smith Building, 80 So. Swan Street, 12th Floor,
Albany, New York. **Please be advised that proper identification is required
at front desk.*

I. MINUTES

SCOC

November 15, 2022 Commission Meeting

CPCRC

December 8, 2022

MRB

Administrative Closures

II. VARIANCES

A. Beacon City Police Department

18-V-03

Supervision of Female Prisoners
Section 7504.1(e)

B. Fairport Police Department

20-V-02

Supervision of Female Prisoners
Section 7504.1(e)

C. Irondequoit Police Department

19-V-11

Supervision of Female Prisoners
Section 7504.1(e)

D. Medina Police Department

20-V-17

Supervision of Female Prisoners
Section 7504.1(e)

E. Poughkeepsie City Police Department

18-V-02

Supervision of Female Prisoners
Section 7504.1(e)

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)

III. MFC

G. New York State Office of Children and Family Services

Columbia Girls Secure Center

Zero Out MFC

H. New York State Office of Children and Family Services

Brookwood Secure Center

MFC Revision

IV. CONSTRUCTION

I. New York City Department of Correction

Queens Criminal Court Temporary Holding

22-C-090

Convert Bathroom into ADA Compliant Decontamination Shower

J. New York City Department of Correction

Anna M. Kross Center

22-C-091

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
Exterior Door Replacement

L. New York City Administration for Children's Services
Crossroads Juvenile Detention Center
22-C-094
Admission Door Replacement

M. Westchester County Department of Correction
Westchester County Penitentiary
22-C-080
Outdoor Exercise Weather Barrier

V. REGULATORY

N. Notice of Emergency Adoption
9 NYCRR section 7000.1, et al
Minimum standards for a program of medication



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: November 15, 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 (**WebEx**)
Keith Zobel, Deputy Director of Operations
Cynthia Allen, Correctional Specialist 3 (**WebEx**)
Amanda Grimes, Correctional Specialist 3 (**WebEx**)
Chris Ost, Correctional Facility Specialist 3
Lloyd Robistow, Correctional Facility Specialist 3
Larry Roe, Correctional Specialist 3
Ellen Tryon, Correctional Specialist 3 (**WebEx**)
Sean Desch, Correctional Specialist 1

I. MINUTES

SCOC

October 18, 2022 Commission Meeting

**Approved Unanimous
Canty/Loughren**

November 2, 2022 Supplemental Commission Meeting

**Approved Unanimous
Canty/Loughren**

CPCRC

November 10, 2022

**Approved Unanimous
Canty/Loughren**

MRB

September 1, 2022

2021-M-0098

2021-M-0116

**Approved Unanimous
Loughren/Canty**

II. VARIANCES

**A. New York City Police Department
18-V-01**

Supervision of Female Prisoners
7004.1(e)

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

III. CONSTRUCTION

**B. NYS Office of Children and Family Services
Brookwood Secure Center
22-C-083**

Rehabilitate Basketball Courts

**Approved Unanimous
Canty/Loughren**

**C. New York City Administration for Children’s
Services
Crossroads Specialized Secure Detention Facility
22-C-088**

Mental Health Privacy Barrier

**Approved Unanimous
Canty/Loughren**

**D. Westchester County Department of Correction
Westchester County Penitentiary
22-C-080**

Outdoor Exercise Weather Barrier

**Approved Unanimous
Tabled
Canty/Loughren**

Commissioner Loughren made a motion to go into executive session at 11:02 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 11:20 a.m., which was seconded by Commissioner Loughren.

The meeting resumed at 11:20 a.m. Motion was made by Commissioner Canty to ratify actions taken in Executive Session regarding Construction and Medical Review Board items, seconded by Commissioner Loughren. Commissioner Loughren made a motion to adjourn at 11:21 a.m. which was seconded by Commissioner Canty.

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

DATE OF MEETING: November 15, 2022

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Cynthia Allen, Correctional Specialist 3 (**WebEx**)
Amanda Grimes, Correctional Specialist 3 (**WebEx**)
Chris Ost, Correctional Facility Specialist 3
Lloyd Robistow, Correctional Facility Specialist 3
Larry Roe, Correctional Specialist 3
Ellen Tryon, Correctional Specialist 3 (**WebEx**)
Sean Desch, Correctional Specialist 1

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and return to general session at 11:20 a.m., which was seconded by Commissioner Loughren.

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Respectfully submitted,

Tricia Amati
Assistant to Chairman/Commissioners

CITIZENS' POLICY AND COMPLAINT REVIEW COUNCIL

December 8, 2022

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

Chris Ost

Ellen Tryon

Tia Lane

Vicky Connors

Commissioner Canty opened the meeting at 11:07 A.M.

Commissioner Canty asked for a motion to ratify all actions taken at the November 10, 2022 meeting. Martin Stanton made a motion to ratify all actions taken on November 10, 2022. Commissioner Canty seconded. Carried. Commissioner Canty asked for a motion to approve the minutes of the November 10, 2022 meeting. Martin Stanton made a motion to approve the minutes of the November 10, 2022 meeting. Commissioner Canty seconded. Carried.

Martin Stanton, Commissioner Canty, and Commissioner Loughren reviewed the Denied with Comment grievances for the month of December 2022. 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 December 2022. 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.

Martin Stanton and Commissioner Canty reviewed 14 Facility Responses. Martin Stanton made a motion to refer Erie County Facility Response to Grievance #165183, Oneida County Facility Response to Grievance #164215, Onondaga County Facility Response to Grievance #147660, and Oswego County Facility Response to Grievance #163430 to the Commission for follow up. This motion was seconded by Commissioner Canty, and unanimously passed.

The Council reviewed the remaining grievances.

ACCEPT IN PART

168464
Cortland CJ Unanimous

168982
Saratoga CJ Unanimous

168234
Wyoming CJ Unanimous

DENIED WITH COMMENT

168318
168259
Dutchess CJ Unanimous

168985
Greene CJ Unanimous

168484
Orange CJ Unanimous

ADMINISTRATIVE CLOSURES

DENY

169378
169036
Albany CJ Unanimous

169127
Cattaraugus CJ Unanimous

169623
169621
169400
169398
168971
168801
168800
168799
168798

168797
168796
168392
168390
Cayuga CJ

Unanimous

169542
169428
169201
168932
168931
168930
168919
168900
168522
168266
168075
Chautauqua CJ

Unanimous

168629
168377
168260
168258
168256
168233
Chemung CJ

Unanimous

169448
169410
169408
169407
169317
169316
169297
169296
169149
169148
169085
169068
168885
168884
168756
168695
168694
168530
168529
168457
168273
168272
168229
168228

168137 Chenango CJ	Unanimous
168691 Clinton CJ	Unanimous
169131 168967 168925 168904 168463 168232 Cortland CJ	Unanimous
168125 Delaware CJ	Unanimous
169458 169456 169434 169427 168947 168218 Dutchess CJ	Unanimous
169084 169060 168271 168221 168208 168084 Erie CF	Unanimous
169176 168638 168623 168622 168621 Erie CJ	Unanimous
169219 Franklin CJ	Unanimous
168956 Fulton CJ	Unanimous
168227 Genesee CJ	Unanimous
168528 Greene CJ	Unanimous

169419	
168515	
168512	
168384	
168383	
168381	
168379	
168219	
Herkimer CJ	Unanimous
168937	
168936	
Jefferson CJ	Unanimous
168803	
168397	
Livingston CJ	Unanimous
169636	
169482	
169121	
169120	
169118	
168117	
169100	
169096	
169082	
169081	
169080	
169079	
169078	
169059	
168876	
168677	
168636	
168616	
168506	
168505	
168501	
168216	
168139	
168085	
Monroe CJ	Unanimous
169561	
169236	
169216	
168977	
168959	
Montgomery CJ	Unanimous

169478
169025
169024
168526
Nassau CJ Unanimous

169417
169416
168976
168921
168624
168378
168336
168327
168326
168324
148323
Oneida CJ Unanimous

168676
168244
168243
168242
168240
168143
Onondaga COR Unanimous

169016
Onondaga CUS Unanimous

169401
169351
169350
169349
169348
169347
169141
169126
169125
169105
169104
169103
169101
168942
168941
168940
168939
168881
168510
168481

168480	
168479	
168478	
168477	
168476	
168462	
168461	
168460	
168459	
168210	
168205	
Ontario CJ	Unanimous
169477	
169476	
169142	
169140	
168483	
Orange CJ	Unanimous
168110	
Putnam CJ	Unanimous
168058	
Rockland CJ	Unanimous
168108	
168107	
Saratoga CJ	Unanimous
168265	
Schoharie CJ	Unanimous
169521	
169519	
169518	
169355	
169354	
169353	
169137	
169129	
169128	
169067	
169066	
168898	
168863	
168862	
168861	
168860	
168859	
168858	

168541	
168540	
168539	
168536	
168509	
168508	
168286	
168285	
168284	
168283	
St. Lawrence CJ	Unanimous
169414	
169178	
Steuben CJ	Unanimous
168944	
168241	
Suffolk CJ	Unanimous
168507	
Sullivan CJ	Unanimous
168922	
168356	
Tompkins CJ	Unanimous
168094	
168076	
Ulster CJ	Unanimous
169338	
169063	
169020	
169018	
168938	
168696	
168532	
168531	
168279	
Warren CJ	Unanimous
168966	
168683	
168519	
Wayne CJ	Unanimous
169540	
169539	
169429	
169415	

169357
169337
168927
168643
168642
168641
168521
168520
Westchester CJ Unanimous

169359
168656
168628
168527
168276
Wyoming CJ Unanimous

168504
168106
Yates CJ Unanimous

DENIED WITH COMMENT

169399
169397
168972
168778
168777
168776
168389
168388
Cayuga CJ Unanimous

168933
Chautauqua CJ Unanimous

169409
168646
168458
168456
168230
Chenango CJ Unanimous

169447
168973
Clinton CJ Unanimous

168924
168332
Cortland CJ Unanimous

168625 Dutchess CJ	Unanimous
168635 168296 Erie CF	Unanimous
169177 168917 168899 168640 168639 168637 Erie CJ	Unanimous
168987 168986 168984 168983 168816 Greene CJ	Unanimous
169420 168514 168385 Herkimer CJ	Unanimous
169076 169057 Lewis CJ	Unanimous
169376 Livingston CJ	Unanimous
169412 Monroe CJ	Unanimous
168525 168524 Nassau CJ	Unanimous
169352 169124 169102 168880 168689 168537 Ontario CJ	Unanimous
168357 Putnam CJ	Unanimous

169147	
169146	
169145	
169134	
169133	
Seneca CJ	Unanimous
169136	
168866	
168865	
168864	
168538	
St. Lawrence CJ	Unanimous
168887	
Steuben CJ	Unanimous
168996	
168174	
Sullivan CJ	Unanimous
168779	
168802	
168918	
Ulster CJ	Unanimous
169217	
169098	
169097	
169065	
169062	
169021	
169019	
168278	
Warren CJ	Unanimous
168518	
168496	
Wayne CJ	Unanimous
169218	
168903	
168331	
Westchester CJ	Unanimous
168836	
Yates CJ	Unanimous

FACILITY RESPONSES REFERRED TO THE COMMISSION

165183
Erie CF Unanimous

164215
Oneida CJ Unanimous

147660
Onondaga CUS Unanimous

163430
Oswego CJ Unanimous

The next CPCRC meeting will be held on Thursday January 12, 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 11:32 A.M.

Respectfully submitted,

Victoria Connors
Administrative Assistant

Name of Facility: Beacon City Police Department

Variance # 18-V-03

New: Renewal: X

Relief from Standard: 7504.1(e)

Application by: Chief Sands Frost

Date Request Rec: 10/11/22

Last Approved: 12/21/21 Length of Approval: 12 Months Expiration: 01/01/23

Write-up Prepared by: M. Ellwanger

Recommendation by Field Staff: Approve until January 1, 2024

Recommendation at Briefing:

Final Recommendation:

SUMMARY OF VARIANCE REQUEST

The Beacon City Police Department is requesting variance relief from the requirements of Minimum Standard 7504.1(e), supervision of female prisoners by a matron.

The Department has only two female police officers. As a result, there are numerous shifts throughout the week in which the Department does not have a female officer on duty. Since January 2022, a female officer has not been assigned to the steady midnight shift (12am – 8am), as the selection of such shift members is based upon seniority pursuant to the applicable Collective Bargaining Agreement with the PBA of the city of Beacon. Further, although the Department has two (2) assigned female matrons, in the event that neither is available to perform such duty, our Department would not be able to comply with NYCRR, Part 7504.1.

JUSTIFICATION FOR WHY VARIANCE SHOULD OR SHOULD NOT BE EXTENDED:

Permitting the Beacon City Police Department to allow male officers to supervise female prisoners would allow the department to place female prisoners in detention cells when necessary.

Additionally, a site visit was conducted in November 2022 to assess compliance with the conditions of this variance. The department was in compliance with the spirit of the variance and the results of that assessment are as follows:

Condition 1- Commission staff identified no concerns with this condition.

Condition 2- Commission staff identified no concerns with this condition.

Condition 3- Commission staff identified no concerns with this condition.

Condition 4- Commission staff identified no concerns with this condition.

Condition 5- Commission staff identified no concerns with this condition.

Condition 6- Commission staff identified concerns with this condition.

[REDACTED]. The actual use of the variance is minimal as instances of cross gender supervision occur only as needed. [REDACTED]

[REDACTED]. The department has indicated that they will begin observing the requirements of this condition moving forward.

Condition 7- Commission staff identified no concerns with this condition. There have been zero allegations made since initial approval of the variance.

RECOMMENDED CONDITIONS

1. The Beacon City PD shall ensure that anytime a female prisoner is placed in a detention cell, a female officer or matron is present in the building and has the ability to respond in times when a search is needed, or a female prisoner is placed on constant supervision.
2. The Beacon City PD shall ensure that any search of a female prisoner is conducted by a female officer or matron.
3. The Beacon City PD shall ensure that anytime a female prisoner is placed on constant supervision, such supervision is conducted by a female officer or matron.
4. The Beacon City PD shall maintain a system of video recording of the detention area that cannot be disabled by staff any time a male officer is providing supervision to a female prisoner.
5. The Beacon PD shall maintain the video recording of instances of cross-gender supervision for a minimum of six months.
6. The Beacon City PD shall ensure that an entry is made in the supervision records that states a male officer is supervising a female prisoner housed in a detention cell.
7. The Beacon City PD shall maintain a centralized record of allegations of improper or physical contact between a female prisoner and male officer. Such record shall include any allegation, the investigative files, findings, and any related disposition.
8. The Beacon City PD shall submit a plan to come into compliance with this standard with any future request to extend this variance.
9. The Beacon City PD shall submit documentation and video maintained in accordance with conditions #4-6 for any instances whereby a male officer has supervised a female prisoner in the detention area (cell/room).

OTHER VARIANCES IN EFFECT – None

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

11/1/22 – M. Ellwanger conducted a site visit to assess compliance with 9 NYCRR, Part 7500; JJDPa requirements and compliance with Variance 18-V-03.

DATE OF LAST CYCLE VISIT THAT STANDARD VIOLATIONS WERE IDENTIFIED:

11/1/22

ANY OPEN MINIMUM STANDARD VIOLATIONS:

THE DEPARTMENT WAS CITED FOR A POLICY OMISSION REFERENCING THE OBSERVANCE OF RELIGIOUS AND MEDICAL DIETARY REQUIREMENTS. THERE WERE NO PRACTICE CONCERNS IDENTIFIED.

STATUS OF MINIMUM STANDARD VIOLATIONS

OPEN PENDING MINOR POLICY REVISION

ANY VIOLATIONS WHICH PERTAIN TO THE VARIANCE'S CONDITIONS:

NONE

REVIEWED BY REGIONAL SUPERVISOR: Amanda Grimes DATE: 11/22/22

REVIEWED BY DIRECTOR: T. Moran DATE: 12/6/22

COMMENTS BY DIRECTOR:

OFFICIAL USE ONLY:

NOTES OF MEETING: _____



**Commission of
Correction**

VARIANCE APPLICATION FORM

Lockup



Commission of Correction

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

Lockup Variance Application Form

INSTRUCTIONS TO CHIEF, COMMISSIONER, OR SHERIFF:

Pursuant to New York State Minimum Standards Part 7512,
Variances, please complete all portions of this form and email to the
attention of Chairman/Commissioner, using the above e-mail address.

Lockup: City of Beacon Police Department

Person requesting: Sgt Andrew Dewey

A. State the specific Part, section and subdivision of New York State Minimum
Standards for which the variance is requested: Example: 7510.1 (b) states that,
Visits to prisoners by a family member, relative or other person may be permitted
at the discretion of, and in accordance with regulations established by, the
officials in charge. To request a variance the citation should be listed as:

Ex. Part: 7510 Section: 1 Subdivision: b

Standard for which the variance is requested:

Part: 7504.1 (e) 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.
(Include or attach any relevant supporting documentation). The number of characters
you can type in the below space is limited. If necessary, please attach any
additional information with your submittal.

See attached addendum.

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.**

See attached addendum.

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

_____ Days _____ Weeks 12 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 will continually attempt to achieve full compliance but due to limited staffing levels full compliance is unlikely to happen.

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

Yes If yes, include the variance number 18-V-03 No

M. J. Hill #311 10/11/22
Signature (Chief) (Commissioner) (Sheriff) Date

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



CHIEF OF POLICE
SANDS FROST

CITY OF BEACON POLICE DEPARTMENT

1 MUNICIPAL PLAZA, SUITE 3
BEACON, NY 12508
(845)831-4111
FAX: (845)838-5092



Terrance Moran
Director of Operations

October 11, 2022

New York State Commission of Correction
80 South Swan Street, 12th Floor, Albany, NY 12210
(518) 485-2330 - office | (518) 485-0016 - fax |
Terry.Moran@scoc.ny.gov

Re: Variance Application Form addendum
Variance No. 18-V-03

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.

In circumstances when a female is arrested and the Department is unable to call in a female police officer or female matron, the Department is unable to secure the female prisoner in its detention facility (female or male detention cell). This creates a need to assign male officers to observe the female prisoner in the booking room (monitored and recorded by camera) until she can be arraigned or until a female officer is on duty. This can often be for a substantial amount of time, especially during the overnight hours when the Department cannot secure a City Court Judge to appear to arraign the female prisoner. In August 2021, the Department enlisted two (2) female matrons that can assist with watching/ checking female prisoners and which allows the female prisoners to be placed into a holding cell. However, the Department's two (2) female matrons are each on an on-call status and able to accept or decline, at their choice, a request to perform matron duties.

C. In the space provided below include a detailed description regarding why this variance is necessary.

Currently, the Department only has two (2) female police officers. As a result, there are numerous shifts throughout the week in which the Department does not have a female officer on duty. Since January 2022, a female officer has not been assigned to the steady midnight shift (12am – 8 am), as the selection of such shift by members is based upon seniority pursuant to the applicable Collective Bargaining Agreement with the Patrolmen's Benevolent Association of the City of Beacon. Further, although the Department has two (2) assigned female matrons, in the event that neither is available to perform such duty, our Department would not be able to comply with NYCCRR, Part 7504.1.

Name of Facility: Fairport PD

Variance # 20-V-02

New: **Renewal:** X**Relief from Standard:**7504.1 E**Application by:** Chief Matthew Barnes**Date Request Rec:** 10/13/22**Last Approved:** 12/21/21 **Length of Approval:** 1 year**Expiration:** 1/1/23**Write-up Prepared by:** Amanda Grimes, CFS II**Recommendation by Field Staff:** Approve for 1 year**Recommendation at Briefing:** Approve until 1/1/24**Final Recommendation:****SUMMARY OF VARIANCE REQUEST**

The Fairport Police Department is requesting a renewal of variance relief from the requirements of Minimum Standard 7504.1(e), supervision of female prisoners by a matron. Fairport Police Chief Mathew Barnes is requesting for female detainees to be housed in a cell only when the detainee is aggressive, uncooperative, unruly or a safety or security risk while detained. The variance would only be utilized in the event that the Fairport Police Department could not locate a female officer or female deputy via mutual aid to assist with detention.

The Fairport Police Department does not employ a female officer at this time. The Department has 9 full-time officers and invariably have one sworn officer working per shift. The Fairport Police Department rely on the Monroe County Sheriff's Office for assistance when there is a female prisoner, however their resources may not always lend themselves to providing a female deputy given their staffing priorities. The Fairport Police Department would therefore continue to seek a formal variance from the NYS Commission on Correction to allow for female detainees to be housed in a cell when the detainee is aggressive, uncooperative, unruly or a safety or security risk while detained. Noting that they had 2 detainees for 2021 and only 1 was a female, such a request is low in frequency. The 1 female detainee they had in 2021, they utilized a female deputy for the supervision. Additionally, all persons held in the booking/detention are recorded. The department policy (GO #522) mandates the use of female officer for female prisoners for searches and supervision, the variance would only be utilized in the event the Fairport Police could not locate a female officer or female deputy to assist with detention.

VARIANCE HISTORY

12/21/21-1/1/23

2/17/21-12/21/21

8/18/20-3/1/21

CONSTRUCTION/RENOVATION PLANS

n/a

OTHER VARIANCES IN EFFECT

n/a

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

MSE completed June 16, 2022

DATE OF LAST CYCLE VISIT THAT STANDARD VIOLATIONS WERE IDENTIFIED:

MSE completed June 16, 2022

ANY OPEN MINIMUM STANDARD VIOLATIONS:

ALL IDENTIFIED ISSUES HAVE BEEN ADDRESSED AND ARE CONSIDERED CLOSED

OTHER INFORMATION

None

ANY VIOLATIONS WHICH PERTAIN TO THE VARIANCE'S CONDITIONS:

None

JUSTIFICATION FOR WHY VARIANCE SHOULD OR SHOULD NOT BE EXTENDED

Recommend that the variance be approved. The Department documents that they still do not have a female officer hired, and a female Deputy is not always available from the Sheriff's Department. The Department further documents that they would only use the Variance when they could not locate a female Officer or female Deputy to assist with the detention. Additionally, the facility documents that they maintain compliance with the stipulations of the Variance when in use, and that their use of a cell for female detainees is restricted to times when such female detainee poses a threat to safety and security of the Department, staff, other persons and or the detainee themselves; otherwise, a female detainee is placed on the bench and supervised and not in a cell.

RECOMMENDED CONDITIONS IF APPROVED

- 1.The Fairport Police Department shall ensure that anytime a female prisoner is placed in a detention cell, a female officer or matron is present in the building and has the ability to respond in times when a search is needed, or a female prisoner is placed on constant supervision.
- 2.The Fairport Police Department shall ensure that any search of a female prisoner is conducted by a female officer or matron.
- 3.The Fairport Police Department shall ensure that anytime a female prisoner is placed on constant supervision, such supervision is conducted by a female officer or matron.
- 4.The Fairport Police Department shall maintain a system of video recording of the detention area that cannot be disabled by staff any time a male officer is providing supervision to a female prisoner.
- 5.The Fairport Police Department shall maintain the video recording for a minimum of 6 months

6.The Fairport Police Department shall ensure that an entry is made in the supervision records that states a male officer is supervising a female prisoner housed in a detention cell.

7.The Fairport Police Department shall maintain a centralized record of allegations of improper or physical contact between a female prisoner and male officer. Such record shall include any allegation, the investigative files, findings, and any related disposition.

8.The Fairport Police Department shall amend the Department's policies to include the requirements of Part 7512 and the conditions of the variance.

9. The Fairport Police Department shall submit a plan to come into compliance with this standard with any future request to extend this variance.

10. The Fairport Police Department shall submit documentation and video maintained in accordance with conditions #4-6 for any instances whereby a male officer has supervised a female prisoner in the detention area (cell/room).

REVIEWED BY REGIONAL SUPERVISOR: DATE:

REVIEWED BY DIRECTOR: DATE:

COMMENTS BY DIRECTOR:

OFFICIAL USE ONLY:

NOTES OF MEETING:



**Commission of
Correction**

VARIANCE APPLICATION FORM

Lockup



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

Lockup Variance Application Form

INSTRUCTIONS TO CHIEF, COMMISSIONER, OR SHERIFF:

Pursuant to New York State Minimum Standards Part 7512,
Variances, please complete all portions of this form and email to the
attention of Chairman/Commissioner, using the above e-mail address.

Lockup: Fairport Police Department

Person requesting: Matthew Barnes, Chief of Police

A. State the specific Part, section and subdivision of New York State Minimum
Standards for which the variance is requested: Example: 7510.1 (b) states that,
Visits to prisoners by a family member, relative or other person may be permitted
at the discretion of, and in accordance with regulations established by, the
officials in charge. To request a variance the citation should be listed as:

Ex. Part: 7510 Section: 1 Subdivision: b

Standard for which the variance is requested:

Part: 7504 Section: 1 Subdivision: E

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.
(Include or attach any relevant supporting documentation). The number of characters
you can type in the below space is limited. If necessary, please attach any
additional information with your submittal.

The Fairport Police Department is requesting the extension of Variance No.
20-V-20 for a period of one year and we are submitting this request in preparation
for your upcoming meeting. The Fairport Police Department request to continue to
seek a formal variance from the NYS Commission of Correction to allow for female
detainees to be housed in a cell only when the detainee is aggressive,
uncooperative, unruly or a safety or security risk while detained.

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.**

The variance would only be utilized in the event that the Fairport Police Department could not locate a female officer or female deputy via mutual aid to assist with detention.

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

_____ Days _____ Weeks 12 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.**

The Fairport Police Department General Order #522 mandates the use of a female officer for female prisoners for searches and supervision, however the Fairport Police Department does not employ a female officer at this time. General Order #522 is very specific on policy relating to female detainees.

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

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

Matthew Barnes Digitally signed by Matthew Barnes
Date: 2022.10.13 14:41:34 -04'00'

10/13/22

Signature (Chief) (Commissioner) (Sheriff)

Date

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

Name of Facility: Irondequoit Police Department

Variance #: 19-V-11

New: Renewal: x

Relief from Standard: 7504.1(e)

Application by: Chief Laird

Date Request Rec: 9/30/22

Last Approved: 12/21/21 Length of Approval: 12 months Expiration: 01/01/23

Write-up Prepared by: Amanda Crawford-Crowe

Recommendation by Field Staff: Approval for 1 year.

Recommendation at Briefing: Approve until January 1, 2024

Final Recommendation:

SUMMARY OF VARIANCE REQUEST

Irondequoit PD (IPD) requests relief from the requirements of Minimum Standard 7504.1(e), supervision of female prisoners by a female officer/ matron.

The Department currently states that 7 of its 8 cells are equipped with video surveillance cameras and monitoring system. The Department believes this surveillance and monitor system protects the rights of the individuals under their care and custody while also protecting the officers assigned to these duties. The Department is also requesting that this variance be made permanent.

VARIANCE HISTORY

12/17/19 Approved until 7/1/20

6/30/20 Approved until 1/1/21

12/15/20 Approved until 1/1/22

12/12/21 Approved until 1/1/23

CONSTRUCTION/RENOVATION PLANS

NO

OTHER VARIANCES IN EFFECT

None

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

9/28/22

DATE OF LAST CYCLE VISIT THAT STANDARD VIOLATIONS WERE IDENTIFIED:

9/28/22

ANY OPEN MINIMUM STANDARD VIOLATIONS:

7503.1(B), 7506.1(H), 7507.1(C), 7509.1(C), 7510.1(A), 7511.1(A)(B)(C), 7512.3(A).

OTHER INFORMATION

ANY VIOLATIONS WHICH PERTAIN TO THE VARIANCE'S CONDITIONS:

NO

JUSTIFICATION FOR WHY VARIANCE SHOULD OR SHOULD NOT BE EXTENDED:

THE DEPARTMENT FEELS THAT THEIR UPGRADED SURVEILLANCE AND MONITORING SYSTEM WOULD SERVE TO PROTECT THE RIGHTS OF INDIVIDUALS UNDER THEIR CARE AND CUSTODY AS WELL AS PROTECTING THE OFFICERS ASSIGNED TO THESE DUTIES THEREFORE NOT REQUIRE THE SAME SEX TO SUPERVISE INDIVIDUALS.

RECOMMENDED CONDITIONS IF APPROVED

1. The IPD shall ensure that anytime a female prisoner is placed in a detention cell, a female officer or matron is present in the building and has the ability to respond in times when a search is needed, or a female prisoner is placed on constant supervision;
2. The IPD shall ensure that any search of a female prisoner is conducted by a female officer or matron;
3. The IPD shall ensure that anytime a female prisoner is placed on constant supervision, such supervision is conducted by a female officer or matron;
4. The IPD shall maintain a system of video recording for six months of the detention area that cannot be disabled by staff any time a male officer is providing supervision to a female prisoner;
5. 5. The IPD shall maintain the video recording of instances of cross-gender supervision for a minimum of six months.
6. The IPD shall ensure that an entry is made in the supervision records that states a male officer is supervising a female prisoner housed in a detention cell; and
7. The IPD shall maintain a centralized record of allegations of improper or physical contact between a female prisoner and male officer. Such record shall include any allegation, the investigative files, findings, and any related disposition.
8. The IPD shall submit a plan to come into compliance with this standard with any future request to extend this variance.
9. The IPD shall submit documentation and video maintained in accordance with conditions #4-6 for any instances whereby a male officer has supervised a female prisoner in the detention area (cell/room).

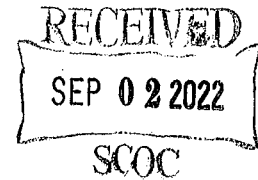


Irondequoit Police Department



Alan J Laird
Chief of Police

September 30, 2022



Mr. Allen Riley
Chairman
New York State
Commission of Correction
80 Swan St
Albany, New York 12210-8001

Chairman Riley:

The Irondequoit Police Department would like to respectfully request a "Variance" from the Commission of Correction regarding our "Holding/Detention Area" within our facility. We currently have eight holding cells and seven of those are equipped with video surveillance cameras and monitoring system. Our continued variance request would seek for permanent approval to have a Male Officer check and monitor a female that would be under our care and custody these holding cells.

We feel that the surveillance and monitoring system that was recently upgraded at the Irondequoit Police Department would serve to protect the rights of the individual under our care and custody as well as protecting the officers assigned to these duties.

The recent audits conducted by your agency associated with the Irondequoit Police Department have been very positive and I believe they reflect our commitment to protecting those we serve, regardless of the circumstances that result in our public safety services. In addition to these audits, the Irondequoit Police asked for and received a variance from the State Commission of Corrections in December 2021.

If additional information and/or materials are required to advance this "Variance Request" I would be happy to provide those documents. I look forward to hearing from the Commission and we appreciate your time and consideration in this matter.

Sincerely,

Alan J Laird
Chief of Police

XC: James Shotwell
File

Name of Facility: Medina Police Department

Variance #20-V-17

New: Renewal: X

Relief from Standard: 7504.1(e)

Application by: Chief Chad Kenward

Date Request Rec: 11/2/2022

Last Approved: 12/21/2021

Length of Approval: 12 Months Expiration: 1/1/2023

Write-up Prepared By: Amanda Crawford-Crowe

Recommendation by Field Staff: Approve until January 1, 2024

Recommendation at Briefing:

Final Recommendation:

SUMMARY OF VARIANCE REQUEST

Requests that male officers are allowed to supervise female prisoners due to MPD structure (13 male officers). MPD will require officers to have their body cameras turned on when supervising male or female prisoners/detainees. When processing a female prisoner/detainee there shall be two officers present and the lock up area cameras will be on at all times.

VARIANCE HISTORY

12/21/21 Approved until 01/01/2023

CONSTRUCTION/RENOVATION PLANS

N/A

OTHER VARIANCES IN EFFECT

NO

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

8/16/2022

DATE OF LAST CYCLE VISIT THAT STANDARD VIOLATIONS WERE IDENTIFIED:

8/16/2022

ANY OPEN MINIMUM STANDARD VIOLATIONS:

YES – 7504.1(e) Response assessment stated the MPD should apply for a variance if they are unable to meet the requirements of this section of Minimum Standards.

OTHER INFORMATION

NO

ANY VIOLATIONS WHICH PERTAIN TO THE VARIANCE'S CONDITIONS:

YES - 7504.1(e)

JUSTIFICATION FOR WHY VARIANCE SHOULD OR SHOULD NOT BE EXTENDED:

Variance #20-V-17 was previously approved by the Commission. The facility has presented

adequate safety protocols to continue having male officers supervise female prisoners / detainees when a female matron or female officer is not available.

RECOMMENDED CONDITIONS IF APPROVED

This variance is approved with the following conditions:

1. The MPD shall ensure that anytime a female prisoner is placed in a detention cell, a female officer or matron is present in the building and has the ability to respond in times when a search is needed, or a female prisoner is placed on constant supervision;
2. The MPD shall ensure that any search of a female prisoner is conducted by a female officer or matron;
3. The MPD shall ensure that anytime a female prisoner is placed on constant supervision, such supervision is conducted by a female officer or matron;
4. The MPD shall maintain a system of video recording for six months of the detention area that cannot be disabled by staff any time a male officer is providing supervision to a female prisoner;
5. The MPD shall maintain the video recording of instances of cross-gender supervision for a minimum of six months.
6. The MPD shall ensure that an entry is made in the supervision records that states a male officer is supervising a female prisoner housed in a detention cell; and
7. The MPD shall maintain a centralized record of allegations of improper or physical contact between a female prisoner and male officer. Such record shall include any allegation, the investigative files, findings, and any related disposition.
8. That with any future request to extend this variance, the Medina Police Department shall submit a plan to come into compliance with this section.
9. That with any future request to extend this variance, the Medina Police Department shall submit documentation and video maintained in accordance with conditions #4-6 for any instances whereby a male officer has supervised a female prisoner in the detention area (cell/room).

REVIEWED BY REGIONAL SUPERVISOR: AMANDA GRIMES DATE: 11/22/22

REVIEWED BY DIRECTOR: T. Moran DATE: 12/6/22

COMMENTS BY DIRECTOR:

OFFICIAL USE ONLY:

NOTES OF MEETING:



**Commission of
Correction**

VARIANCE APPLICATION FORM

Lockup



**Commission of
Correction**

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

Lockup Varlane Application Form

INSTRUCTIONS TO CHIEF, COMMISSIONER, OR SHERIFF:

Pursuant to New York State Minimum Standards Part 7512, Variances, please complete all portions of this form and email to the attention of Chairman/Commissioner, using the above e-mail address.

Lockup: Medina Police Department Holding Cell

Person requesting: Chief Chad Kenward

A. State the specific Part, section and subdivision of New York State Minimum Standards for which the variance is requested: *Example: 7510.1 (b) states that, Visits to prisoners by a family member, relative or other person may be permitted at the discretion of, and in accordance with regulations established by, the officials in charge.* To request a variance the citation should be listed as:

Ex. Part: 7510 Section: 1 Subdivision: b

Standard for which the variance is requested:

Part: 7504 Section: 1 Subdivision: e

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. (Include or attach any relevant supporting documentation). 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 our department's structure (13 male police officers) we are unable to meet the minimum standard set forth by the State in regards to male officers supervising female prisoners/detainees. Our department's officers are required to have their department issued body cameras on when interacting with male//female detainees while in the holding cell. If a female is detained in the holding cell two (2) male officers will be present when processing them. The holding cell has a camera recording.

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. Our department is comprised of 13 sworn male police officers, no female officers. We are currently at full staff and it is unknown if we will be hiring any future officers (female) at this time that could meet this standard.

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

365 Days 52 Weeks 12 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.

Again, we are at full staff. It is unknown if the Village of Medina Board is going to allow us to hire more personnel to meet this standard. We have put measures in place to have oversight. Our holding cell is only utilized to process arrested individuals, 1-3 hours at most.

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

Yes ___ If yes, include the variance number 20-V-17 No ___

UNSURE IF VARIANCE WAS APPROVED DUE TO ELEMENTS THAT HAVE TO BE MET


CHAD KENWARD

11/2/20

Signature (Chief) (~~Commissioner~~) (~~Sheriff~~)

Date

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

Name of Facility: Poughkeepsie City Police Department Variance #: 18-V-02

New: **Renewal:** x**Relief from Standard:** 7504.1(e)**Application by:** Chief Pape**Date Request Rec:** 10/20/22**Last Approved:** 12/21/21 **Length of Approval:**12 months **Expiration:** 01/01/23**Write-up Prepared by:** M. Ellwanger**Recommendation by Field Staff:** Approval until January 1, 2024**Recommendation at Briefing:****Final Recommendation:****SUMMARY OF VARIANCE REQUEST**

Poughkeepsie City PD (PCPD) requests relief from the requirements of Minimum Standard 7504.1(e), supervision of female prisoners by a female officer/ matron.

The PCPD currently has only 6 female officers employed which results in multiple shifts throughout the week that do not have a female officer on duty. PCPD will take action to have a female officer/ matron present in the building when a female prisoner is present. The PCPD will ensure that when constant supervision or searches of female prisoners are required that a female officer/matron conducts such. The PCPD will also maintain and ensure the following; video recording of the detention area which cannot be disabled, records indicating when a male officer supervises a female prisoner, and a record of any allegations of improper physical contact between a female prisoner and a male officer and the findings.

VARIANCE HISTORY

4/18/18 Approved until 11/1/18

10/17/18 Approved until 4/1/19

3/26/19 Approved until 4/1/20

3/26/20 Approved until 10/1/20

9/29/20 Approved until 4/1/21

3/30/21 Approved until 1/1/22

12/21/21 Approved until 1/1/23

CONSTRUCTION/RENOVATION PLANS

NO

OTHER VARIANCES IN EFFECT

None

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

8/17/21

DATE OF LAST CYCLE VISIT THAT STANDARD VIOLATIONS WERE IDENTIFIED:

8/17/21

ANY OPEN MINIMUM STANDARD VIOLATIONS:

7504.1(A)(D)(3)(G), 7505.1(D)(E), 7506.1(H), 7508.2(A), 7510.1(A)(B), 7511.1(A)(B)(C), 7512.3(A).

OTHER INFORMATION

ANY VIOLATIONS WHICH PERTAIN TO THE VARIANCE'S CONDITIONS:

NO

JUSTIFICATION FOR WHY VARIANCE SHOULD OR SHOULD NOT BE EXTENDED:

THE AGENCY CURRENTLY HAS SIX FEMALE OFFICERS WHICH RESULTS IN MULTIPLE SHIFTS THROUGHOUT THE WEEK THAT DO NOT HAVE A FEMALE OFFICER ON DUTY.

RECOMMENDED CONDITIONS IF APPROVED

1. The PCPD shall ensure that anytime a female prisoner is placed in a detention cell, a female officer or matron is present in the building and has the ability to respond in times when a search is needed, or a female prisoner is placed on constant supervision.
2. The PCPD shall ensure that any search of a female prisoner is conducted by a female officer or matron.
3. The PCPD shall ensure that anytime a female prisoner is placed on constant supervision, such supervision is conducted by a female officer or matron.
4. The PCPD shall maintain a system of video recording of the detention area that cannot be disabled by staff any time a male officer is providing supervision to a female prisoner.
5. The PCPD shall maintain the video recording of instances of cross-gender supervision for a minimum of six months.
6. The PCPD shall ensure that an entry is made in the supervision records that states a male officer is supervising a female prisoner housed in a detention cell.
7. The PCPD shall maintain a centralized record of allegations of improper or physical contact between a female prisoner and male officer. Such record shall include any allegation, the investigative files, findings, and any related disposition.

8. The PCPD shall submit a plan to come into compliance with this standard with any future request to extend this variance.

9. The PCPD shall submit documentation and video maintained in accordance with conditions #4-6 for any instances whereby a male officer has supervised a female prisoner in the detention area (cell/room).

REVIEWED BY REGIONAL SUPERVISOR:

DATE:

REVIEWED BY DIRECTOR:

DATE:

COMMENTS BY DIRECTOR:

OFFICIAL USE ONLY:

NOTES OF MEETING:



Commission of
Correction

VARIANCE APPLICATION FORM

Lockup



Commission of Correction

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

Lockup Variance Application Form

INSTRUCTIONS TO CHIEF, COMMISSIONER, OR SHERIFF:

Pursuant to New York State Minimum Standards Part 7512,
Variances, please complete all portions of this form and email to the
attention of Chairman/Commissioner, using the above e-mail address.

Lockup: City of Poughkeepsie Police Department

Person requesting: Chief Thomas Pape

A. State the specific Part, section and subdivision of New York State Minimum
Standards for which the variance is requested: Example: 7510.1 (b) states that,
Visits to prisoners by a family member, relative or other person may be permitted
at the discretion of, and in accordance with regulations established by, the
officials in charge. To request a variance the citation should be listed as:

Ex. Part: 7510 Section: 1 Subdivision: b

Standard for which the variance is requested:

Part: 7504 Section: 1 Subdivision: E

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.
(Include or attach any relevant supporting documentation). The number of characters
you can type in the below space is limited. If necessary, please attach any
additional information with your submittal.

We will take action to have a female officer/matron present in the building when a
female prisoner is present. The PCPD will ensure that when constant supervision
is required or searches of female prisoners are required that a female
officer/matron conducts such. (see attached for additional information)

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.

Currently our police agency has six (6) female police officers. As a result, on a regular basis, there are multiple shifts throughout the week in which our agency does not have a female officer on duty.

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

_____ Days 104 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.

N/A see above

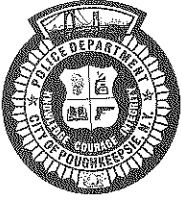
F. Has this variance been previously approved by the Commission?

Yes If yes, include the variance number 18-V-02 No

T.M. P. _____ 20 OCT 22
Signature (Chief) (Commissioner) (Sheriff) Date

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

**POLICE DEPARTMENT
CITY OF POUGHKEEPSIE
New York**



Thomas M. Pape
Chief of Police



November 18, 2022

New York State Commission of correction

80 South Swan Street

12th Floor

Albany, NY 12210

Dear members of the New York State Commission of Corrections,

In regards to variance No. 18-V-02, condition #9, please be advised that there is no video available or maintained for instances whereby a male officer has supervised a female prisoner in the female cellblock or cells.

Sincerely,

A handwritten signature in black ink, appearing to read "S.W. Minard", written over a horizontal line.

Steven W. Minard

Police Captain

Name of Facility: OCFS Secure Facilities (Brookwood, Goshen, Industry & MacCormick)
Variance #22-V-16 NEW

New: Renewal:

Relief from Standard: 7414.5(b)

Application by: Sheila Poole

Date Request Rec: 11/10/2022

Last Approved:

Length of Approval:

Expiration:

Write-up Prepared by: Ellen Tryon, RN, CFS III

Recommendation by Field Staff: Approve for 24 months

Recommendation at Briefing: Approve until January 1, 2024

Final Recommendation:

SUMMARY OF VARIANCE REQUEST

OCFS Administration is requesting relief from Part 7417,5(b) which states that each secure facility resident shall receive a psychological evaluation within 30 days of admission to OCFS due to an insufficient number of licensed psychologists to successfully meet this requirement. OCFS is proposing that all youth admitted to an OCFS secure facility will receive a comprehensive mental health assessment within 72 hours of admission by a person authorized to perform such an assessment. If the comprehensive mental health assessment indicates that a psychological examination is indicated a licensed psychologist or other appropriately credentialed individual is identified to complete the assessment.

VARIANCE HISTORY

None, this is a new request

CONSTRUCTION/RENOVATION PLANS

None required for this variance

OTHER VARIANCES IN EFFECT

None

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

No site visits relative to evaluation of standard have been completed in several years.

DATE OF LAST CYCLE VISIT THAT STANDARD VIOLATIONS WERE IDENTIFIED:

Last cycle evaluations were several years ago to these facilities.

ANY OPEN MINIMUM STANDARD VIOLATIONS:

There were no violations relevant to mental health care.

OTHER INFORMATION

A comprehensive mental health evaluation within 72 hours of admission performed by a person authorized to complete such an assessment will likely determine any acute mental health issues and if a psychological evaluation is indicated for a youth.

ANY VIOLATIONS WHICH PERTAIN TO THE VARIANCE'S CONDITIONS:

None, this is a new request.

JUSTIFICATION FOR WHY VARIANCE SHOULD OR SHOULD NOT BE EXTENDED:

None, this is a new request.

RECOMMENDED CONDITIONS IF APPROVED

1. OCFS shall require the person conducting admission comprehensive mental health assessments to specifically document if a psychological evaluation is indicated for the youth at that time and if the referral was made.
2. Any future request to extend this variance authorization shall be accompanied by a plan of action to comply with the requirements of §7414.5(b).

SCOC shall conduct a review of secure admission records to assure that this condition is being met and follow up care is provided timely.

REVIEWED BY REGIONAL SUPERVISOR: Ellen Tryon, RN, CFS III **DATE:** 12/2/22

REVIEWED BY DIRECTOR: T. Moran **DATE:** 12/8/22

COMMENTS BY DIRECTOR:

OFFICIAL USE ONLY:

NOTES OF MEETING:



**Commission of
Correction**

VARIANCE APPLICATION FORM

Non-Capacity Variance

OCFS Secure Facility



Commission of Correction

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

correspondence@scoc.ny.gov

Office of Children and Family Services Secure Facility Non-Capacity Variance Application Form

INSTRUCTIONS TO COMMISSIONER:

Pursuant to New York State Minimum Standards Part 7434, Policy, 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: _____

(Commissioner)

A. State the specific part, section and subdivision of New York State Minimum Standards for which the variance is requested: Example: 7422.5(a) states that, Consistent with subdivision (b) of this section, physical contact shall be permitted between a resident and their visitors:

Ex. Part: 7422 Section: 5 Subdivision: a

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 (Director)

Date

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

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES
COMMISSION OF CORRECTION VARIANCE REQUEST

The Office of Children and Family Services (OCFS) requests approval of a variance from a requirement of 9 NYCRR Subtitle AA, Chapter IV, Minimum Standards and Regulations for Management of Secure Facilities Operated by OCFS, so that [facility name] all Division of Juvenile Justice and Opportunities for Youth (DJJOY) secure centers, including Brookwood, MacCormick, Industry and Goshen Secure Centers, can protect the health and safety of youth, staff and the community.

OCFS is requesting a variance from the following requirement:

[State the specific rule, regulation or provision that is the subject of the application] 9 NYCRR 7414.5. Mental health services, subdivision (b): "Each secure facility resident shall receive a psychological evaluation within 30 days of admission to OCFS."

OCFS has determined that compliance with the specific rule and regulation cannot be achieved for the following reasons:

[State the specific reasons and facts supporting OCFS's position that compliance cannot be achieved, including whether the inability to achieve compliance is due to a temporary condition or situation] DJJOY understands that SCOC interprets the requirements for a "psychological evaluation" as set forth in section 7414.5(b) to require completion by a NYS licensed psychologist. DJJOY has a limited number of licensed psychologists in its system, including in secure centers. At this time, and for the foreseeable future, there are an insufficient number of licensed psychologists to complete an evaluation for each youth at intake.

OCFS proposes to achieve compliance with the rule or regulation at issue by the following plan:

[State the details of the specific plans, provisions, and timetables for achieving full compliance with the rule or regulation at issue, or the specific plans that explain and support alternate methods of compliance, the length of time for which the variance is requested, and any other relevant information. Attach any material deemed supportive of the application.] In response to the staffing limitations noted above, DJJOY has instituted a procedure to provide a comprehensive mental health assessment for each youth within 72 hours of admission. These mental health assessments are completed by DJJOY supervised mental health professionals, including licensed social workers and licensed psychologists, as well as by unlicensed associate psychologists and master's level psychologists (as permitted by NYS Civil Service). These mental health assessments may generate referrals for additional specialized assessments or formal psychological testing (e.g., IQ, personality testing, projective testing, neurological testing, sexually harmful behavior assessments, fire setting assessments, etc.). When the need for specialized assessments is indicated by history, presentation at intake, or other mental health assessment or observation, OCFS identifies a licensed psychologist or other credentialed professional (e.g., neurologist) to complete such assessments.

OCFS requests, pursuant to 9 NYCRR Part 7434, that SCOC accept this application for variance for review and approval.



ASSOCIATE COMMISSIONER, FACILITIES MANAGEMENT

11 / 10 / 2022

DATE



DEPUTY COMMISSIONER, JUVENILE JUSTICE AND OPPORTUNITIES FOR YOUTH

11 / 10 / 2022

DATE



OCFS COMMISSIONER

11 / 10 / 2022

DATE



MAXIMUM FACILITY CAPACITY

For the

Brookwood Secure Center

Claverack, New York

December 20, 2022

Allen Riley
Chairman

Thomas J. Loughren
Commissioner

Yolanda Canty
Commissioner

Brookwood Secure Center – MFC 2022

NOTE: ONLY LIVING UNITS AND SPECIAL MANAGEMENT UNITS WHICH MEET THE FOLLOWING REQUIREMENTS PURSUANT TO 9 NYCRR PART 7442 ARE TO BE INCLUDED IN THIS CAPACITY FORMULATION.

INDIVIDUAL OCCUPANCY ROOM:

1. Each such room shall have an individually controlled locking device secured from youth access and be equipped to accommodate one youth.
2. Each such room shall contain at least 60 square feet of floor space.
3. Each such room shall contain:
One (1) bed and mattress; mattresses shall be constructed of fire-retardant material.

LIVING UNIT:

1. Sufficient showers shall be available to permit each youth to shower daily.
2. At least one functioning toilet, sink and shower for every twelve (12) youth confined within a living unit.
3. Each individual occupancy room constructed after the effective date of 9 NYCRR 7442 shall provide a minimum of 25 square feet of unencumbered living unit space per youth adjacent and accessible to such unit.

SPECIAL MANAGEMENT UNITS:

1. Each such unit used to house youth separate and apart from general population for purposes including but not limited to:
 - a. Medical treatment unit;
 - b. A modified services program unit;
 - c. Classification and orientation unit; or
 - d. Mental health unit.

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 7442.

Brookwood Secure Center – MFC 2022

LIVING UNITS

Name of Living Unit	Number of Individual Occupancy Rooms	Number of Toilets	Number of Sinks	Number of Showers	Size of Unit (Sq. Ft. of Floor Space)	Maximum Youth Capacity
Wing 1	15	3	3	3	80 Sq. Ft.	15
Wing 2	15	3	3	3	80 Sq. Ft.	15
Wing 3	15	3	3	3	80 Sq. Ft.	15
Wing 4	15	3	3	3	80 Sq. Ft.	15
Wing 5	15	3	3	3	75 Sq. Ft.	15
Wing 6	15	3	3	3	75 Sq. Ft.	15
Wing 7	15	3	3	3	75 Sq. Ft.	15
Wing 9	15	3	3	3	75 Sq. Ft.	15
Wing 10	15	3	3	3	75 Sq. Ft.	15
Wing 12 (Annex)	13	3	3	3	80 Sq. Ft.	13
Wing 13 (Annex)	11	3	3	3	80 Sq. Ft.	11

Living Unit Total: 159

SPECIAL MANAGEMENT UNIT

Name of Living Unit	Number of Individual Occupancy Rooms	Number of Toilets	Number of Sinks	Number of Showers	Size of Unit (Sq. Ft. of Floor Space)	Maximum Youth Capacity
Wing 8	11	3	3	3	75 Sq. Ft.	11
Wing 11	8	3	3	3	65 Sq. Ft.	8
Infirmery	3	1	1	1	76 Sq. Ft.	3

Special Management Unit Total: 22

Brookwood Secure Center – MFC 2022

Unit Type	TOTALS
Subtotal Individual Occupancy Rooms Used as Living Unit	159
Subtotal Individual Occupancy Rooms Used for Special Management	22
MAXIMUM FACILITY CAPACITY:	181

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

The above-noted capacity is based upon the following:

1. The number of properly equipped individual occupancy rooms, including the number of properly equipped special management units;
2. The total number of youth housed within the facility shall not exceed the maximum facility capacity; and
3. The facility's ability to provide required programs and services and to comply with other rules and regulations of 9 NYCRR Chapter III which are related to facility capacity.

JUSTIFICATION FOR CHANGE IN MFC

To the best of my knowledge all information contained in this formulation is correct:

Reviewed by: Keith Zobel



Deputy Director 12/19/22

Approved by: Terrence Moran



Director 12/19/22

Notice of Emergency Adoption

Correction, State Commission of

(SUBMITTING AGENCY)

Approval has been granted by Executive Chamber to file this rule making.

This rule making does not require Executive Chamber approval.

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 and nonscannable text attachments will be cause for rejection of this notice. change in text

1. Action taken:

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

2. Effective date of emergency rule:

Date of filing.

Other date (specify): _____

3. History of emergency actions (check only one box):

This is the first time this emergency rule has been adopted (first emergency, effective for 90 days). No public comment required.

This is the first readoption of an emergency rule (second emergency, effective for 60 days). No public comment required, and a Notice of Proposed rule making has been submitted, I.D. No. _____ CMC-43-22-00002 - EP _____ , issue date: 10/26/2022 .

This is the second (or greater) readoption of an emergency rule (third emergency or greater, effective for 60 days). Public comment is required, see Item 18.

4. Statutory authority under which the rule was adopted:

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

5. This emergency rule is necessary for the preservation of:

public health

public safety

general welfare

6. The specific reasons underlying the finding of necessity, above, are as follows:

7. Subject of the rule:

Medication assisted treatment.

8. Purpose of the rule:

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

9. *Terms of rule* (SELECT A, B or C. Item D is required.)

- A. The full text of the rule is attached because it does not exceed 2,000 words.
- B. A summary of the rule is attached because the full text of the rule exceeds 2,000 words.
 Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

- C. Pursuant to SAPA §202(7)(b), the agency elects to print a description of the subject, purpose and substance of the rule as defined in SAPA §102(2)(a)(ii) [Rate Making]. Web posting of full text of such rule is not required [SAPA §202(1)(a)].
- 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).

10. *Type of notice:*

- This notice is intended to serve only as an emergency adoption, to be valid for 90 days or less.
- This notice is intended to serve only as a notice of emergency adoption; however, the agency intends to adopt the provisions of this emergency as a permanent rule, having submitted to the Department of State a notice of emergency/proposed or proposed rule making I.D. No. CMC-43-22-00002 - EP, Issue of: 10/26/2022.
- This notice is intended to serve only as a notice of emergency adoption; however, the agency intends to submit a notice of proposed rule making in the future.
- The agency adopted the provisions of this emergency rule as a permanent rule, pursuant to SAPA section 202(6)(c), because the purposes of the emergency measure would be frustrated if subsequent notice procedures were required.

11. *Emergency expiration date* (A first emergency rule is effective and enforceable for up to 90 days from the **date of filing**. Second and subsequent emergency rules are effective and enforceable for up to 60 days from their **date of filing** UNLESS the agency specifies an earlier date). This rule expires:

- 90 days after filing
- 60 days after filing
- Other (*specify date*): _____
- **A notice of proposed rule making must be published to adopt this rule permanently and before a first emergency rule can be readopted.**

12. *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

13. *Additional matter required by statute:*

- YES (include below material required by statute).

- No additional material required by statute.

14. Regulatory Impact Statement (RIS)

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

A. The attached RIS contains:

- the full text of the RIS.
 a summary of the RIS.

Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

- a consolidated RIS, because this rule is one of a series of closely related and simultaneously proposed rules or is virtually identical to rules proposed during the same year.

B. An RIS is **not** attached:

- because this rule is subject to a consolidated RIS printed in the *Register* under I.D. No.: _____ - _____; issue date: _____.

- because this rule is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].
 but will be published in the *Register* within 30 days of the rule's effective date.

C. A **statement is attached** claiming exemption pursuant to SAPA §202-a (technical amendment).**15. 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 RFA contains:

- the full text of the RFA.
 a summary of the RFA.

Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

- a consolidated RFA, because this rule is one of a series of closely related rules.

B. A **statement is attached** explaining why a RFA is not required. This statement is in scanner format and explains the agency's finding that the rule will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses or local governments and the reason(s) upon which the finding was made, including any measures used to determine that the rule will not impose such adverse economic impacts or compliance requirements.

C. A RFA is **not** attached:

- because this rule is subject to a consolidated RFA printed in the *Register* under I.D. No.: _____ - _____; issue date: _____.

- because this rule is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].
 but will be published in the *Register* within 30 days of the rule's effective date.

16. Rural Area Flexibility Analysis (RAFA)

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

A. The attached RAFA contains:

 the full text of the RAFA. a summary of the RAFA.

Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

 a consolidated RAFA, because this rule is one of a series of closely related rules.

B. A **statement is attached** explaining why a RAFA is not required. This statement is in scanner format and explains the agency's finding that the rule will not impose any adverse impact on rural areas or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas and the reason(s) upon which the finding was made, including what measures were used to determine that the rule will not impose such adverse impact or compliance requirements.

C. A RAFA is **not** attached: because this rule is subject to a consolidated RAFA printed in the *Register* under I.D. No.: _____ - _____; issue date: _____. because this rule is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making]. but will be published in the *Register* within 30 days of the rule's effective date.**17. Job Impact Statement (JIS)**

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

A. The attached JIS contains:

 the full text of the JIS. a summary of the JIS.

Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

 a consolidated JIS, because this rule is one of a series of closely related rules.

B. A **statement is attached** explaining why a JIS is not required. This statement is in scanner format and explains the agency's finding that the rule will not have a substantial adverse impact on jobs and employment opportunities (as apparent from its nature and purpose) and 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.

 A JIS/Request for Assistance [SAPA §201-a(2)(c)] is attached.C. A JIS is **not attached** : because this rule is subject to a consolidated JIS printed in the *Register* under I.D. No.: _____ - _____; issue date: _____. because this rule is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making]. because this rule is submitted by the State Comptroller or Attorney General. but will be published in the *Register* within 30 days of the rule's effective date.**18. Assessment of Public Comment**—required for second or subsequent readoptions (check applicable box). An assessment of public comment is attached (less than 2,000 words). An assessment of public comment is not attached because the rule is within the definition of SAPA §102(2)(a)(ii) [Rate Making]. The agency received no public comment since publication of the last assessment of public comment. The agency received no public comment.

19. **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:

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 12/20/2022

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.

Finding of Necessity:

On October 7, 2021, Governor Hochul signed into law legislation (Chapter 432 of the Laws of 2021), which generally serves to allow incarcerated individuals with certain substance use disorders the opportunity to participate in a medication assisted treatment (MAT) program. Subsequent lawmaking (Chapter 432 of the Laws of 2021) postponed the effective date of the legislation to October 7, 2022.

The legislation requires the Office of Addiction Services and Supports (OASAS) to implement, in consultation with the county sheriff and other county governmental units, 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 persons with substance use disorder who are incarcerated in jails. Services provided by each program must be in accordance with plans developed by the county and approved by the OASAS Commissioner, to include alcohol and substance abuse withdrawal management, medication assisted treatment formulations, group and individual counseling and clinical support, peer support, discharge planning and re-entry and transitional supports.

The addition of subdivision (18) of section 45 of the Correction Law requires the New York State Commission of Correction (SCOC) to establish standards and guidelines for a program of MAT for incarcerated individuals in local correctional facilities equivalent to the program established in state correctional facilities, and to submit an annual report to the Governor and legislative leaders on the effectiveness of the programs established. The legislation imposes numerous and precise requirements on the plan, screening, placement, participation, and other requirements of each local correctional facility's substance use disorder treatment and transition services program. Consequently, the proposed rulemaking is immediately necessary to conform with this enactment and to provide local governments with the rules necessary to comply with the legislation.

For the aforementioned reasons, SCOC finds that immediate adoption of the rule is necessary for the preservation of public safety and general welfare, and that compliance with the rulemaking procedures set forth in State Administrative Procedure Act section 202(1) would be contrary to the public interest. By immediately adopting these regulations, SCOC will be able 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. Given the upcoming statutory deadline, emergency adoption is needed to require timely compliance with the legislation. Thus, SCOC finds that the regulation must be adopted and implemented effective October 7, 2022 on an emergency basis, and compliance with the minimum periods of notice, public comment and other requirements of State Administrative Procedure Act section 202(1) would be contrary to the public interest.

Job Impact Statement (JIS):

A job impact statement is not required pursuant to subdivision two of section 201-a of the State Administrative Procedure Act because the rule will not have a substantial adverse impact on jobs and employment opportunities, as apparent from its nature and purpose. The proposed rule seeks only to conform regulations to recent legislation that requires local correctional facilities to operate a substance use disorder treatment and transition services program pursuant to a plan approved by the Commissioner of the Office of Addiction Services and Supports in accordance with section 19.18–c of the mental hygiene law. As such, there will be no impact on jobs and employment opportunities.

Rural Area Flexibility Analysis (RAFA):

A rural area flexibility analysis is not required pursuant to subdivision four of section 202-bb of the State Administrative Procedure Act because the rule does not impose an adverse impact on rural areas. The proposed rule seeks only to conform regulations to recent legislation that requires local correctional facilities to operate a substance use disorder treatment and transition services program pursuant to a plan approved by the Commissioner of the Office of Addiction Services and Supports in accordance with section 19.18–c of the mental hygiene law. Consequently, it will not impose an adverse economic impact on rural areas, nor impose any additional significant record keeping, reporting, or other compliance requirements on private or public entities in rural areas.

Regulatory Flexibility Analysis (RFA) for small businesses and local governments:

A regulatory flexibility analysis is not required pursuant to subdivision three of section 202-b of the State Administrative Procedure Act because the rule does not impose an adverse economic impact on small businesses or local governments. The proposed rule seeks only to conform regulations to recent legislation that requires local correctional facilities to operate a substance use disorder treatment and transition services program pursuant to a plan approved by the Commissioner of the Office of Addiction Services and Supports in accordance with section 19.18–c of the mental hygiene law. The proposed rule does not impose any new mandates on local facilities, just reiterates the program planning, screening, placement and participation requirements added to the Correction Law and Mental Hygiene Law. Consequently, the rule will not have an adverse impact on small businesses or local governments, nor impose any additional significant reporting, record keeping, or other compliance requirements on small businesses or local governments.

Regulatory Impact Statement (RIS):

The New York State Commission of Correction ("Commission") seeks to add a new subdivision (g) of section 7000.1, amend section 7002.6, amend paragraph (2) of subdivision (a) of section 7002.9, add a new Part 7011, and amend paragraph (2) of subdivision (a) of section 7002.9 of Title 9 NYCRR.

1.) Statutory authority:

Subsection (6) of section 45 of the Correction Law authorizes the Commission to promulgate rules and regulations establishing minimum standards for the care, custody, correction, treatment, supervision, discipline, and other correctional programs for all person confined in the correctional facilities of New York State.

Subdivision (15) of section 45 of the Correction Law allows the Commission to adopt, amend or rescind such rules and regulations as may be necessary or convenient to the performance of its functions, powers and duties.

Subdivision (18) of section 45 of the Correction Law requires the Commission to establish standards and guidelines for a program of medication assisted treatment for incarcerated individuals in county jails and/or county correctional facilities equivalent to the program established in state correctional facilities and submit an annual report to the Governor and legislative leaders on the effectiveness of the programs established.

2.) Legislative objectives:

By vesting the Commission with this rulemaking authority, and recently adding Correction Law section 45(18) to require the Commission to establish standards and guidelines for a program of medication assisted treatment for incarcerated individuals in county jails and/or county correctional facilities equivalent to the program established in state correctional facilities and submit an annual report to the Governor and legislative

leaders on the effectiveness of the programs established, the Legislature intended the Commission to promulgate minimum standards consistent with this duty.

3.) Needs and Benefits:

On October 7, 2021, Governor Hochul signed into law legislation (Chapter 432 of the Laws of 2021), which generally serves to allow incarcerated individuals with certain substance use disorders the opportunity to participate in a medication assisted treatment (MAT) program. Subsequent lawmaking (Chapter 432 of the Laws of 2021) postponed the effective date of the legislation to October 7, 2022.

The legislation requires the Office of Addiction Services and Supports (OASAS) to implement, in consultation with the county sheriff and other county governmental units, 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 persons with substance use disorder who are incarcerated in jails. Services provided by each program must be in accordance with plans developed by the county and approved by the OASAS Commissioner, to include alcohol and substance abuse withdrawal management, medication assisted treatment formulations, group and individual counseling and clinical support, peer support, discharge planning and re-entry and transitional supports.

The addition of subdivision (18) of section 45 of the Correction Law requires the New York State Commission of Correction (SCOC) to establish standards and guidelines for a program of MAT for incarcerated individuals in local correctional facilities equivalent to the program established in state correctional facilities, and to submit an annual report to the Governor and legislative leaders on the effectiveness of the programs established. The legislation imposes numerous and precise requirements on the plan, screening, placement, participation, and other requirements of each local correctional facility's substance use disorder treatment and

transition services program. Consequently, the proposed rulemaking is immediately necessary to conform with this enactment and to provide local governments with the rules necessary to comply with the legislation.

4.) Costs:

a. Costs to regulated parties for the implementation of and continuing compliance with the rule: None. As set forth above, a jail's establishment and operation of a substance use disorder treatment and transition services program was required by recent legislation. Compliance with the proposed rule will not result in any additional costs to county and municipal agencies operating such jails.

b. Costs to the agency, the state and local governments for the implementation and continuation of the rule: None. The regulation does not apply to state agencies or governmental bodies. As set forth above in subdivision (a), there would not be any additional costs to local governments.

c. This statement detailing the projected costs of the rule is based upon the Commission's oversight and experience relative to the operation and function of adult jails.

5.) Local government mandates:

The rulemaking mirrors recent legislation that requires the establishment and operation of a substance use disorder treatment and transition services program in local correctional facilities, effective October 7, 2022.

6.) Paperwork:

The rulemaking requires that records be maintained, in writing or electronically, of each incarcerated individual's screening, placement and participation in the program, to include an individualized treatment plan, medication regimen, conditions for a reentry strategy, and medication supply upon release. Although this rule does not constitute an additional recordkeeping requirement, it does reaffirm existing regulations of 9 NYCRR

§7010.2(j) that adequate health service and medical records of incarcerated individuals be maintained to include diagnosis, medication/treatment prescribed, and medication administered.

7.) Duplication:

The rule conforms to recent legislation that requires the establishment and operation of a substance use disorder treatment and transition services program in local correctional facilities, effective October 7, 2022.

8.) Alternatives:

Given the legislation that requires the establishment and operation of a substance use disorder treatment and transition services program in local correctional facilities, the Commission did not see any alternative to promulgating conforming regulations.

9.) Federal standards:

There are no applicable minimum standards of the federal government.

10.) Compliance schedule:

Each local jurisdiction is expected to be able to achieve compliance with the proposed rule effective October 7, 2022.

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.