



**Commission of  
Correction**

**ALLEN RILEY**  
Chairman

**THOMAS J. LOUGHREN**  
Commissioner

**MEMORANDUM**

**TO:** COMMISSION MEMBERS  
**FROM:** Brian Callahan, Counsel *BC*  
**RE:** AGENDA FOR COMMISSION MEETING  
**DATE:** January 26, 2021 at **11:00AM**  
**LOCATION:** Alfred E. Smith Building, 80 So. Swan Street, 12<sup>th</sup> Floor,  
Albany, New York and Manatee, Florida.

**I. MINUTES**

**SCOC**

December 15, 2020 Commission Meeting

January 5, 2021 Supplemental Commission Meeting

**CPCRC**

January 14, 2021 Minutes

**MRB**

Administrative Closures

**II. VARIANCES**

**A. Jefferson County Sheriff's Office**

**Jefferson County Jail**

**21-V-01**

Non-Contact Visits

Sections 7008.2(b) and 7008.3(c)

**B. Sullivan County Sheriff's Office**

**Sullivan County Jail**

**20-V-21**

Non-Contact Visits

Sections 7008.2(b) and 7008.3(c)

- C. Sullivan County Sheriff's Office**  
**Sullivan County Jail**  
**21-V-02**  
Correspondence  
Sections 7004.1 and 7004.3(a)

**III. CONSTRUCTON**

- D. Jefferson County Sheriff's Office**  
**Jefferson County Jail**  
**20-C-127**  
Modification of Visiting Room
  
- E. New York City Department of Correction**  
**Eric M. Taylor Center**  
**20-C-126**  
Fencing Project
  
- F. Sullivan County Sheriff's Office**  
**Sullivan County Jail**  
**20-C-106**  
Modification of Visiting Room

**IV. REGULATORY REVIEW**

- G. Notice of Adoption**  
**9 NYCRR section 7006.9, et al**  
Disciplinary and Administrative Segregation of  
Incarcerated Individuals in Special Housing



# Commission of Correction

ALLEN RILEY  
Chairman

THOMAS J. LOUGHREN  
Commissioner

## MINUTES Commission Meeting

### STATE COMMISSION OF CORRECTION

#### LOCATION:

Albany Location  
80 S. Swan Street, 12<sup>th</sup> Floor  
Albany, New York 12210

**DATE OF MEETING: December 15, 2020**

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

#### **PRESENT:**

Allen Riley, Chairman  
Thomas Loughren, Commissioner  
Brian Callahan, Counsel  
Terry Moran, Director of Operations  
Keith Zobel, Deputy Director of Operations  
Deborah Slack-Bean, Associate Attorney  
Brielle Christian, Senior Attorney  
Lloyd Robistow, Correctional Facility Specialist 1  
Patricia Amati, Assistant to Chairman/Commissioner

**LOCATION:** Alfred E. Smith Building, 80 So. Swan Street, 12<sup>th</sup> Floor,  
Albany, New York.

#### **I. MINUTES**

<b>SCOC</b> November 17, 2020 Commission Meeting	<b>Approved Unanimous Loughren/Riley</b>
<b>CPCRC</b> December 10, 2020 Minutes	<b>Approved Unanimous Loughren/Riley</b>
<b>MRB</b> Administrative Closures	<b>Approved Unanimous Loughren/Riley</b>

**II. VARIANCES**

- |   |   |
|---|---|
| <b>A. Albany County Sheriff's Office<br/>Albany County Jail<br/>19-V-09<br/>Correspondence<br/>Sections 7004.1 and 7004.3</b>           | <b>Approved Unanimous<br/>July 1, 2021<br/>Loughren/Riley</b> |
| <b>B. Jefferson County Sheriff's Office<br/>Jefferson County Jail<br/>20-V-20<br/>Correspondence<br/>Sections 7004.1 and 7004.3</b>     | <b>Approved Unanimous<br/>July 1, 2021<br/>Loughren/Riley</b> |
| <b>C. Monroe County Sheriff's Office<br/>Monroe County Jail<br/>20-V-06<br/>Correspondence<br/>Sections 7004.1 and 7004.3</b>           | <b>Approved Unanimous<br/>July 1, 2021<br/>Loughren/Riley</b> |
| <b>D. Oswego County Sheriff's Office<br/>Oswego County Jail<br/>20-V-22<br/>Correspondence<br/>Sections 7004.1 and 7004.3</b>           | <b>Approved Unanimous<br/>July 1, 2021<br/>Loughren/Riley</b> |
| <b>E. Orange County Sheriff's Office<br/>Orange County Jail<br/>20-V-24<br/>Correspondence<br/>Sections 7004.1 and 7004.3</b>           | <b>Approved Unanimous<br/>July 1, 2021<br/>Loughren/Riley</b> |
| <b>F. Rockland County Sheriff's Office<br/>Rockland County Jail<br/>20-V-25<br/>Correspondence<br/>Sections 7004.1 and 7004.3</b>       | <b>Approved Unanimous<br/>July 1, 2021<br/>Loughren/Riley</b> |
| <b>G. Schenectady County Sheriff's Office<br/>Schenectady County Jail<br/>20-V-29<br/>Correspondence<br/>Sections 7004.1 and 7004.3</b> | <b>Approved Unanimous<br/>July 1, 2021<br/>Loughren/Riley</b> |

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|--|---|
| <p><b>H. Westchester County Department of Correction<br/>Westchester County Jail<br/>20-V-27<br/>Correspondence<br/>Sections 7004.1 and 7004.3</b></p>         | <p><b>Approved Unanimous<br/>July 1, 2021<br/>Loughren/Riley</b></p>  |
| <p><b>I. Dutchess County Sheriff's Office<br/>Dutchess County Jail<br/>20-V-15<br/>Non-Contact Visits<br/>Sections 7008.2(b) and 7008.3(c)</b></p>             | <p><b>Approved Unanimous<br/>April 1, 2021<br/>Loughren/Riley</b></p> |
| <p><b>J. Franklin County Sheriff's Office<br/>Franklin County Jail<br/>20-V-05<br/>Non-Contact Visits<br/>Sections 7008.2(b) and 7008.3(c)</b></p>             | <p><b>Approved Unanimous<br/>April 1, 2021<br/>Loughren/Riley</b></p> |
| <p><b>K. Monroe County Sheriff's Office<br/>Monroe County Jail<br/>20-V-03<br/>Non-Contact Visits<br/>Sections 7008.2(b) and 7008.3(c)</b></p>                 | <p><b>Approved Unanimous<br/>April 1, 2021<br/>Loughren/Riley</b></p> |
| <p><b>L. Suffolk County Sheriff's Office<br/>Suffolk County Riverhead Facility<br/>20-V-07<br/>Non-Contact Visits<br/>Sections 7008.2(b) and 7008.3(c)</b></p> | <p><b>Approved Unanimous<br/>April 1, 2021<br/>Loughren/Riley</b></p> |
| <p><b>M. Suffolk County Sheriff's Office<br/>Suffolk County Yaphank Facility<br/>20-V-08<br/>Non-Contact Visits<br/>Sections 7008.2(b) and 7008.3(c)</b></p>   | <p><b>Approved Unanimous<br/>April 1, 2021<br/>Loughren/Riley</b></p> |
| <p><b>N. Tompkins County Sheriff's Office<br/>Tompkins County Jail<br/>20-V-04<br/>Non-Contact Visits<br/>Sections 7008.2(b) and 7008.3(c)</b></p>             | <p><b>Approved Unanimous<br/>April 1, 2021<br/>Loughren/Riley</b></p> |

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|--|---|
| <p><b>O. Rockland County Sheriff's Office</b><br/> <b>Rockland County Jail</b><br/> <b>20-V-09</b><br/> Non-Contact Visits<br/> Sections 7008.2(b) and 7008.3(c)</p>               | <p><b>Approved Unanimous</b><br/> <b>April 1, 2021</b><br/> <b>Loughren/Riley</b></p>   |
| <p><b>P. Westchester County Department of Correction</b><br/> <b>Westchester County Jail</b><br/> <b>20-V-23</b><br/> Non-Contact Visits<br/> Sections 7008.2(b) and 7008.3(c)</p> | <p><b>Approved Unanimous</b><br/> <b>April 1, 2021</b><br/> <b>Loughren/Riley</b></p>   |
| <p><b>Q. Yates County Sheriff's Office</b><br/> <b>Yates County Jail</b><br/> <b>20-V-10</b><br/> Non-Contact Visits<br/> Sections 7008.2(b) and 7008.3(c)</p>                     | <p><b>Approved Unanimous</b><br/> <b>April 1, 2021</b><br/> <b>Loughren/Riley</b></p>   |
| <p><b>R. Herkimer County Sheriff's Office</b><br/> <b>Herkimer County Jail</b><br/> <b>06-V-05</b><br/> Exercise<br/> Section 7028.4</p>   | <p><b>Approved Unanimous</b><br/> <b>April 1, 2021</b><br/> <b>Loughren/Riley</b></p>   |
| <p><b>S. Westchester County Department of Probation</b><br/> <b>Woodfield Cottage</b><br/> <b>19-V-08</b><br/> Housing<br/> Section 7320.4</p>                                     | <p><b>Approved Unanimous</b><br/> <b>March 1, 2021</b><br/> <b>Loughren/Riley</b></p>   |
| <p><b>T. Beacon Police Department</b><br/> <b>18-V-03</b><br/> Supervision of Female Prisoners<br/> Section 7504.1(e)</p>  | <p><b>Approved Unanimous</b><br/> <b>January 1, 2022</b><br/> <b>Loughren/Riley</b></p> |
| <p><b>U. Irondequoit Police Department</b><br/> <b>19-V-11</b><br/> Supervision of Female Prisoners<br/> Section 7504.1(e)</p>   | <p><b>Approved Unanimous</b><br/> <b>January 1, 2022</b><br/> <b>Loughren/Riley</b></p> |

**III. CONSTRUCTON**

- |  |  |
|--|--|
| <b>V. Monroe County Sheriff's Office<br/>Monroe County Jail<br/>20-C-123<br/>Removal of the Mods</b>                     | <b>Approved Unanimous<br/>Loughren/Riley</b> |
| <b>W. Saratoga County Sheriff's Office<br/>Saratoga County Jail<br/>20-C-117<br/>New Security Door</b>                   | <b>Approved Unanimous<br/>Loughren/Riley</b> |
| <b>X. Westchester County Department of<br/>Correction<br/>Westchester County Jail<br/>20-C-109<br/>Visiting Entrance</b> | <b>Approved Unanimous<br/>Loughren/Riley</b> |

Commissioner Loughren made a motion to go into executive session at 11:03 a.m. to discuss Variances, Construction and Medical Review Board items which was seconded by Chairman Riley.

Commissioner Loughren made a motion to exit Executive Session and return to general session at 11:33 a.m., which was seconded by Chairman Riley.

The meeting resumed at 11:34 a.m. Motion was made by Commissioner Loughren to ratify actions taken in Executive Session regarding Variances, Construction and Medical Review Board items, seconded by Chairman Riley. Commissioner Loughren made a motion to adjourn at 11:34 a.m. which was seconded by Chairman Riley.

Respectfully submitted,

Tricia Amati  
Assistant to Chairman/Commissioner



# Commission of Correction

ALLEN RILEY  
Chairman

THOMAS J. LOUGHREN  
Commissioner

## EXECUTIVE SESSION

### MINUTES Commission Meeting

#### STATE COMMISSION OF CORRECTION

##### LOCATION:

Albany Location  
80 S. Swan Street, 12<sup>th</sup> Floor  
Albany, New York 12210

**DATE OF MEETING: December 15, 2020**

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

#### **PRESENT:**

Allen Riley, Chairman  
Thomas Loughren, Commissioner  
Brian Callahan, Counsel  
Terry Moran, Director of Operations  
Keith Zobel, Deputy Director of Operations  
Deborah Slack-Bean, Associate Attorney  
Brielle Christian, Senior Attorney  
Lloyd Robistow, Correctional Facility Specialist 1  
Patricia Amati, Assistant to Chairman/Commissioner

**LOCATION:** Alfred E. Smith Building, 80 So. Swan Street, 12<sup>th</sup> Floor,  
Albany, New York.

Commissioner Loughren made a motion to go into executive session at 11:03 a.m. to discuss Variances, Construction and Medical Review Board items which was seconded by Chairman Riley.

Commissioner Loughren made a motion to exit Executive Session and return to general session at 11:33 a.m., which was seconded by Chairman Riley.

The meeting resumed at 11:34 a.m. Motion was made by Commissioner Loughren to ratify actions taken in Executive Session regarding Variances, Construction and Medical



Review Board items, seconded by Chairman Riley. Commissioner Loughren made a motion to adjourn at 11:34 a.m. which was seconded by Chairman Riley.

Respectfully submitted,

Tricia Amati  
Assistant to Chairman/Commissioner



**Commission of  
Correction**

**ALLEN RILEY**  
Chairman

**THOMAS J. LOUGHREN**  
Commissioner

**MINUTES**

**“Supplemental” Commission Meeting**

**STATE COMMISSION OF CORRECTION**

**LOCATION(S):**

Albany Location  
80 S. Swan Street, 12<sup>th</sup> Floor  
Albany, New York 12210  
and  
Manatee, Florida 34222

**DATE OF MEETING: January 5, 2021**

Chairman Riley called the meeting to order at 11:06 a.m.

**PRESENT:**

Allen Riley, Chairman  
Thomas Loughren, Commissioner (Via WebEX)  
Brian Callahan, Counsel  
Deborah Slack-Bean, Associate Attorney  
Terry Moran Director of Operations  
Keith Zobel, Deputy Director of Operations  
Patricia Amati, Assistant to Chairman/Commissioner

**LOCATION:** Alfred E. Smith Building, 80 So. Swan Street, 12<sup>th</sup> Floor,  
Albany, NY and Manatee, Florida

**I. MINUTES**

**A. MRB**

December 3, 2020 Medical Review Board  
Minutes

**Approved Unanimous  
Loughren/Riley**

Commissioner Loughren made a motion to go into executive session at 11:06 a.m. to discuss Medical Review Board items which was seconded by Chairman Riley.

Commissioner Loughren made a motion to exit Executive Session and return to general session at 11:10 a.m., which was seconded by Chairman Riley.

The meeting resumed at 11:10 a.m. Motion was made by Commissioner Loughren to ratify actions taken in Executive Session regarding Variances, Maximum Facility

Capacity and Construction items, seconded by Chairman Riley. Commissioner Loughren made a motion to adjourn at 11:10 a.m. which was seconded by Chairman Riley.

Respectfully submitted,

Tricia Amati  
Assistant to Chairman/Commissioner

CITIZENS' POLICY AND COMPLAINT REVIEW COUBNCIL  
January 14, 2021

NYS Commission of Correction  
at  
Alfred E. Smith Office Building  
80 South Swan Street, 12<sup>th</sup> Floor  
Albany, NY 12210  
**WEBEX CONFERENCE CALL**

PRESENT:  
Commissioner Loughren

Council Members:  
Albany:  
Tom Cross  
Martin Stanton

Also Present:  
Deborah Slack-Bean  
Brielle Christian  
E.L. Hamilton  
Keith Zobel  
Cynthia Allen  
MarySusan Timpson  
Chris Ost  
Vicky Walker

Commissioner Loughren opened the meeting at 11:03 A.M.

Commissioner Loughren asked for a motion to ratify all actions taken at the December 10, 2020 meeting. Martin Stanton made a motion to ratify all actions taken on December 10, 2020. Tom Cross seconded. Carried. Commissioner Loughren asked for a motion to approve the minutes of the December 10, 2020 meeting. Martin Stanton made a motion to approve the minutes of the December 10, 2020 meeting. Tom Cross seconded. Carried.

Tom Cross, Martin Stanton, and Commissioner Loughren reviewed the Denied with Comment grievances for the month of January 2021. Tom Cross, and Martin Stanton made motions to Deny with the appropriate comment the grievances they reviewed. These motions were seconded by Martin Stanton, Tom Cross respectively, and unanimously passed. Upon the recommendation of Commissioner Loughren, Tom Cross made a motion to Deny with the appropriate comment the grievances that Commissioner Loughren reviewed. This motion was seconded by Martin Stanton, and unanimously passed.

Tom Cross, Martin Stanton, and Commissioner Loughren reviewed the Expedited grievances for the month January 2021. Tom Cross and Martin Stanton made motions to deny the grievances they reviewed. These motions were seconded by Martin Stanton and Tom Cross, respectively, and unanimously passed. Upon the recommendation of Commissioner Loughren, Tom Cross made a motion to Deny the grievances that Commissioner Loughren reviewed. This motion was seconded by Martin Stanton, and unanimously passed.

There were 13 Facility Responses that were reviewed for the month of January 2021. Martin Stanton made a motion to refer the Onondaga County Facility Responses for Grievance #117421, #115912, and Orleans Facility Responses to Grievance #115319 to the Commission for follow up. This motion was seconded by Tom Cross and unanimously passed.

The Council reviewed the remaining grievances.

**ACCEPT IN PART**

127295  
Cayuga CJ Unanimous

127914  
Clinton CJ Unanimous

**DENY**

128249  
128269  
128250  
Albany CJ Unanimous

128073  
Broome CJ Unanimous

128016  
127210  
127753  
127754  
Cattaraugus CJ Unanimous

127573  
127872  
127037  
127038  
127570  
126982  
127298  
127317  
127318  
127321  
Cayuga CJ Unanimous

127775  
127774  
127716  
Chautauqua CJ Unanimous

127130  
126945  
127719

127669	
127131	
127729	
127971	
127972	
127998	
127720	
127999	
Chenango CJ	Unanimous
127809	
127714	
127750	
127751	
127752	
Clinton CJ	Unanimous
127513	
Cortland CJ	Unanimous
127469	
128094	
Delaware CJ	Unanimous
128017	
127515	
127615	
127616	
127617	
128074	
127633	
127634	
127635	
127212	
127636	
128018	
Erie CF	Unanimous
126969	
126970	
128271	
128272	
128273	
Erie CJ	Unanimous
127770	
Jefferson CJ	Unanimous
128251	
128252	
Lewis CJ	Unanimous

127052 127632 Livingston CJ	Unanimous
127590 Madison CJ	Unanimous
127249 Monroe CJ	Unanimous
127290 126971 126951 Montgomery CJ	Unanimous
126952 Nassau CJ	Unanimous
127523 Niagara CJ	Unanimous
127612 127096 127771 Oneida CJ	Unanimous
127620 127311 128176 127715 127291 127772 127638 127622 128177 Onondaga CD	Unanimous
128274 Onondaga CJ	Unanimous
127070 127395 127071 127324 127689 127417 127397 Ontario CJ	Unanimous

127536  
128096  
128097  
128098  
Orange CJ Unanimous

126955  
Otsego CJ Unanimous

127829  
127810  
127915  
Putnam CJ Unanimous

127189  
127215  
Rensselaer CJ Unanimous

127628  
Rockland CJ Unanimous

127521  
127400  
127990  
128230  
128231  
128072  
127420  
127989  
128071  
127816  
127522  
127576  
127814  
127817  
127815  
127813  
127812  
St. Lawrence CJ Unanimous

127214  
127090  
128020  
Suffolk CJ Unanimous

127438  
127391  
127155  
127690  
127691  
127457



127456  
127455  
127709  
127710  
127910  
128191  
127911  
128192  
128193  
128194  
128195  
127092  
127453  
127156  
127713  
128196  
128202  
127912  
127913  
127929  
127930  
127431  
128203  
127411  
Sullivan CJ

Unanimous

127394  
127639  
127649  
Ulster CJ

Unanimous

126957  
127553  
127555  
127230  
126936  
127557  
127560  
126938  
127561  
127563  
126941  
127233  
127565  
126942  
127220  
Warren CJ

Unanimous

127110  
127949  
127094

128199  
127111  
127112  
127113  
127969  
127222  
Wayne CJ Unanimous

127568  
127429  
127512  
127623  
127621  
127991  
127992  
127993  
127627  
127567  
127511  
127849  
127625  
126960  
Westchester CJ Unanimous

127325  
Wyoming CJ Unanimous

128206  
Yates CJ Unanimous

**DENIED WITH COMMENT**

127039  
128283  
128284  
128285  
127871  
127571  
127569  
127870  
126981  
127299  
127300  
Cayuga CJ Unanimous

127756  
Chautauqua CJ Unanimous

127329  
127330  
Chenango CJ Unanimous

127749  
127610  
127611  
127613  
Clinton CJ Unanimous

127154  
128279  
127157  
Delaware CJ Unanimous

127516  
Erie CF Unanimous

128270  
126949  
127289  
Erie CJ Unanimous

128092  
128093  
Genesee CJ Unanimous

127769  
Jefferson CJ Unanimous

127049  
127159  
127162  
128104  
Livingston CJ Unanimous

127589  
Madison CJ Unanimous

127789  
127818  
128109  
127997  
Monroe CJ Unanimous

127310  
128173  
128100  
128174  
128175

128101	
128102	
127314	
127315	
128253	
128103	
127518	
127292	
127626	
Onondaga CD	Unanimous
127089	
128275	
Onondaga CJ	Unanimous
128095	
Orange CJ	Unanimous
126976	
Rensselaer CJ	Unanimous
127811	
Rockland CJ	Unanimous
128198	
127326	
Seneca CJ	Unanimous
126993	
127539	
127540	
128090	
127575	
127419	
St. Lawrence CJ	Unanimous
127938	
127940	
Steuben CJ	Unanimous
127404	
127390	
127091	
128170	
128171	
127461	
127031	
127459	
127152	
127153	
127436	

127458	
128172	
128189	
128190	
127032	
127452	
127450	
127449	
127711	
127158	
127434	
127712	
127433	
127432	
127454	
128197	
128200	
128201	
127109	
127430	
Sullivan CJ	Unanimous
127519	
Ulster CJ	Unanimous
127217	
127232	
127234	
127236	
127440	
Warren CJ	Unanimous
127970	
127757	
Wayne CJ	Unanimous
127624	
128229	
127075	
127073	
127074	
Westchester CJ	Unanimous

**FACILITY RESPONSES REFERRED TO COMMISSION**

117421	
115912	
Onondaga CJ	Unanimous
115319	
Orleans CJ	Unanimous

The next CPCRC meeting will be held on Thursday, February 11, 2021 at 11:00 A.M. via WebEx Telephone Conference.

Commissioner Loughren requested a motion to adjourn the meeting, which was made by Tom Cross, seconded by Martin Stanton, and carried. The meeting adjourned at 11:21 A.M.

Respectfully submitted,

Victoria Connors  
Administrative Assistant

Name of Facility: Jefferson County Jail

Variance #20-V-XX

New: X Renewal:

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

Application by: Lt. Mark Wilson

Date Request Rec: 12/15/2020

Last Approved:

Length of Approval: Expiration:

Write-up Prepared by: Robert Cuttita

Recommendation by Field Staff:

Recommendation at Briefing:

Approve until 4/1/21

Final Recommendation:

**SUMMARY OF VARIANCE REQUEST**

Due to the COVID 19 pandemic all visitation was cancelled. Requesting to modify visiting procedures to allow inmates the ability to visit with their family or loved ones. [REDACTED]

**VARIANCE HISTORY**

NONE

**CONSTRUCTION/RENOVATION PLANS**

Have been submitted and will be addressed at this commission meeting

**OTHER VARIANCES IN EFFECT**

20-V-20 9 NYCRR 7004.3 (a)

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

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

JULY 8-12, 2019

**ANY OPEN MINIMUM STANDARD VIOLATIONS:**

THERE WAS A RESPONSE ASSESSMENT BY THE COMMISSION DATED 1/20/2020 WHEREBY THE FACILITY SPECIALIST REVIEWED MANY ITEMS HOWEVER ITEMS REMAINED OPEN UNTIL A SITE VISIT COULD BE CONDUCTED.

NON OF THE VIOLATIONS RELATED TO VISITATION.

**OTHER INFORMATION**

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

NONE

**JUSTIFICATION FOR WHY VARIANCE SHOULD OR SHOULD NOT BE EXTENDED:**  
RECOMMEND APPROVAL R CUTTITA

**RECOMMENDED CONDITIONS IF APPROVED**

This variance is approved with the following conditions:

1. Any and all visitation limitations requires the ongoing review and determination of the chief administrative officer pursuant to 9 NYCRR §7008.8;
2. Upon expiration of this variance, renovations made will be removed and the visiting area will be restored to its previous design within seven (7) days;
3. The facility shall maintain a sufficient supply of Personal Protective Equipment (PPE) for staff and incarcerated individuals as part as part of the visitation program;
4. The screening of all prospective visitors shall include search, taking of temperature, symptomology observations and questionnaire;
5. The exception to any one visitor limitation is for any person accompanying a visitor under eighteen (18);
6. Incarcerated individuals and visitors shall wear face coverings;
7. Social distancing (at least six feet apart) between visitors shall be maintained;
8. The visitation schedule and scheduling procedures shall be implemented;
9. Incarcerated individuals shall have equal access to visitation;
10. Visitation areas shall be disinfected in between sessions

**REVIEWED BY REGIONAL SUPERVISOR: rcuttita      DATE: 12/30/2020**

**REVIEWED BY DIRECTOR: T. Moran      DATE: 1/6/21**

**COMMENTS BY DIRECTOR:**

---

**OFFICIAL USE ONLY:**

NOTES OF MEETING:





# Jefferson County Sheriff's Office



Colleen M. O'Neill  
Sheriff

753 Waterman Drive  
Watertown, New York 13601

Brian R. McDermott  
Undersheriff

DEC 15 2020  
**RECEIVED**

## JEFFERSON COUNTY CORRECTIONAL FACILITY

FAX Cover Sheet  
FAX: (315)786-2689

TO: Alex Riley NYSCOC Chairman	FAX#: 518-485-2467
FROM: Lt. Mark Wilson	DATE: 12/15/2020
RE: Variance Application for Visitation Room	PAGES: 17

- Urgent                     
  For Review                     
  Please Comment                     
  Please Reply

NOTES: \_\_\_\_\_

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MSG/SD/Masters/FAXcoverCorrFacility05-2016

Administration : (315) 786-2660	Civil Office : (315) 786-2714
Law Enforcement : (315) 786-2671	Records Office : (315) 786-2710
Corrections : (315) 786-2688	Pistol Permits : (315) 786-2711

Address all communications and make checks payable to the Sheriff of Jefferson County.



# Jefferson County Sheriff's Office



Colleen M. O'Neill  
Sheriff

753 Waterman Drive  
Watertown, New York 13601  
315 786-2660

Brian R. McDermott  
Undersheriff

December 15, 2020

Alex Riley  
NYSCOC Chairman  
Alfred E. Smith State Office Bldg.  
80 S. Swan Street, 12<sup>th</sup> Floor  
Albany, NY 12210

Re: Jail variance application seeking relief from regulations 9 NYCRR 7008.2(b) & 9 NYCRR 7008.3(c)

Dear Mr. Riley

The Jefferson County Correctional Facility acknowledges that 9 NYCRR 7008.2(b) requires that jail visiting areas be designed to allow physical contact between incarcerated individuals and their visitors. We further acknowledge regulation 9 NYCRR 7008.3(c), allows visitation with more than one visitor at the same time.

The Jefferson County Correctional Facility is submitting a variance application requesting relief from regulation 9 NYCRR 7008.2(b) and regulation 9 NYCRR 7008.3(c), and seeking permission to construct a temporary plexiglass barrier between the inmate and visitor as well as limit the visit to one visitor at a time.

The Jefferson County Correctional Facility is seeking this variance for when the COVID pandemic positive transmission rate is at an acceptable level from the advice of our Public Health personnel. The purpose of this renovation is intended as a temporary measure to increase visitation during the current pandemic, while maintaining the guidelines of the CDC and our local Public Health officials, for the health and safety of everyone. As per regulation 9 NYCRR 7008.8 all visitation limitations will be continually reviewed by the Jail's Chief Administrative Officer.

Personnel from the Jefferson County Public Health office, came to the jail for a walk through of our visitation room. We discussed our renovation plan and they offered their advice to be able to conduct visits safely. Our Public Health personnel approved our policies and plans for the interim safety precautions and procedures for visitation.

We have confirmed that we have a sufficient supply of PPE for staff to safely conduct visitation as proposed, as well as sufficient funds to restore the visitation back to its previous design within seven days of the expiration or revocation of the variance.

Administration: (315) 786-2660  
Law Enforcement : (315) 786-2671  
Corrections : (315) 786-2688

Civil Office : (315) 786-2714  
Records Office : (315) 786-2710  
Pistol Permits : (315) 786-2711

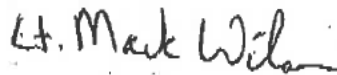
Address all communications and make checks payable to the Sheriff of Jefferson County

Page 2

The Jefferson County Correctional Facility agrees that upon expiration or revocation of the variance, any renovations to the visiting area will be removed and the visiting area will be restored to its previous design within seven days. We confirm that we will provide SCOC staff virtual access to the visitation area at any time upon request, for inspection of renovations and verification of restoration.

If you have any questions or concerns please don't hesitate to contact me. Thank you for your time.

Sincerely,



Lt. Mark Wilson  
Facility Administrator  
Jefferson County Correctional Facility



**Commission of  
Correction**

**New York State  
Commission of Correction  
80 S. Swan Street, 12<sup>th</sup> Floor  
Albany, New York 12205  
518-485-2465  
518-485-2467 (Fax)**

**County Jail Variance Application Form**

**INSTRUCTIONS TO SHERIFF OR CHIEF ADMINISTRATIVE OFFICER:**

Pursuant to New York State Minimum Standards Part 7050, Variances, please complete all portions of this form and mail or fax this form Attn: Chairman/Commissioner to the address or fax number listed above.

Facility: Jefferson County

Person requesting: Lt. Mark Wilson

(Sheriff/Chief Administrative Officer)

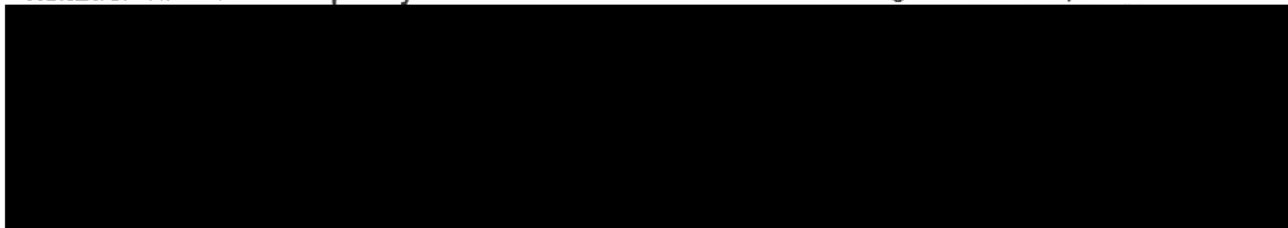
A. State the specific part, section and subdivision of New York State Minimum Standards for which the variance is requested: Example: 7040.3 states that, the total number of inmates confined within each correctional facility shall not exceed the maximum facility capacity of such facility. To request a variance to house additional inmates within the facility the citation should be listed as:

Ex. Part: 7040      Section: 3      Subdivision: n/a

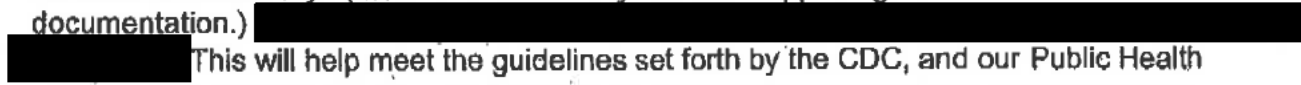
Standard for which the variance is requested:

Part: 7008      Section: 2      Subdivision: b

B. In the space provided below include specific plans fully explaining and supporting the alternative manner of compliance. If you are requesting a modification to an existing variance please include that information in the area below as well. (Include or attach any relevant supporting documentation) We would like to renovate our visitation area as a temporary measure to facilitate visitation during the current pandemic.



C. In the space provided below include a detailed description regarding why this variance is necessary. (Include or attach any relevant supporting documentation.)



This will help meet the guidelines set forth by the CDC, and our Public Health office to help prevent the spread of COVID-19, as it provides a barrier to stop the spread through a sneeze or cough. It is very important to take every measure to prevent one case of COVID-19 from entering the facility as it would be almost impossible to stop the spread to numerous other inmates or staff.

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. (Use additional sheets to provide further information and supporting documentation).

If the variance is approved, it would not take long for us to complete the requested renovation to the visitation area. The temporary renovation would then stay in place until the variance expired or was revoked. We would then restore the visitation area back to its previous design within seven days of the expiration or revocation of the variance.

F. If this variance request pertains to housing additional inmates, please provide the square footage for the potential housing areas effected (dayspace area, cells, gym, etc.) as well as the number of sinks, shower and toilets for that area. It is also necessary to include the current Maximum Facility Capacity (MFC) for the specific area listed in this application, along with the number of additional inmates (beyond the MFC rating) you are requesting to be housed in the specific area.

Housing Area (Name and type, i.e. 1 North, dorm, linear)	Dorms and Cells Sq. Ft.	Number of Sinks	Number of Showers	Number of Toilets	Current MFC	Requested Number of Variance Beds
N/A						

(If additional space is required please make a copy of this sheet and attach)

(Page \_\_\_\_ of \_\_\_\_)

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

Yes \_\_\_\_ If yes, include the variance number \_\_\_\_\_ No X

Lt. Mark Wilson  
Signature (Sheriff) (Chief Administrative Officer)

12/15/2020  
Date

**Additional copies of this form can be obtained by contacting the Commission, or online at [www.scoc.ny.gov](http://www.scoc.ny.gov). Click on Table of Contents, Commission Forms, Request for a Variance (Formal application statement).**

Name of Facility: Sullivan County Jail

Variance #20-V-21

New: X Renewal:

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

Application by: Sheriff Schiff

Date Request Rec: 9/15/2020

Last Approved: N/A

Length of Approval: N/A

Expiration: N/A

Write-up Prepared by: Robert Cuttita

Recommendation by Field Staff: DENY

Recommendation at Briefing: DENY

Final Recommendation:

**SUMMARY OF VARIANCE REQUEST**

Due to the COVID 19 pandemic all visitation was cancelled. Requesting to modify visiting procedures to allow inmates the ability to visit with their family or loved ones. [REDACTED]

**VARIANCE HISTORY**

New

**CONSTRUCTION/RENOVATION PLANS**

Have been submitted and will be addressed at this commission meeting

**OTHER VARIANCES IN EFFECT**

None

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

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

**ANY OPEN MINIMUM STANDARD VIOLATIONS:**

**OTHER INFORMATION**

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

**JUSTIFICATION FOR WHY VARIANCE SHOULD OR SHOULD NOT BE EXTENDED:**

The health department review and approval **was not** submitted by the Sheriff's Office. Policy and procedure was not submitted as well as the guarantee to remove the items after the Pandemic was over.

**RECOMMENDED CONDITIONS IF APPROVED**

REVIEWED BY REGIONAL SUPERVISOR: Robert Cuttita DATE:1/13/21

REVIEWED BY DEPUTY DIRECTOR: Keith Zobel DATE:

COMMENTS BY DIRECTOR:

**OFFICIAL USE ONLY:**

NOTES OF MEETING:



Michael A. Schiff  
Sheriff



Telephone 845-794-7100

Fax 845-807-0661

Eric J. Chaboty  
Undersheriff

OFFICE OF THE  
SULLIVAN COUNTY SHERIFF  
58 OLD ROUTE 17, MONTICELLO, NY 12701



September 15, 2020

Chairman Alan Riley

New York State Commission of Correction

Alfred E. Smith State Office Building  
80 South Swan Street, 12th Floor  
Albany, New York 12210

Dear Chairman Riley,

With the threat of COVID-19 still an issue we all must contend with, the Sullivan County Sheriff's Office does realize the importance of the incarcerated individuals having the ability to maintain contact and relationships with family. Therefore, with respect to provisions of 9 NYCRR 7008.2(b), 7008.3(a), and 7008.3(c) my Office is respectfully requesting a variance with the conditions as follows:

**Article 7008.2(b) allows for inmate and visitor to have physical contact during the visit –**

**Article 7008.3(a) entitles inmates to two hours of visitation per week –** It is requested as part of the variance that inmates are entitled to one hour per week with each visit lasting a minimum of thirty minutes. This would allow inmates at least two visits per week versus potentially four thirty minute visit while also satisfying 7008.3(b).

**Article 7008.3(c) permits for the inmate to visit with more than one visitor at a time –** For the purpose of this variance it is requested the inmate be allowed to visit with one adult visitor and one child under the age of (18) as the maximum number of visitors.

In addition to these precautions the following conditions would also be put in place:

1. Personal protective equipment (PPE) will be made available and worn by staff, inmate and visitor at all times;
2. All visitors will be searched screened including taking of temperatures, staff observation of symptoms, and a questionnaire;
3. Social distancing between visitors will be maintained at all times;
4. All inmates shall have equal access time to visitation;
5. The visiting area will be disinfected between visits;
6. The jail will work closely with the County's Public Health and take into consideration any recommendations they have in regards to visitation procedures.

In closing, during these unusual times the Sullivan County Sheriff's Office is dedicated to providing a physically and mentally healthy environment for those incarcerated. One of the most effective ways to accomplish this is to provide a safe place for inmate and visitor to meet. If there are any other recommendations or considerations the Commission feels we have overlooked, we look forward to hearing from and working with you.

If there are any questions or issues concerning this request please have your staff reach out to my jail administration.

Sincerely,



Sheriff Michael A. Schiff

Sullivan County Sheriff's Office

Name of Facility: Sullivan County Jail

Variance #21-V-02

New: X

Renewal:

Relief from Standard: 7004.3(a)

Application by: Chief Harold Smith

Date Request Rec: 1-14-21

Last Approved: NA Length of Approval: 5 Months Expiration: 7-1-20

Write-up Prepared by: Adam Tilbe CFS 1

Recommendation by Field Staff: Recommend approval until July 1, 2021.

Recommendation at Briefing:

Final Recommendation:

---

**SUMMARY OF VARIANCE REQUEST**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]. As a solution, I am asking for a variance to allow facility staff to make photocopies of all incoming non-privileged correspondence along with the accompanying envelope. Please see attached documentation explaining our proposed policy.

**RECOMMENDATION BY STAFF**

It is recommended this variance be approved until July 1, 2021.

**RECOMMENDED CONDITIONS IF APPROVED**

Pursuant to this action, the following conditions shall apply:

1. Only non-privileged incoming correspondence and accompanying envelope may be photocopied and provided to the recipient prisoner. Incoming privileged correspondence shall be provided to the recipient prisoner and is not to be photocopied.
2. Incoming general and legal privileged correspondence shall be opened and inspected for contraband in the presence of the recipient prisoner. Outside the presence of recipient prisoner, the facility may use a drug detecting device to scan privileged correspondence for illicit drugs without opening the envelope. In instances where the envelope must be opened in order to perform such scan, the opening and scanning of the envelope and contents must occur only while in the presence of the recipient prisoner.
3. Approval of this variance does not relieve the facility from its duty to comply with United States Postal Services' regulations and statutes.
4. Except for incoming non-general and legal privileged correspondence forwarded to the chief administrative officer, the facility shall make available correspondence for inmate view within one business day of delivery by the United States Postal Service.
5. The facility shall ensure that inmates are provided, **at no cost**, the opportunity to:

- a. be provided with their original correspondence and enclosed contents (i.e., photos, cards, etc.), that are non-criminal in nature, immediately upon release/transfer from the facility; and
  - b. be permitted to designate a person(s) who may obtain such original correspondence from the facility.
- 6. The facility shall provide inmates the opportunity to have their original correspondence forwarded to a third party.
  - 7. All relevant protocols concerning the photocopying of correspondence shall be included in the facility's inmate rulebook. If the rulebook is not yet scheduled for reprinting, such information shall be posted conspicuously in all housing areas until such reprinting has been completed and issued.
  - 8. Any costs associated with the correspondence photocopying program shall be borne by the facility and not through the use of commissary profits.
  - 9. The facility ensures that all correspondence-related reportable incidents are submitted to the Commission in accordance with Part 7022, Reportable Incidents.

**CONSTRUCTION/RENOVATION PLANS**

NA

**OTHER VARIANCES IN EFFECT**

NA

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

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

September 9-11, 2019

**ANY OPEN MINIMUM STANDARD VIOLATIONS:**

Section 7013.8(c) – Assignment to facility housing  
Section 7013.9(a) – Classification review  
Section 7013.13(a)- Quarterly classification report

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

NA

**JUSTIFICATION FOR WHY VARIANCE SHOULD OR SHOULD NOT BE APPROVED/ EXTENDED:**

[REDACTED]

REVIEWED BY REGIONAL SUPERVISOR: **Cuttita**      DATE **1/19/2021**

**OFFICIAL USE ONLY:**

NOTES OF MEETING: \_\_\_\_\_



**Commission of  
Correction**

New York State  
Commission of Correction  
80 S. Swan Street, 12<sup>th</sup> Floor  
Albany, New York 12205  
518-485-2465  
518-485-2467 (Fax)

County Jail Variance Application Form

INSTRUCTIONS TO SHERIFF OR CHIEF ADMINISTRATIVE OFFICER:

Pursuant to New York State Minimum Standards Part 7050, Variances, please complete all portions of this form and mail or fax this form Attn: Chairman/Commissioner to the address or fax number listed above.

Facility: Sullivan County Jail

Person requesting: Chief Harold L. Smith Jr.

(Sheriff/Chief Administrative Officer)

- A. State the specific part, section and subdivision of New York State Minimum Standards for which the variance is requested: Example: 7040.3 states that, the total number of inmates confined within each correctional facility shall not exceed the maximum facility capacity of such facility. To request a variance to house additional inmates within the facility the citation should be listed as:

Ex. Part: 7040      Section: 3      Subdivision: n/a

Standard for which the variance is requested:

Part: 7004      Section: 1&3      Subdivision: 3(a)

- 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)



As a solution, I am asking for a variance to allow facility staff to make photocopies of all incoming non-privileged correspondence along with the accompanying envelope. Please see attached documentation explaining our proposed policy.

C. In the space provided below include a detailed description regarding why this variance is necessary. (Include or attach any relevant supporting documentation.)



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

Days \_\_\_\_\_ Weeks \_\_\_\_\_ Months \_\_\_\_\_  
As long as the Commission will allow.

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. (Use additional sheets to provide further information and supporting documentation).

See attached addendum to facility correspondence policy as well as original correspondence policy. If approved inmates will be advised by way of memorandum two weeks prior to taking effect unless the Commission requires a longer advanced notice. A copy of the inmate notification is attached, dates of course will be changed.

(Page \_\_\_\_\_ of \_\_\_\_\_)

G. Has this variance been previously approved by the Commission?  No

Yes \_\_\_\_\_ If yes, include the variance number \_\_\_\_\_ No \_\_\_\_\_

Arif Ahmad L Smith 1/14/21  
Signature (Sheriff) (Chief Administrative Officer) Date

**Additional copies of this form can be obtained by contacting the Commission, or online at [www.scoc.ny.gov](http://www.scoc.ny.gov) . Click on *Table of Contents, Commission Forms, Request for a Variance* (Formal application statement).**

(SCOC Form #VA-CJ-1)  
(09/2018)



## Notice of Adoption

Correction, State Commission of  
(SUBMITTING AGENCY)

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

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

1. *Action taken:*

Amendment of sections 7006.9(a)(5), 7013.2(h), 7013.6(a)(1), 7013.6(b), 7040.2, 7040.7(b), 7041.2(a)(4), 7070.2(c)(11), 7070.7(a), 7075.4(b), addition of sections 7075.2(h)-(j), 7075.4(g)-(k) of Title 9 NYCRR.

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

2. *Effective date of rule:*

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

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

Date of filing.

Other date (*specify*):

Other date (*specify*):

\_\_\_\_\_ days after filing.

3. *Statutory authority under which the rule was adopted:*

Correction Law sections 45(6) and 45(15).

4. *Subject of the rule:*

Disciplinary and administrative segregation of inmates in special housing.

5. *Purpose of the rule:*

Prohibit the segregation of vulnerable inmates, and to standardize allowable uses and duration of special housing segregation.

6. Terms and identification of rule :

A. I.D. No. of original notice of proposed or emergency/proposed rule making: CMC-35-19-00002 - P

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

[x] No changes were made to the proposed rule.

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

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

[Redacted]

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

[ ] Text attached.

[ ] Summary attached.

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

[Redacted]

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

Publication date: \_\_\_\_\_, I.D. No. \_\_\_\_\_

Publication date: \_\_\_\_\_, I.D. No. \_\_\_\_\_

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

[x] Signed certification of adoption (scanned pdf).

[x] Full text of the rule (MS Word).

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

Agency contact Brielle Christian, Senior 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: Brielle.Christian@scoc.ny.gov

8. Additional matter required by statute:

[ ] Yes (include below material required by statute).

[Redacted]

[x] No additional material required by statute.

9. Revised Regulatory Impact Statement (RIS)

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

A. The attached Revised RIS contains:

[ ] The full text of the Revised RIS.

[ ] A summary of the Revised RIS.

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

[ ] Changes made to the last published rule do not necessitate revision to the previously published RIS.

[ ] This is a technical amendment exempt from SAPA §202-a.

- C.  A revised RIS is **not** attached because this rule is a "rate making" as defined in SAPA §102(2)(a)(ii).  
 A revised RIS is **not** attached because this rule was proposed as a consensus rule as defined in SAPA

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

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

- A. The attached Revised RFA contains:  
 The full text of the Revised RFA.  
 A summary of the Revised RFA.
- B. A **statement is attached** explaining why a revised RFA is not required (check one box):  
 Changes made to the last published rule do not necessitate revision to the previously published RFA.  
 The changes will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses or local governments. The attached statement sets forth this agency's findings and the reason(s) upon which the findings were made, including what measures were used to determine those findings.
- C.  A revised RFA is **not** attached because this rule is a "rate making" as defined in SAPA §102(2)(a)(ii).  
 A revised RFA is **not** attached because this rule was proposed as a consensus rule as defined in SAPA §102(11).

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

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

- A. The attached Revised RAFA contains:  
 The full text of the Revised RAFA.  
 A summary of the Revised RAFA.
- B. A **statement is attached** explaining why a revised RAFA is not required (check one box):  
 Changes made to the last published rule do not necessitate revision to the previously published RAFA.  
 The changes will not impose any adverse impact or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas. The attached statement sets forth this agency's findings and the reason(s) upon which the findings were made, including what measures were used to determine those findings.
- C.  A revised RAFA is **not** attached because this rule is a "rate making" as defined in SAPA §102(2)(a)(ii).  
 A revised RAFA is **not** attached because this rule was proposed as a consensus rule as defined in SAPA §102(11).

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

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

- A. The attached Revised JIS contains:  
 The full text of the Revised JIS.  
 A summary of the Revised JIS.
- B. A **statement is attached** explaining why a revised JIS is not required (check one box):  
 Changes made to the last published rule do not necessitate revision to the previously published JIS.  
 The changes will not impose a substantial impact on jobs and employment opportunities. The attached statement sets forth this agency's findings that the rule will have a positive impact or no impact on jobs and employment opportunities; except when it is evident from the subject matter of the rule that it could only have a positive impact or no impact on jobs and employment opportunities, the statement shall include a summary of the information and methodology underlying that determination.
- C. A revised JIS is **not** attached because:  
 This rule is a "rate making" as defined in SAPA §102(2)(a)(ii).  
 This rule was proposed by the State Comptroller or Attorney General.

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

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

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

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

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


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

(SELECT AND COMPLETE ONE)

- A.  As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year \_\_\_\_\_ which is no later than the 3<sup>rd</sup> year after the year in which this rule is being adopted.
- B.  As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year \_\_\_\_\_ which is the 4<sup>th</sup> or 5<sup>th</sup> year after the year in which this rule is being adopted. This review period, justification for proposing same, and invitation for public comment thereon, were contained in a RFA, RAFA or JIS:
- Attached is an assessment of public comment on the issue of the 4 or 5-year initial review period;  
 or
- An assessment of public comment on the 4 or 5-year initial review period is not attached because no comments were received on the issue.
- C.  As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2026, which is no later than the 5<sup>th</sup> year after the year in which this rule is being adopted.
- D.  Not Applicable. This is a "rate making" or a "consensus rule," or a repeal of a rule.

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

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

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

Name Brian M. Callahan Signature \_\_\_\_\_

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

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

Date 01/26/2021

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**Please read before submitting this notice:**

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

Text:

Paragraph (5) of subdivision (a) of section 7006.9 of Title 9 is amended to read as follows:

(5) confinement to a cell, room, or in special housing, as that term is defined in section 7013.2(h) of this Title, for a period consistent with the facility rules of inmate conduct for the particular offense(s), subject to the provisions of section 7075.4 of this Title, provided that:

(i) no incarcerated individual known by security, health or mental health personnel to be pregnant, within eight (8) weeks of delivery or pregnancy outcome, having a mental or physical disability, or having a serious mental illness shall be confined in special housing;

(ii) an incarcerated individual shall only be sanctioned to confinement in special housing for behavior that violates rules of inmate conduct and poses an unreasonable risk to the health, safety or security of staff, incarcerated individuals, or facility security by: causing or attempting to cause injury or death to another person or making a credible threat of such injury or death; engaging in a sexual act, or compelling or attempting to compel another person to engage in a sexual act; coercing another, by force or threat of force, to violate any rule; leading, organizing, inciting, or attempting to cause a riot, insurrection, strike, or other serious disturbance that may result in physical harm to another person, significant property damage or significant interference with facility operations; procuring, possessing, brandishing or using a weapon that poses a threat to the health, safety, or security of staff, incarcerated individuals, or security of the facility; procuring, possessing, using or distributing dangerous contraband that poses a threat to the health, safety, or security of staff, incarcerated individuals, or security of the facility; escaping, attempting to escape or facilitating an escape from a facility, or absconding or attempting to abscond outside of a facility, or; engaging in conduct constituting a felony under the Penal Law; and

(iii) no incarcerated individual shall be sanctioned to confinement in special housing for longer than necessary and; effective on and after April 1, 2021, for no more than ninety (90) days; effective on and after October 1, 2021, for no more than sixty (60) days and; effective on and after April 1, 2022, for no more than thirty (30) days;

Subdivision (h) of section 7013.2 of Title 9 is amended to read as follows:

(h) *Special housing* shall [include, but not be limited to: admissions/orientation housing; medical/mental health observation; and] mean any incarcerated individual housing area, or subdivision thereof, used principally for punitive or administrative segregation.

Paragraph (1) of subdivision (a) of section 7013.6 of Title 9 is amended to read as follows:

(1) special housing[ as defined in section 7013.2(h) of this Part], admissions/orientation housing, and medical/mental health observation, provided minors and adults are separately grouped to prevent access between such classification categories;

Subdivision (b) of section 7013.6 of Title 9 is amended to read as follows:

(b) Males and females shall not be commingled in areas designated as special housing, admissions/orientation housing, or medical/mental health observation [as defined in section 7013.2(h) of this Part].

Section 7040.2 of Title 9 is amended to read as follows:

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

(a) [m]Maximum facility capacity shall mean the greatest number of [inmates] incarcerated individuals that may be confined at one time within each correctional facility, as formulated by the commission pursuant to the requirements of this Part.

(b) Special housing shall have the same meaning as defined in section 7013.2(h) of this Title.

Subdivision (b) of section 7040.7 of Title 9 is amended to read as follows:

(b) In formulating the maximum facility capacity of a facility, the commission shall determine the maximum number of [inmates] incarcerated individuals that can be housed in each individual and multiple occupancy housing unit pursuant to the requirements of this Part. Such determination shall be based on the following:

(1) the number of properly equipped individual occupancy housing units, including the number of properly equipped individual occupancy housing units in housing areas designated for admissions/orientation, medical and mental health observation, and [any other] special housing[ units];

(2) the number of properly equipped multiple occupancy housing units, including the number of properly equipped multiple occupancy housing units in housing areas designated for admissions/orientation, medical and mental health observation, and [any other] special housing[ units]; and

(3) the facility's ability to provide required programs and services and to comply with other rules and regulations of this Chapter which are related to facility capacity.

Paragraph (4) of subdivision (a) of section 7041.2 of Title 9 is amended to read as follows:

(4) special housing, admissions/orientation housing, and medical/mental health observation [area] supervision;



Paragraph (11) of subdivision (c) of section 7070.3 of Title 9 is amended to read as follows:

(11) pursuant to the requirements of section 7070.7(a) and (b) of this Part, provision of educational services to eligible youth confined in special housing, admissions/orientation housing, and medical/mental health observation units; and

Subdivision (a) of section 7070.7 of Title 9 is amended to read as follows:

(a) Eligible youth confined in special housing, admissions/orientation housing, and medical/mental health observation units shall not be denied access to educational services solely on the basis of their classification status.

A new subdivision (h) of section 7075.2 of Title 9 is added to read as follows:

(h) *Administrative segregation* shall mean any segregation, as defined in subdivision (e) of this section, that does not constitute a disciplinary sanction, imposed pursuant to section 7006.9 of this Title, or segregation pending a disciplinary hearing, ordered pursuant to section 7006.7 of this Title.

A new subdivision (i) of section 7075.2 of Title 9 is added to read as follows:

(i) *Administratively segregated incarcerated individual* shall mean any incarcerated individual subject to administrative segregation.

A new subdivision (j) of section 7075.2 of Title 9 is added to read as follows:

(j) *Special housing* shall have the same meaning as defined in section 7013.2(h) of this Title.

Subdivision (b) of section 7075.4 is amended to read as follows:

(b) Absent exigent circumstances, no [inmate] incarcerated individual shall be confined in any housing unit, cell, room or other area of the facility that is not listed as appropriate housing on the maximum facility capacity formulation, issued by the commission pursuant to section 7040.7 of this Part. Additionally, no facility shall operate an incarcerated individual housing area, or subdivision thereof, for special housing unless it is specifically designated for such use on the maximum facility capacity formulation, issued by the commission pursuant to section 7040.7 of this Part.

New subdivisions (g), (h), (i), (j) and (k) of section 7075.4 of Title 9 are added to read as follows:

(g) No administratively segregated incarcerated individual known by security, health or mental health personnel to be pregnant, within eight (8) weeks of delivery or pregnancy outcome, having a mental or physical disability, or having a serious mental illness shall be confined in special housing.

(h) An administratively segregated incarcerated individual shall only be confined in special housing upon a determination of the chief administrative officer that such incarcerated individual's presence in the facility's general housing would pose an unreasonable and demonstrable risk to the safety and security of staff, incarcerated individuals, the facility, or would present an unreasonable risk of escape. Any such determination

shall be made by the chief administrative officer in writing, and shall state the specific facts and reasons underlying the determination.

(i) Except as authorized by subdivision (j) of this section, no incarcerated individual shall be subject to segregation in special housing for longer than necessary and, for any six (6) month period; effective on and after April 1, 2021, for no more than ninety (90) days; effective on and after October 1, 2021, for no more than sixty (60) days and; effective on and after April 1, 2022, for no more than thirty (30) days.

(j) A segregated incarcerated individual may be confined to special housing, in excess of the limitations set forth in subdivision (i) of this section, only upon a determination of the chief administrative officer that the incarcerated individual poses an immediate or continuing unacceptable threat to the safety of staff or other incarcerated individuals or to the security of the facility. Any such determination shall be made by the chief administrative officer in writing, and shall state the specific facts and reasons underlying the determination.

(k) Any determination made pursuant to subdivision (j) of this section shall be reviewed by the chief administrative officer at intervals not to exceed seven (7) days. Every review conducted by the chief administrative officer pursuant to this subdivision shall include consultation with the jail physician, facility medical director, or other qualified facility health staff who shall record, in writing, any determination that continuing the confinement in special housing would risk significantly compromising the health of the incarcerated individual. Following each such review, the chief administrative officer shall record, in writing, whether such determination shall continue or cease, and state the specific facts and reasons underlying the continuance or termination. Absent exigent circumstances, the chief administrative officer shall not continue confinement in special housing if the qualified jail physician, facility medical director, or other knowledgeable facility health staff determines that doing so would risk significantly compromising the health of the incarcerated individual.

## Assessment of Public Comment

The New York State Commission of Correction (hereinafter “Commission”) received formal comments from members of the public, advocacy groups, elected officials, and representatives providing correctional health services.

A preponderance of the comments received expressed the same opinion, that the proposed regulations are inadequate as compared to the provisions of the previously-proposed Humane Alternatives to Long-Term (HALT) Solitary Confinement Act, that establishes a maximum of 15 consecutive days in solitary confinement, prohibits the use of solitary confinement for incarcerated individuals 21 and younger, and requires congregate programming for out-of-cell time. The Commission was urged to reformulate the regulations to mirror, and that the New York State Legislature should adopt, the HALT Act. Specifically, comments received wanted the proposed regulations to limit the circumstances in which solitary confinement can be imposed, limit the amount of time that may be spent in solitary confinement, establish a public reporting requirement, prohibit restricting diets as a form of punishment, speed up the proposed implementation timeline for limiting solitary confinement, and protect vulnerable age groups from solitary confinement.

Correction Law section 137(6), applicable to local correctional facilities by means of Correction Law section 500-k, permits correction officials to “keep any inmate confined in a cell or room ... for such period as may be necessary for maintenance of order or discipline.” The New York State Court of Appeals has held that the Correction Law thus gives correction officials “*broad discretion* in the formulation and implementation of policies relating to security and to the disciplining of inmates [emphasis added].” *Arteaga v. State*, 72 N.Y.2d 212, 217 (1988); see also *Allah v. Coughlin*, 190 A.D.2d 233, 236 (3d. Dept. 1993).

While Correction Law section 45(6) provides the authority to promulgate rules and regulations establishing minimum standards for the care, custody, correction, treatment, supervision and discipline of incarcerated individuals in local correctional facilities, the Commission must also consider that such regulations shall apply

equally to each facility throughout the state. Presently, the jails of 62% of upstate counties have less than 200 beds, and 40% of upstate counties have less than 150 beds. Unlike state prisons, many local county jails, particularly the small upstate jails, do not have a sufficient number of separate and distinct housing units to establish residential rehabilitation units, or other separate forms of incarcerated individual housing necessary to comport with the confinement restrictions set forth in the proposed HALT Act. Similarly, county jails differ greatly from state prisons with respect to the frequency of incarcerated individual admissions and discharges, criminal court appearances and transport, family and counsel visitation, emergency hospital transports, etc., making the regular and sustained incarcerated individual programming required by the proposed HALT Act impracticable. Nevertheless, it is the goal of the Commission, in promulgating the present regulations, to limit the use of cell confinement in special housing units to only those instances required to preserve the safety and security of the facility and its staff and incarcerated individuals.

Some commenters expressed concern that these regulations did not limit back-to-back sanctions of solitary confinement, did not cap the cumulative use of isolation, and did not go far enough in limiting the amount of time that could be spent in solitary. Similarly, many commenters believed the regulations granted the chief administrative officer “unchecked discretion” in extending periods of confinement. However, the proposed regulations provide that no incarcerated individual shall be subject to segregation in special housing for longer than necessary and for any six month period, effective on and after April 1, 2021 for no more than 90 days, effective on and after October 1, 2021, for no more than 60 days, and effective on and after April 1, 2022 for no more than 30 days, absent “an immediate or continuing unacceptable threat to the safety of staff or other incarcerated individuals or to the security of the facility.” Additionally, it is the Commission’s intention, by adopting the regulations, to ensure that determinations to confine incarcerated individuals to special housing are justified and documented, reviewed on a timely basis to assess if continuation is warranted, and reported to the

Commission. Thereafter, the Commission's ability to monitor and oversee such confinement will be sufficient to identify and investigate potential abuses.

Commenters also asked the Commission to limit all administrative segregation, limit the use of keeplock and prevent administrative segregation from being used for protective custody purposes. On June 5, 2019, the Commission's regulations governing incarcerated individual's cell confinement and essential service deprivation became effective. Those regulations focused on limiting both disciplinary and administrative segregation to the least amount of time necessary to maintain the safety, security and good order of the facility.

Several commenters bemoaned the lack of regulation to provide for required programming of confined incarcerated individuals during their "out-of-cell" time. Likewise, a few commenters suggested that the state should implement alternatives to solitary confinement, with one commenter suggesting a program like the Resolve to Stop the Violence Project (RSVP) in San Francisco jails, which "immerses residents in an intensive program including most of the day out-of-cell, group discussions, classes, counseling, and meetings with victims of violence." For the reasons noted above with respect to the proposed HALT Act legislation, such a requirement is currently impracticable.

A handful of commenters stated that the proposed regulations do not create transparency and oversight. One commenter suggested that in order to address this, the Commission "should post reporting data on its website, assess local correctional facilities' implementation of the regulations, and report on its findings." The Commission provides oversight as it currently evaluates, investigates, and oversees correctional facilities to ensure they are meeting the minimum standards created by the Commission. As these proposed regulations are implemented, the Commission will continue to ensure that each facility meets the minimum standard created and the mission of the Commission to provide for a safe, stable and humane correctional system is carried out. The Commission also issues an annual report, available on our website, that identifies which minimum standards are assessed by the Commission each year.

Commenters also requested that correctional staff receive training on identifying signs of mental health decompensation and on guidelines for when a mental health referral is warranted. Per Executive Law §837-a, the responsibility for the administration of training programs for local correction officers is assigned to the Division of Criminal Justice Services, Municipal Police Training Council and Office of Public Safety. In addition, one commenter requested that medical and mental health assessments be completed prior to segregation and then regularly during periods of segregation in order to ascertain if an individual should be excluded from segregation due to mental illness. Currently, the Correction Law and Commission regulations require any incarcerated individual confined to a cell, after a 24-hour period, to be visited and assessed daily by a qualified medical professional.

One commenter asked the Commission to adopt a clear definition for “a mental or physical disability” or “a serious mental illness,” as they believed without such definition corrections staff will not correctly identify these populations. The proposed regulations were drafted to allow qualified health staff at each facility to determine which individuals have a mental or physical disability or a serious mental illness.

Received comments from representatives providing correctional health services noted two main concerns, that “healthcare providers participating in decisions concerning the penalty process of an inmate is against medical ethical opinions” and that “healthcare practitioners are not able to predict the effects and outcomes of solitary confinement on any individual and may face potential liability by participating in the process. This action would potentially result in the medical staff determining the housing and safety status of an inmate.” As drafted, while the regulation requires consultation with qualified health staff, the determination to continue or cease confinement is made by the facility’s chief administrative officer; therefore, the healthcare professional is not determining the housing or safety status of the incarcerated individual.

Lastly, one correctional health service provider also commented that “local health departments providing jail medical services were not given the opportunity to provide input before these regulations were implemented.”

As published, the Notice of Proposed Rulemaking invited public comment from August 28, 2019 to October 27, 2019 and was open to any member of the public, including local health departments, to provide comment.