STATE OF NEW YORK • EXECUTIVE DEPARTMENT
STATE COMMISSION OF CORRECTION
Alfred E. Smith State Office Building
80 S. Swan Street, 12th Floor
Albany, New York 12210
(518) 485-2346
FAX (518) 485-2467

CHAIRMAN
Thomas A. Beilein

COMMISSIONER
Phyllis Harrison-Ross, M.D.

MINUTES

STATE COMMISSION OF CORRECTION
Alfred E. Smith State Office Building
80 So. Swan Street, 12th Floor
Albany, New York 12210-8001

DATE OF MEETING: November 20, 2012

Chairman Beilein called the meeting to order at 11:00am.

PRESENT:
Thomas A. Beilein, Chairman
Phyllis Harrison-Ross M.D., Commissioner
James Lawrence, Deputy of Operations
Rich Kinney, CFS III
Bill Benjamin, Hudson Lakes, Supervisor
Terry Moran, Capital West, Supervisor
Peggy Loffredo, Forensic Medical Unit
Tricia Amati, Assistant to Chairman/Commissioner
Brian Callahan, Staff Counsel
Alysia Santo, Reporter Times Union

I. MINUTES

SCOC October 16, 2012	**Approved** **Ross/Beilein**	**Unanimous**
CPCRC November 8, 2012	**Approved** **Ross/Beilein**	**Unanimous**
MRB Administrative Closures	**Approved** **Ross/Beilein**	**Unanimous**

II. VARIANCES

A. Herkimer County Jail 06-V-05 (Section 7028 Exercise)	**Approved** **Ninety (90) Days** **Ross/Beilein**	**Unanimous**

B. Putnam County Jail 03-V-01 (Section 7040.3 Facility Population Limitation)	**Approved** **Six (6) Months** **Ross/Beilein**	**Unanimous**
C. Putnam County Jail 11-V-05 (Section 7040.3 Facility Population Limitation)	**Denied** **Ross/Beilein**	**Unanimous**
D. Putnam County Jail 08-V-08 (Section 7040.3 Facility Population Limitation)	**Approved** **Six (6) Months** **Ross/Beilein** *(Approved upon condition: Follow-up with Classification)*	**Unanimous**

Commissioner Ross made a motion to go into executive session at 11:20am to discuss Construction and MRB items, which was seconded by Chairman Beilein.

Commissioner Ross made a motion to exit Executive Session and return to general session at 11:45am, which was seconded by Chairman Beilein.

The meeting resumed at 11:46am. Motion was made by Commissioner Ross to ratify actions taken in Executive Session regarding MRB and Construction items, seconded by Chairman Beilein and approved.

Commissioner Ross made a motion to adjourn at 11:46am, which was seconded by Chairman Beilein.

Respectfully submitted,

Tricia Amati
Assistant to Chairman/Commissioner

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CHAIRMAN
Thomas A. Beilein

COMMISSIONER
Phyllis Harrison-Ross, M.D.

EXECUTIVE SESSION

STATE COMMISSION OF CORRECTION
Alfred E. Smith State Office Building
80 So. Swan Street, 12th Floor
Albany, New York 12210-8001

DATE OF MEETING: November 20, 2012

PRESENT:
Thomas A. Beilein, Chairman
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Commissioner Ross made a motion to adjourn at 11:46am, which was seconded by Chairman Beilein.

Respectfully submitted,

Tricia Amati
Assistant to Chairman/Commissioner

Name of Facility: Orleans County Jail Variance # 98-V-19

New: ☐ **Renewal:** ☒ **Relief from Standard:** 7040.3

Application by: Sheriff Scott Hess
Date Request Rec: 12-6-12

Last Approved: June 26, 2012 **Length of Approval:** 6 Months **Expiration:** January 1, 2013

Write-up Prepared by: Deborah Clark

Recommendation by Field Staff: Approve for 6 months

Recommendation at Briefing:

Final Recommendation:

SUMMARY OF VARIANCE REQUEST

The facility is requesting a continued extension of variance 98-V-19 which authorizes the county to house an additional 26 inmates in the jail through the use of housing in day space areas.

RECOMMENDED CONDITIONS

Commission staff recommends that the following conditions be included in the approval letter regarding this variance, if the variance is approved.

1) The county is authorized to house a maximum of 26 inmates in any of the following areas:

Location	MFC	Increase	Total Housed*
1st Floor			
North West Block	7	4 (3 with cell vacated)	10*
North East Block	7	4 (3 with cell vacated)	10*
South East Block	7	4 (3 with cell vacated)	10*
South West Block	7	4 (3 with cell vacated)	10*
East Dorm	5	1	6
West Dorm	5	1	6
2nd Floor			
North West Block	7	4 (3 with cell vacated)	10*
North East Block	7	4 (3 with cell vacated)	10*
South West Block	7	4 (3 with cell vacated)	10*
South East Block	7	4 (3 with cell vacated)	10*
		26 Variance beds	

** One cell needs to be vacated in order to allow inmates in the day space access to a toilet and sink.*

2) When inmates are housed in the day space of the above-noted areas, a cell will be vacated in order to allow inmates in the day space with direct access to a toilet and sink. When the displaced inmate is housed in the day space area, he/she will be counted as (1) of the total number of variance beds.

3) Inmates who are housed in the above-noted areas ***must*** be provided with a bunk, cot, or at a minimum a Aboat to be used as a bed.

4) Active supervision must be provided on a 24-hour basis, pursuant to 9NYCRR Section 7003.2(c).

5) Inmates housed in the above-noted areas receive the same services and programs as the general population.

6) The county shall not exceed the rated MFC for the purpose of boarding inmates. The Commission does not approve variances for the purpose of generating revenue.

VARIANCE HISTORY

2012	Recommendation Action Taken Length of Variance Conditions, if changed	Approval Approved at 6/19 Meeting 6 months
2011	Recommendation Action Taken Length of Variance Conditions, if changed	Approval Approved at 12/11 Meeting 6 months
2011	Recommendation Action Taken Length of Variance Conditions, if changed	Approval Approved at 06/11 Meeting 6 months
2010	Recommendation Action Taken Length of Variance Conditions, if changed	Approval Approved at 12/10 Meeting 6 months
2010	Recommendation Action Taken Length of Variance Conditions, if changed	Approval Approved at 07/10 Meeting 6 months
2010	Recommendation Action Taken Length of Variance Conditions, if changed	Approval Approved at 04/10 Meeting 90 days
2009	Recommendation Action Taken Length of Variance Conditions, if changed	Approval Approved at 10/09 Meeting 6 months
2009	Recommendation Action Taken Length of Variance Conditions, if changed	Approval Approved at 7/09 Meeting 90 days

2009	Recommendation Action Taken Length of Variance Conditions, if changed	Approval Approved at 4/09 Meeting 90 days
2009	Recommendation Action Taken Length of Variance Conditions, if changed	Approval Approved at 1/09 Meeting 90 days
2008	Recommendation Action Taken Length of Variance Conditions, if changed	Approval Approved at 10/08 Meeting 90 days
2008	Recommendation Action Taken Length of Variance Conditions, if changed	Approval Approved at 6/08 Meeting 60 days
2008	Recommendation Action Taken Length of Variance Conditions, if changed	Approval Approved at 5/08 Meeting 30 days
2008	Recommendation Action Taken Length of Variance Conditions, if changed	Approval Approved at 4/08 Meeting 30 days
2008	Recommendation Action Taken Length of Variance Conditions, if changed	Approval Approved at 1/08 Meeting 3 months Addition of condition #7 above – county must provide status report of progress

CONSTRUCTION/RENOVATION PLANS

The shower replacement project will commence in January 2013. The jail roof renovation project has been postponed until spring 2013.

OTHER VARIANCES IN EFFECT

Variance No. 98-V-02: This variance authorizes the Orleans County Jail to utilize the Court Law Library located in the Public Defender's Office to provide inmates with access to legal reference materials required by Section 7031.4(d).

Variance No. 12-V-04: This variance authorizes the Orleans County Jail to utilize the second floor inmate worker dormitory for outdoor exercise for a period of 60 days, commencing with the start of the roof renovation project in spring 2013.

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

Variance 98-V-19 was last reviewed on December 11, 2012.

The facility has an established MFC of 82; the variance allows the facility 26 additional beds, which brings their eligible capacity with variance to 108. The facility's reported population as of May 18, 2012 was 91. The facility also has multiple intermittent prisoners committed to serve time midweek and on the weekends. The variance affords the facility with some flexibility for the classification of their inmates.

DATE OF LAST CYCLE VISIT THAT STANDARD VIOLATIONS WERE IDENTIFIED:
May 2012

ANY OPEN MINIMUM STANDARD VIOLATIONS:
Report being written from May 2012 Site Visit.

ANY VIOLATIONS WHICH PERTAIN TO THE VARIANCE'S CONDITIONS:
None

JUSTIFICATION FOR WHY VARIANCE SHOULD OR SHOULD NOT BE EXTENDED:

1. The Facility requires every possible variance bed to assist with proper classification.
2. The county is actively participating in Alternatives to Incarceration (ATI) programs and is currently revamping and increasing the number of eligible participants within such programs in an effort to reduce the number of prisoners placed and/or housed within the Orleans County Jail. The facility is also participating in the NYS Parole Diversion Program, which has the potential of decreasing the length of stay an eligible parole violator will stay within the county facility.

REVIEWED BY REGIONAL SUPERVISOR: **DATE:** 12/11/12

12/7/12

OFFICIAL USE ONLY:

NOTES OF MEETING: _____

Scott D. Hess
SHERIFF
www.orleansny.com/sheriff

COUNTY OF ORLEANS
Office of the Sheriff
400 Public Safety Bldg.,
13925 State Route 31
Albion, New York 14411-9386
Communications – (585) 589-5527
Fax – (585) 589-6761
Administrative Offices – (585) 590-4142
Fax – (585) 590-4178
County Jail – (585) 589-4310
Fax – (585) 589-2522

Steven D. Smith
Undersheriff

Thomas L. Drennan
Chief Deputy

Lieutenant Scott D. Wilson
Acting Jail Superintendent

DEC - 6 2012
DEC - 6 2012

Honorable Thomas A. Beilein, Chairman
State Commission of Correction
Alfred E. Smith State Office Building
80 S. Swan Street 12th Floor
Albany, NY 12219

Dear Chairman Beilein,

The purpose of this letter is to respectfully request an extension for the Orleans County Jail bed space variance (#98-V-19). Currently our population averages have stabilized and remain fairly consistent at a four month average of 74.2 inmates between the months of July and November, 2012. However, Intermittent Sentenced inmates still account for drastic increases in our inmate population. The need for this variance extension is necessary to account for these population fluctuations in order to maintain a formal and objective classification system.

The Orleans County Jail will also require additional bed spaces to accommodate the closing of housing units as a part of the jail renovation project which is tentatively scheduled to begin in January of 2013. In addition, the facility roof reconstruction project had to be postponed in order to meet the temperature thresholds of the construction materials. The facility roof construction project is scheduled to move forward in the spring of 2013 and will require additional variance beds for the implementation of the commission approved temporary recreation area.

Thank you for your continued assistance.

Sincerely,

Scott D. Wilson
Jail Superintendent

New York State
Commission of Correction
80 Wolf Road
Albany, New York 12205
518-485-2465
518-485-2467 (Fax)

New _____
Renewal _____
Variance # _____
(SCOC USE ONLY)

Thomas A. Beilein
Chairman

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: Orleans County Jail

Person requesting: Superintendent Scott D. 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: 7040 Section: 3 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)

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

The purpose of this varinace extension will allow the orleans county jail to maintain a formal an objective classification system during increases in the facility population as a result of intermittent sentenced inmates. Also, additional bed space will be required at various stages of the jail renovation project.

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

_____ Days _____ Weeks __6__ Months

E. If this variance request is approved, what plans, provisions and timetables are in place for achieving full compliance with the Minimum Standard at issue such as adding to the MFC, etc. (Use additional sheets to provide additional supporting documentation, if necessary).

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 the variance is requested for as well as how many additional inmates you are requesting to be housed in a particular area.

Housing Area (Name and type, i.e. 1 North, dorm, linear)	Sq. Ft.	Number of Sinks	Number of Showers	Number of Toilets	Current MFC	Requested Number of Variance Beds
1st Floor						
East Dorm	280	1	1	1	5	1
West Dorm	280	1	1	1	5	1
South East Block	400	1	1	1	7	4*
South West Block	400	1	1	1	7	4*
North East Block	400	1	1	1	7	4*
North West Block	400	1	1	1	7	4*
2nd Floor						
South East Block	400	1	1	1	7	4*
South West Block	400	1	1	1	7	4*
North East Block	400	1	1	1	7	4*
North West Block	400	1	1	1	7	4*

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

(Page _____ of _____)

G. Has this variance been previously approved?

Yes x If yes, include the variance number 98-v-19 No _____

Scott D. Wilson Jail Superintendent

Signature (Sheriff) (Chief Administrative Officer) Date 12-6-12

Additional copies of this form can be obtained by contacting the Commission, or online at www.scoc.state.ny.us. Click on table of contents, Commission Forms, Request for a Variance (Formal application statement).

(SCOC Form #V-1)
(07/06)

Name of Facility: Oswego CJ Variance # 01-V-14

New: ☐ **Renewal:** ☒

Relief from Standard: 7040.

Number of Renewals: 13

Application by: Michael Stafford-Jail Adm

Date Request Rec:

Last Approved: 6-19-2012 **Length of Approval:** Six (6) Months **Expiration:** 1-1-2013

Write-up Prepared by: Diaz

Recommendation by Field Staff: Approval Six (6) Months

Recommendation at Briefing:

Final Recommendation:

SUMMARY OF VARIANCE REQUEST

The Oswego County Jail is requesting an extension of variance #01-V-14 which allows them to house four(4) additional females in the dayspace of the female housing unit.

MOST RECENT VARIANCE HISTORY

2012 Recommendation Approval
Action Taken- Approved at 6/12 meeting
Length of Variance Six (6) Months
Conditions if changed:

2012 Recommendation Approval
Action Taken- Approved at 3/12 meeting
Length of Variance 90 Days
Conditions if changed:

2011 Recommendation Approval
Action Taken- Approved at 10/2011 meeting
Length of Variance 90 Days
Conditions if changed:

2011 Recommendation Approval
Action Taken- Approved at 4/2011 meeting
Length of Variance Six (6) months
Conditions if changed:

2010 Recommendation Approval
Action Taken- Approved at 10/2010 meeting
Length of Variance Six (6) months

Conditions if changed:

2009 Recommendation Approval
Action Taken Approved at 10/2009 Meeting
Length of Variance 1 year
Conditions if changed

2008 Recommendation Approval
Action Taken Approved at 10/2008 Meeting
Length of Variance 1 year
Conditions if changed

CONSTRUCTION/RENOVATION PLANS
N/A

OTHER VARIANCES IN EFFECT
Variance **# 02-V-07**: The County is authorized to utilize the County Law Library located adjacent to the facility to provide inmates with access to legal reference materials

Variance **# 96-V-24:** The County is authorized to house an additional six (6) inmates in the day spac f the Intake Housing Unit.

STAFF INFORMATION AFTER SITE VISIT (DATE OF LAST VISIT TO FACILITY):
Site visit completed October 2012

DATE OF LAST CYCLE VISIT THAT STANDARD VIOLATIONS WERE IDENTIFIED:
JUNE 2012

ANY OPEN MINIMUM STANDARD VIOLATIONS:
Part 7024.4(c) -Property confiscation
Part 7003.4(a)-Supervision of inmates outside of facility housing areas
Part 7003.8(c) Firearms control
Part 7009.2(b) Nutritional adequacy
Part 7028.5 Exercise area searches
Part 7032.4(g) Grievance program requirements

ANY VIOLATIONS WHICH PERTAIN TO THE VARIANCE'S CONDITIONS:
See above

JUSTIFICATION FOR WHY VARIANCE SHOULD OR SHOULD NOT BE EXTENDED:

RECOMMENDED CONDITIONS IF APPROVED

At the December 2012 Commission Meeting this variance will be presented before the Commission. Commission staff recommends that the following conditions be included in the approval letter regarding this variance.

1) The county is authorized to house an additional four (4) female inmates in the day space of Female Housing Unit.

2) Inmates who are housed in the day space area ***must*** be provided with a bunk, cot, or at a minimum a boat to be used as a bed.

3) That one (1) cell is left vacant for inmates housed in the day space area to have direct access to toilet and sink facilities, thereby displacing one (1) inmate. The displaced inmate may be housed in the day space area.

4) Active supervision must be provided on a 24-hour basis, pursuant to 9NYCRR Section 7003.2(c).

5) Inmates housed in the above-noted areas receive the same services and programs as the general population.

6) The county shall not exceed the rated MFC for the purpose of boarding inmates. The Commission does not approve variances for the purpose of generating revenue.

7) The facility shall maintain compliance with the requirements of Correction Law 500-b and Part 7013, Classification.

REVIEWED BY REGIONAL SUPERVISOR: **DATE:** 12/4/12

OFFICIAL USE ONLY:

NOTES OF MEETING: _____

OSWEGO COUNTY SHERIFF'S OFFICE

ADMINISTRATION
(315) 349-3307
FAX (315) 349-3483
ROAD PATROL
(315) 349-3411
FAX (315) 349-3303
CRIMINAL INVESTIGATION
(315) 349-3318
FAX (315) 349-3317

REUEL A. TODD
SHERIFF

EUGENE F. SULLIVAN, III
UNDERSHERIFF

CIVIL DIVISION
(315) 349-3302
FAX (315) 349-3373
1-800-562-7583
JAIL DIVISION
(315) 349-3300
FAX (315) 349-3349

39 Churchill Road, Oswego, New York 13126-6613

OSWEGO COUNTY CORRECTIONAL FACILITY
Facsimile Number: (315) 349-3349

FAX TRANSMISSION
COVER SHEET

NUMBER OF PAGES INCLUDING COVER SHEET: 7

DATE: 12/4/12

TIME: 10 55 HR

TO: CYNTHIA DIAZ

DIVISION: NYS COMMISSION OF CORRECTION

FAX NO.: 518-485-2467

FROM: Michael K. Stafford, Correction Administrator

DIVISION: Oswego County Correctional Facility

COMMENTS: VARIANCE No. 01-V-14 (FEMALE UNIT)

RESPONSE REQUESTED: YES NO

New York State
Commission of Correction
80 Wolf Road
Albany, New York 12205
518-485-2465
518-485-2467 (Fax)

New	_____
Renewal	_____
Variance #	_____
(SCOC USE ONLY)	

Thomas A. Beilein
Chairman

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: Oswego County Correctional Facility

Person requesting: Michael K. Stafford
Correction Administrator
(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: 7040 Section: 03 Subdivision: N/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) Inmates housed in the day space area shall be provided with a bunk, cot, or at a minimum, a "boat" to be used as a bed, and one (1) cell shall be left vacant to allow these inmates direct access to sink and toilet facilities. "Active Supervision" shall be provided on a 24-hour basis. The inmates housed in the day space area shall receive the same services and programs as the general population.

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

Periodic fluctuations in inmate population necessitates this request for the extention of Variance # 01-V-14, regarding the Women's Housing Unit. The variance extention will continue to allow the facility to house four (4) additional inmates in the dayroom area of the Women's Housing Unit.

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

_____ Days _____ Weeks 12 Months

E. If this variance request is approved, what plans, provisions and timetables are in place for achieving full compliance with the Minimum Standard at issue such as adding to the MFC, etc. (Use additional sheets to provide additional supporting documentation, if necessary).

The requested variance extention is intended to address short-term fluctuations in inmate population, resulting from periodic intermittent sentences and classification procedures. Although there is no long-term plan to alleviate this occasional need, any use of this variance is intended to be short-term in nature.

A copy of the existing variance and conditions set by the Commission is attached.

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 the variance is requested for as well as how many additional inmates you are requesting to be housed in a particular area.

Housing Area (Name and type, i.e. 1 North, dorm, linear)	Sq. Ft.	Number of Sinks	Number of Showers	Number of Toilets	Current MFC	Requested Number of Variance Beds
Women's Housing Unit	1150	14	04	14	14	4

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

(Page 1 of 1)

G. Has this variance been previously approved?

Yes X If yes, include the variance number 01-V-14 No _____

Michael K. Stafford

Michael K. Stafford

Signature (~~Sheriff~~) (~~Chief Administrative Officer~~) Date 12/4/12
Correction Administrator

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(SCOC Form #V-1)
(07/06)

STATE OF NEW YORK • EXECUTIVE DEPARTMENT
STATE COMMISSION OF CORRECTION
Alfred E. Smith State Office Building
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Albany, New York 12210-8001
(518) 485-2346
FAX (518) 485-2467

CHAIRMAN
Thomas A. Bellein

COMMISSIONER
Phyllis Harrison-Ross, M.D.

June 19, 2012

Sheriff Reuel A. Todd
Oswego County Sheriff's Office
39 Churchill Road
Oswego, New York 13126

RE: Variance No. 01-V-14

Dear Sheriff Todd:

The Commission has reviewed the county's application for a variance with respect to compliance with the provisions of 9 NYCRR Section 7040.3 and has determined at the June 19, 2012 Commission meeting that the request be approved for a period of six **months.**

Pursuant to this action, the following conditions shall apply:

1) The county is authorized to house an additional four (4) female inmates in the W-51 day space of Female Housing Unit, which includes cells #101 and #102.

Location	Capacity	Increase	Total Housed
Female Housing Unit Day Room W-51	2	4 (3 with cell vacated)	Up to 6 (includes relocation of inmate from vacated cell to the dayspace, provided the number of inmates in the dayspace does not exceed four.

2) Inmates who are housed in the day space area *must* be provided with a bunk, cot, or at a minimum a boat to be used as a bed.

3) That one (1) cell is left vacant for inmates housed in the day space area to have direct access to toilet and sink facilities, thereby displacing one (1) inmate. The displaced inmate may be housed in the day space area, provided the number of inmates in the dayspace area does not exceed four.

4) Active supervision must be provided on a 24-hour basis, pursuant to 9NYCRR Section 7003.2(c).

5) Inmates housed in the above-noted areas receive the same services and programs as the general population.

6) The county shall not exceed the rated MFC for the purpose of boarding inmates. The Commission does not approve variances for the purpose of generating revenue.

7) The facility will ensure compliance with all elements of Part 7013.

This variance will expire on **January 1, 2013**, and will appear on the agenda for the December 2012 Commission meeting. If the County finds there is a need for an extension of this variance, a written request must be submitted to the Commission **45 days** prior to that meeting. Therefore, by **November 2, 2012**, the extension request must be received to avoid any unnecessary delays in processing the renewal review.

Sincerely,

Thomas A. Beilein
Chairman

cc: Mike Stafford, Administrator

Name of Facility: Oswego CJ Variance # 96-V-24

New: ☐ **Renewal:** ☒

Relief from Standard: 7040.3

Number of Renewals: 18

Application by: Michael Stafford-Jail Adm

Date Request Rec: 4-26-12

Last Approved: June 19, 2012 **Length of Approval:** Six (6) Months **Expiration:** 1/1/2013

Write-up Prepared by: Diaz

Recommendation by Field Staff: Approval for Six (6)Months

Recommendation at Briefing:

Final Recommendation:

SUMMARY OF VARIANCE REQUEST

The Oswego County Jail is requesting an extension of variance #96-V-24 which allows them to house an additional (6) inmates in the dayspace of intake housing.

MOST RECENT VARIANCE HISTORY

2012 Recommendation Approval
Action Taken- Approved at 6/12 meeting
Length of Variance Six (6) Months
Conditions if changed:

2012 Recommendation Approval
Action Taken- Approved at 3/12 meeting
Length of Variance 90 Days
Conditions if changed:

2011 Recommendation Approval
Action Taken- Approved at 10/2011 meeting
Length of Variance 90 Days
Conditions if changed:

2011 Recommendation Approval
Action Taken- Approved at 4/2011 meeting
Length of Variance Six (6) months
Conditions if changed:

2010 Recommendation Approval
Action Taken- Approved at 10/2010 meeting
Length of Variance Six (6) months
Conditions if changed:

2009 Recommendation Approval
Action Taken Approved at 10/2009 Meeting
Length of Variance 1 year
Conditions if changed:

2008 Recommendation Approval
Action Taken Approved at 10/2008 Meeting
Length of Variance 1 year
Conditions if changed:

CONSTRUCTION/RENOVATION PLANS
N/A

OTHER VARIANCES IN EFFECT
Variance **# 02-V-07**: The facility is authorized to utilize the County Law Library located adjacent to the facility to provide inmates with access to legal reference materials

Variance **# 01-V-14:** This variance authorizes the facility to house four (4) female inmates in the day space of Female Housing Unit.

STAFF INFORMATION AFTER SITE VISIT (DATE OF LAST VISIT TO FACILITY):
Site visit completed October 2012

DATE OF LAST CYCLE VISIT THAT STANDARD VIOLATIONS WERE IDENTIFIED:
July 2012

ANY OPEN MINIMUM STANDARD VIOLATIONS:
Part 7024.4(c) -Property confiscation
Part 7003.4(a)-Supervision of inmates outside of facility housing areas
Part 7003.8(c) Firearms control
Part 7009.2(b) Nutritional adequacy
Part 7028.5 Exercise area searches
Part 7032.4(g) Grievance program requirements

ANY VIOLATIONS WHICH PERTAIN TO THE VARIANCE'S CONDITIONS:

See above

JUSTIFICATION FOR WHY VARIANCE SHOULD OR SHOULD NOT BE EXTENDED:

RECOMMENDED CONDITIONS IF APPROVED

At the December 2012 Commission Meeting this variance will be presented before the Commission. Commission staff recommends that the following conditions be included in the approval letter regarding this variance.

1. The county is authorized to house an additional six (6) inmates in the day space of the Intake Housing Unit.

2. Inmates who are housed in the day space areas ***must*** be provided with a bunk, cot, or at a minimum a boat to be used as a bed.

3. One (1) cell must be left vacant for inmates housed in the day space areas to have direct access to toilet and sink facilities, thereby displacing one (1) inmate. The displaced inmate may be housed in the day space area.

4. That Active supervision must be provided on a 24-hour basis, pursuant to 9NYCRR Section 7003.2(c).

5. Inmates housed in the above-noted areas must receive the same services and programs as the general population.

6. The county shall not exceed the rated MFC for the purpose of boarding inmates. The Commission does not approve variances for the purpose of generating revenue.

   The facility shall maintain compliance with the requirements of Correction Law 500-b and Part 7013, Classification.

REVIEWED BY REGIONAL SUPERVISOR: TM **DATE:** 12/4/12

OFFICIAL USE ONLY:

NOTES OF MEETING: _____

OSWEGO COUNTY SHERIFF'S OFFICE

ADMINISTRATION
(315) 349-3307
FAX (315) 349-3483
ROAD PATROL
(315) 349-3411
FAX (315) 349-3903
CRIMINAL INVESTIGATION
(315) 349-3318
FAX (315) 349-3317

REUEL A. TODD
SHERIFF

EUGENE F. SULLIVAN, III
UNDERSHERIFF

CIVIL DIVISION
(315) 349-3302
FAX (315) 349-3373
1-800-562-7683
JAIL DIVISION
(315) 349-3300
FAX (315) 349-3349

39 Churchill Road, Oswego, New York 13126-6513

OSWEGO COUNTY CORRECTIONAL FACILITY
Facsimile Number: (315) 349-3349

FAX TRANSMISSION
COVER SHEET

NUMBER OF PAGES INCLUDING COVER SHEET: 7

DATE: 12/4/12

TIME: 1051 HR

TO: CYNTHIA DIAZ

DIVISION: NYS COMMISSION OF CORRECTION

FAX NO.: 518-485-2467

FROM: Michael K. Stafford, Correction Administrator

DIVISION: Oswego County Correctional Facility

COMMENTS: VARIANCE No. 96-V-24 (INTAKE UNIT)

RESPONSE REQUESTED: YES NO

New York State
Commission of Correction
80 Wolf Road
Albany, New York 12205
518-485-2465
518-485-2467 (Fax)

New _____
Renewal _____
Variance # _____
(SCOC USE ONLY)

Thomas A. Beilein
Chairman

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: Oswego County Correctional Facility

Person requesting: Michael K. Stafford
Correction Administrator
(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: 7040 Section: 03 Subdivision: N/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) Inmates housed in the day space area shall be provided with a bunk, cot, or at a minimum, a "boat" to be used as a bed, and one (1) cell shall be left vacant to allow these inmates direct access to sink and toilet facilities. "Active Supervision" shall be provided on a 24-hour basis. The inmates housed in the day space area shall receive the same services and programs as the general population.

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

Periodic fluctuations in inmate population necessitates this request for the extention of Variance # 96-V-24, regarding the Intake Housing Unit. The variance extention will continue to allow the facility to house six (6) additional inmates in the Intake Housing Unit.

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

_____ Days _____ Weeks 12 Months

E. If this variance request is approved, what plans, provisions and timetables are in place for achieving full compliance with the Minimum Standard at issue such as adding to the MFC, etc. (Use additional sheets to provide additional supporting documentation, if necessary).

The requested variance extention is intended to address short-term fluctuations in the inmate population, resulting from periodic intermittent sentences and classification procedures. Although there are no long-term plan to alleviate this occasional need, any use of this variance is intended to be short-term in nature.

A copy of the existing variance and conditions set forth by the Commission is attached.

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 the variance is requested for as well as how many additional inmates you are requesting to be housed in a particular area.

Housing Area (Name and type, i.e. I North, dorm, linear)	Sq. Ft.	Number of Sinks	Number of Showers	Number of Toilets	Current MFC	Requested Number of Variance Beds
Intake Housing Unit	2100	36	07	36	36	6

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

(Page 1 of 1)

G. Has this variance been previously approved?

Yes X If yes, include the variance number 96-V-24 No

Michael K. Stafford

Correction Administrator

Signature (~~Sheriff~~) (~~Chief Administrative Officer~~) Date 12/4/12

Additional copies of this form can be obtained by contacting the Commission, or online at www.scoc.state.ny.us. Click on table of contents, Commission Forms, Request for a Variance (Formal application statement).

(SCOC Form #V-1)
(07/06)

STATE OF NEW YORK • EXECUTIVE DEPARTMENT
STATE COMMISSION OF CORRECTION
Alfred E. Smith State Office Building
80 S. Swan Street, 12th Floor
Albany, New York 12210-8001
(518) 485-2346
FAX (518) 485-2467

CHAIRMAN
Thomas A. Bellein

COMMISSIONER
Phyllis Harrison-Ross, M.D.

June 19, 2012

Sheriff Reuel A. Todd
Oswego County Sheriff's Office
39 Churchill Road
Oswego, New York 13126

RE: Variance No. 96-V-24

Dear Sheriff Todd:

The Commission has reviewed the county's application for a variance with respect to compliance with the provisions of 9NYCRR Section 7040.3 and has determined at the June 19, 2012 Commission Meeting that the request be approved for **six months.**

Pursuant to this action the following conditions shall apply:

1) The county is authorized to house an additional six (6) male inmates in the I-51 day space of the Intake Housing Unit, which includes cells #101 and #102.

Location	Capacity	Increase	Total Housed
Intake Housing Unit Day Room I-51	8	6 (5 with cell vacated)	Up to 14(includes relocation of inmate from vacated cell to the dayspace, provided the number of inmates in the dayspace does not exceed six.

2) Inmates who are housed in the day space area ***must*** be provided with a bunk, cot, or at a minimum a boat to be used as a bed.

3) That one (1) cell is left vacant for inmates housed in the day space area to have direct access to toilet and sink facilities, thereby displacing one (1) inmate. The displaced inmate may be housed in the day space area, provided the number of inmates in the dayspace area does not exceed six.

4) Active supervision must be provided on a 24-hour basis, pursuant to 9NYCRR Section 7003.2(c).

5) Inmates housed in the above-noted areas receive the same services and programs as the general population.

6) The county shall not exceed the rated MFC for the purpose of boarding inmates. The Commission does not approve variances for the purpose of generating revenue.

7) The facility will ensure compliance with all elements of Part 7013.

This variance will expire on **January 1, 2013**, and will appear on the agenda for the December 2012 Commission meeting. If the County finds there is a need for an extension of this variance, a written request must be submitted to the Commission **45 days** prior to that meeting. Therefore, by **November 2, 2012**, the extension request must be received to avoid any unnecessary delays in processing the renewal review.

Sincerely,

Thomas A. Beilein

Thomas A. Beilein
Chairman

cc: Mike Stafford, Administrator

Name of Facility: Otsego Variance # 99-V-24

New: ☐ **Renewal:** X **Relief from Standard:** Section 7040.3

Application by: Sheriff Richard Devlin **Date Request Rec:** Oct 12, 2012

Last Approved: Dec, 2011 **Length of Approval:** One (1) Year **Expiration:** Jan 1, 2014

MFC: 100 **Total Variance Beds This Facility:** 6

Current Population: 78 (12/4/12) 78%

Write-up Prepared by: Todd D'Alessandro **Recommendation by Field Staff:** One (1) Year

Recommendation at Briefing:

Final Recommendation:

SUMMARY OF VARIANCE REQUEST

Sheriff Devlin is requesting a one year extension of this variance which currently authorizes the county to house four (4) inmates in the day space of Block-117 and two (2) inmates in the day space of Block-119 for a total of six (6) variance beds.

VARIANCE HISTORY

2011-	Recommendation	Approval
	Action Taken	Approved at 12/11 Meeting
	Length of Variance	1 year
	Conditions, if changed:	
2009-	Recommendation	Approval
	Action Taken	Approved at 12/09 Meeting
	Length of Variance	1 year
	Conditions, if changed:	
2009-	Recommendation	Approval
	Action Taken	Approved at 5/09 Meeting
	Length of Variance	6 mos
	Conditions, if changed:	
2008-	Recommendation	Approval
	Action Taken	Approved at 6/08 Meeting
	Length of Variance	1 year
	Conditions, if changed	
2007-	Recommendation	Approval
	Action Taken	Approved at 6/07 Meeting
	Length of Variance	1 year
	Conditions, if changed	
2006-	Recommendation	Approval
	Action Taken	Approved at 6/06 Meeting
	Length of Variance	1 year
	Conditions, if changed	

2005- Recommendation Approval
Action Taken Approved at 6/21/05 Meeting
Length of Variance 1 year
Conditions, if changed

2004- Recommendation Approval
Action Taken Approved at 12/21/04 Meeting
Length of Variance 6 months
Conditions, if changed

2004- Recommendation Approval
Action Taken Approved at 06/15/04 Meeting
Length of Variance 6 months
Conditions, if changed from first variance SAME

CONSTRUCTION/RENOVATION PLANS

None

OTHER VARIANCES IN EFFECT

Variance No. 02-V-01 authorizes the facility to utilize the county court library to supplement the required legal materials for the facility law library.

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

Oct 2012

DATE OF LAST CYCLE VISIT THAT STANDARD VIOLATIONS WERE IDENTIFIED:

Oct 2012

ANY OPEN MINIMUM STANDARD VIOLATIONS:

Section 7063, Chemical Agents – Re: Medical treatment following exposure when no facility medical staff is on duty. OPEN.

ANY VIOLATIONS WHICH PERTAIN TO THE VARIANCE'S CONDITIONS:

None

JUSTIFICATION FOR WHY VARIANCE SHOULD OR SHOULD NOT BE EXTENDED:

The variance **should be extended** to continue to allow the facility to deal with the fluctuating female population and maintain proper classification compliance with Part 7013, Inmate Classification, of the Minimum Standards

RECOMMENDED CONDITIONS IF APPROVED:

Commission staff recommends that the following conditions be included in the approval letter regarding this variance.

1) The county is authorized to house four (4) inmates in the day space of Block-117 and two (2) inmates in the day space of Block-119 for a total of six (6) variance beds.

2) Inmates who are housed in the day space areas ***must*** be provided with a bunk, or a cot, at a minimum.

3) When inmates are housed in the day space of the above-noted areas, a cell must be vacated in order to allow inmates in the day space with direct access to a toilet and sink. The displaced inmate will be housed in the day space.

4) Active supervision must be provided on a 24-hour basis, pursuant to 9NYCRR Section 7003.2(c) when inmates are housed in these areas.

5) Inmates housed in these areas must receive the same services and programs as the general population.

6) The county shall not exceed the rated MFC for the purpose of boarding inmates. The Commission does not approve variances for the purpose of generating revenue.

REVIEWED BY REGIONAL SUPERVISOR: Steve Savoy **DATE: DECEMBER 18, 2012**

12/7

OFFICIAL USE ONLY:

NOTES OF MEETING: _____

OTSEGO COUNTY
OFFICE OF THE SHERIFF

172 County Highway 33W
Cooperstown, New York 13326

RICHARD J. DEVLIN, JR
SHERIFF

OTSEGO COUNTY

CAMERON S. ALLISON
UNDERSHERIFF

STATE OF NEW YORK
RECEIVED
OCT 12 2012
STATE COMMISSION
OF CORRECTION

October 9, 2012

Mr. Thomas Beilein, Chairman
NYS Commission of Correction
Alfred E. Smith State Office Building
80 South Swan Street, 12th Floor
Albany, NY 12210

RE: Request for Renewal of Variance 99-V-24 regarding Variance Beds

Dear Chairman Beilein;
At this time I am requesting a renewal of our facility variance 99-V24 regarding variance beds. Enclosed please find the variance application form for same.

Thank you for your time and consideration in this matter.

Sincerely;

Richard J. Devlin Jr.
Sheriff

Copy for File

New York State
Commission of Correction
80 Wolf Road
Albany, New York 12205
518-485-2465
518-485-2467 (Fax)

New	_____
Renewal	_____
Variance #	_____
(SCOC USE ONLY)	

Thomas A. Beilein
Chairman

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: OTSEGO COUNTY

Person requesting: RICHARD J. DEVLIN 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: 7040 Section: 3 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)

REQUEST 1 YEAR RENEWAL OF CURRENT VARIANCE 99-V-24 WHICH CONTINUES TO ALLOW OUR FACILITY TO HOUSE OUR OWN FEMALE AND MALE PRISONERS

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

INMATE POPULATION REMAINS LEVEL AND ADDITIONAL BUNKS STILL REQUIRED

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

365 Days _____ Weeks _____ Months

E. If this variance request is approved, what plans, provisions and timetables are in place for achieving full compliance with the Minimum Standard at issue such as adding to the MFC, etc. (Use additional sheets to provide additional supporting documentation, if necessary).

WORKING WITH ASSIGNED FACILITY SPECIALIST, WE ARE OBTAINING PRODUCT AND SERVICE QUOTES FOR CONVERTING PROGRAM/CLASSROOM SPACE INTO GENERAL HOUSING.
CONVERSION OF THESE AREAS STILL NOT LIKELY TO NEGATE NEED OF THIS 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 the variance is requested for as well as how many additional inmates you are requesting to be housed in a particular area.

Housing Area (Name and type, i.e. 1 North, dorm, linear)	Sq. Ft.	Number of Sinks	Number of Showers	Number of Toilets	Current MFC	Requested Number of Variance Beds
BLOCK 117	456	5	1	5	4	4
BLOCK 119	348	4	1	4	3	2

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

G. Has this variance been previously approved?

Yes ___X___ If yes, include the variance number ___99-V-24___ No _____

Signature (Sheriff) (Chief Administrative Officer) Date 10/09/12

Additional copies of this form can be obtained by contacting the Commission, or online at www.scoc.state.ny.us. Click on table of contents, Commission Forms, Request for a Variance (Formal application statement).

(SCOC Form #V-1)
(07/06)

Name of Facility: Nassau County Jail Variance # 00-V-04

New: ☐ **Renewal:** ☒ **Relief from Standard:** 7040.3

Application by: James Ford, Commissioner **Date Request Rec:** 10/22/12

Last Approved: 2011 **Length of Approval:** 1 Year **Expiration:** January 1, 2013

Write-up Prepared by: Robert Cuttita, CFS II

Recommendation by Field Staff: Approve

Recommendation at Briefing:

Final Recommendation:

SUMMARY OF VARIANCE REQUEST

Presently the facility is conducting DWI / DART programs in these areas. These areas were toured while the programs were in progress and found that the staff and inmates take great pride in these program areas. The areas were maintained by both inmates and staff and the housing units and areas were extremely clean. These program housing areas allow for a maximum amount of inmate involvement without jeopardizing the safety and security of the facility. Inmates rotate on out of double bunking as they progress in the program.

HOUSING AREAS AFFECTED

AREA	MFC	INCREASE	TYPE OF HOUSING
E1K-Dorm	56	4	DWI/DART/HIPP Program

The county is authorized to double-cell and double bunk in each of the following areas listed below. The cells used for double-celling ***must*** be those cells which are closest to the officer's post.

AREA	MFC	INCREASE	TYPE OF HOUSING
E-2-G	52	8	DWI/DART (male)
E-2-H	52	8	DWI/DART (male)
D-3-D Pod	24	6	DWI/DART (female)

TOTAL = 26

VARIANCE HISTORY

2012 – Recommendation - Approval
Action Taken
Length of Variance

2011- Recommendation Approval
Action Taken approved
Length of Variance 1 year

2010- Recommendation Approval
Action Taken Approved at 1/10 Meeting
Length of Variance 1 year
Conditions, if changed:

2009- Recommendation Approval
Action Taken Approved at 1/09 Meeting
Length of Variance 1 year
Conditions, if changed:

CONSTRUCTION/RENOVATION PLANS:
N/A

OTHER VARIANCES IN EFFECT

DATE OF LAST CYCLE VISIT:
ONGOING IFP VISITS CONDUCTED IN 2012.

ANY OPEN MINIMUM STANDARD VIOLATIONS: ALL ISSUES ARE NOW DEEMED CLOSED. COMMISSION STAFF CONTINUE TO MAKE FREQUENT ON SITE VISITS TO MONITOR RENOVATIONS BEING CONDUCTED AT THE FACILITY.

ANY VIOLATIONS WHICH PERTAIN TO THE VARIANCE'S CONDITIONS:
N/A

JUSTIFICATION FOR WHY VARIANCE SHOULD OR SHOULD NOT BE APPROVED:
Nassau County Officials have over the past year improved greatly regarding previously open issues. Sanitation at the facility is very well maintained as observed during recent site visits. This program has and continues to benefit inmates.

RECOMMENDED CONDITIONS IF APPROVED

The county is authorized to double-cell and double bunk in each of the following areas listed below. The cells used for double-celling ***must*** be those cells which are closest to the officer's post.

Inmates who are housed in these areas ***must*** be provided with a bunk, cot, or at a minimum a "boat" to be used as a bed.

"Active supervision" must be provided on a 24-hour basis, pursuant to 9NYCRR Section 7003.2(c).

The inmates housed in the above noted areas must be provided with the same services and programs as the general population at the facility.

Commission staff will monitor the effects of the double-celling and double bunking programs on staff and inmates as well as the general operation of the facility.

The facility must maintain information on all double-celled inmates which shall include, but is not limited to: (a) name and location of the inmate; (b) date of entrance into and release from double-celling; and (c) reason for release. These records shall be made available to Commission staff upon request.

The facility will monitor its double-celling and double bunking plans by tracking rates of incidents, grievances, and complaints directly related to same. These records shall be made available to Commission staff upon request.

The county shall continue it's double-celling according to the double-celling plan submitted and approved by the Commission. The county shall advise the Commission of any substantive changes to the double-celling plan.

The county shall not exceed the rated MFC for the purpose of boarding inmates. The Commission does not approve variances for the purposes of generating revenue.

REVIEWED BY REGIONAL SUPERVISOR: **DATE:** 12/7/12

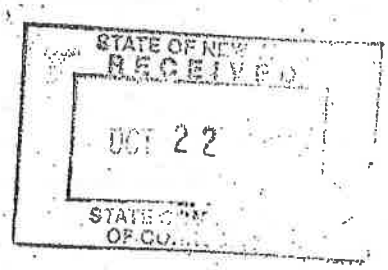
REVIEWED BY DEPUTY DIRECTOR: **DATE:** 12/7

OFFICIAL USE ONLY:

NOTES OF MEETING: _____

EDWARD P. MANGANO
COUNTY EXECUTIVE

MICHAEL J. SPOSATO
SHERIFF



SHERIFF'S DEPARTMENT
NASSAU COUNTY CORRECTIONAL CENTER
100 CARMAN AVENUE
EAST MEADOW, NY 11554

October 16, 2012

Hon. Thomas A. Beilein (Chairman)
NYS Commission of Correction
Alfred E. Smith State Office Building
80 S. Swan Street, 12th Floor
Albany, NY 12210

Re: Variance #2000-V-04 Renewal

Dear Chairman Beilein,

Enclosed you will find the variance #2000-V-04 renewal application for housing areas E1K, E2G, E2H, and D3D at the Nassau County Correctional Center.

Please contact me at (516) 572-4100 should you require any further information relative to this matter. Thank you.

Capt J Ford

James A. Ford
Captain
Chief Administrative Officer

New York State
Commission of Correction
80 Wolf Road
Albany, New York 12205
518-485-2465
518-485-2467 (Fax)

New	_____
Renewal	_____
Variance #	_____
(SCOC USE ONLY)	

STATE OF NEW YORK
RECEIVED
OCT 22
STATE OF NEW YORK
DOC CORRECTION

Thomas A. Beilein
Chairman

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: NASSAU COUNTY CORRECTIONAL CENTER

Person requesting: JAMES A. FORD, CAPTAIN

(~~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: 7040 Section: 3 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)

There are no requests for modifications, as this is a renewal.

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

To provide rehabilitative services to a maximum number of inmates at the Nassau County Correctional Center.

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

_____ Days _____ Weeks 12 Months

E. If this variance request is approved, what plans, provisions and timetables are in place for achieving full compliance with the Minimum Standard at issue such as adding to the MFC, etc. (Use additional sheets to provide additional supporting documentation, if necessary).

This is a renewal.

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 the variance is requested for as well as how many additional inmates you are requesting to be housed in a particular area.

Housing Area (Name and type, i.e. 1 North, dorm, linear)	Sq. Ft.	Number of Sinks	Number of Showers	Number of Toilets	Current MFC	Requested Number of Variance Beds
E1K DORM	4140	6	5	3 URINALS 3 Toilets	56	4
E2G BLOCK	5535	52	8	52	52	8
E2H BLOCK	5535	52	8	52	52	8
D3D BLOCK	3620	24	4	24	24	6

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

G. Has this variance been previously approved?

Yes X If yes, include the variance number _____ No 00-V-04

Capt S. Ford CAO 10-17-12

Signature (~~SIGNATURE~~) (Chief Administrative Officer) Date

Additional copies of this form can be obtained by contacting the Commission, or online at www.scoc.state.ny.us. Click on table of contents, Commission Forms, Request for a Variance (Formal application statement).

(SCOC Form #V-1)
(07/06)

Name of Facility: Rockland CF Variance # 95-V-17

New: ☐ **Renewal:** ☒

Number of Renewals: 19 **Relief from Standard:** 7040

Application by: Sheriff Falco **Date Request Rec:** 5-30-12

Last Approved: 6-19-12 **Length of Approval:** six months **Expiration:** 1-1-13

Write-up Prepared by: Moran

Recommendation by Field Staff: Approval for one year

Recommendation at Briefing:

Final Recommendation:

SUMMARY OF VARIANCE REQUEST

Sheriff Falco is requesting an extension of this variance which authorizes the county to double cell. The Rockland County Jail continues to require additional bed space for the occassional population spikes that occur throughout the year.

MOST RECENT VARIANCE HISTORY

2012 Recommendation Approval
Action Taken Approved at Meeting 6/12
Length of Variance 6 months
Conditions, if changed

2012 Recommendation Approval
Action Taken Approved at Meeting 4/12
Length of Variance 3 months
Conditions, if changed

2012 Recommendation Approval
Action Taken Approved at 1/12Meeting
Length of Variance 3 months
Conditions, if changed

2011 Recommendation Approval
Action Taken Approved at 10/11Meeting
Length of Variance 3 months
Conditions, if changed

2010 Recommendation Approval
Action Taken Approved at 10/10Meeting
Length of Variance 1 year
Conditions, if changed

2009 Recommendation Approval
Action Taken Approved at 10/09 Meeting
Length of Variance 1 year
Conditions, if changed:

2008 Recommendation Approval
Action Taken Approved at 10/08 Meeting
Length of Variance 1 year
Conditions, if changed:

CONSTRUCTION/RENOVATION PLANS
N/A

OTHER VARIANCES IN EFFECT
03-V-14 – OTC Medications

STAFF INFORMATION AFTER SITE VISIT (DATE OF LAST VISIT TO FACILITY):
November 2012

DATE OF LAST CYCLE VISIT THAT STANDARD VIOLATIONS WERE IDENTIFIED:
June 2012

ANY OPEN MINIMUM STANDARD VIOLATIONS:
Part 7003 – Firearm inspection documentation: need to verify corrective action
Part 7028 – Denial of outdoor exercise documentation: need to verify corrective action

ANY VIOLATIONS WHICH PERTAIN TO THE VARIANCE'S CONDITIONS:
None

JUSTIFICATION FOR WHY VARIANCE SHOULD OR SHOULD NOT BE EXTENDED:
This variance permits the facility the necessary flexibility to appropriately classify inmates pursuant to Minimum Standard requirements

RECOMMENDED CONDITIONS IF APPROVED

1) The county is authorized to double-cell in the following areas:

Housing Area	Beds @ Standard	Double Celled Beds	Total Capacity
A-Wing	40	10	50
B-Wing	40	10	50
F-Wing	22	7	29

2) When F-Wing variance is being implemented the local control room must be staffed during all tours of duty. All security operations within the wing will be operated with keys, and all sally port entrances, outdoor recreation yard doors, and interview room doors shall be operated remotely via Central Control.

3) Active supervision must be provided on a 24-hour basis, pursuant to 9NYCRR Section 7003.2(c) when inmates are housed in any of the above-noted areas.

4) That inmates housed in these areas receive the same services and programs as the general population.

5) That Commission staff will monitor the effects of the double-celling program on staff and inmates as well as the general operation of the facility.

6) The facility will maintain information on all double-celled inmates which shall include, but is not limited to: (a) name and location of the inmate; (b) date of entrance into and release from double-celling; and (c) reason for release. These records shall be made available to Commission staff for inspection.

7) That the facility will monitor its double-celling plan by tracking rates of incidents, grievance, and complaints directly related to double-celling.

8) The county will continue to implement its double-celling program according to the double-celling plan submitted and approved by the Commission. The county shall advise the Commission of any substantive changes to the double-celling plan.

9) That the county shall not exceed the rated MFC for the purpose of boarding inmates. The Commission does not approve variances for the purpose of generating revenue.

REVIEWED BY REGIONAL SUPERVISOR: TM **DATE:** 12-6-12

12/7/12

OFFICIAL USE ONLY:

NOTES OF MEETING: _____

New York State
Commission of Correction
80 Wolf Road
Albany, New York 12205
518-485-2465
518-485-2467 (Fax)

New	_____
Renewal	_____
Variance #	_____
(SCOC USE ONLY)	

RECEIVED
NOV - 5 2012
STATE COMMISSION OF CORRECTION

Thomas A. Beilein
Chairman

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: Rockland County Correctional Center

Person requesting: Captain John Liska

(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: 7040 Section: 3 Subdivision: n/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)

Establish / Maintain ten (10) double cells in A-Wing
Establish / Maintain ten (10) double cells in B-Wing
Establist / Maintain seven (7) double cells in F-Wing
Maintain conditions of Variance 95-v-17 (Revised) as issued on June 19, 2012

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

Please see below.

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

365 Days _____ Weeks _____ Months

E. If this variance request is approved, what plans, provisions and timetables are in place for achieving full compliance with the Minimum Standard at issue such as adding to the MFC, etc. (Use additional sheets to provide additional supporting documentation, if necessary).

This variance for double celling will only be used in the event that the housing requirements of the inmate population force us to put this variance into effect.

*** C - Above

1) The ten (10) double cells in A-Wing Housing area asist us in maintaining proper classification of minors and adults and their proper separation.

2) The ten (10) double cells in B-Wing allows us the ability to move inmates for various reasons in order to meet classifications. Ex: Adminstrative Segregation and/or Medical Lock.

3) The female population is such that it is important that we are able to maINTAIN THE seven (7) double cells in the event of overcrowding situations.

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 the variance is requested for as well as how many additional inmates you are requesting to be housed in a particular area.

Housing Area (Name and type, i.e. 1 North, dorm, linear)	Sq. Ft.	Number of Sinks	Number of Showers	Number of Toilets	Current MFC	Requested Number of Variance Beds
A - Wing	10,000	40	4	40	40	10
B - Wing	10,000	40	4	40	40	10
F - Wing	6,500	22	2	22	22	7

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

(Page _____ of _____)

G. Has this variance been previously approved?

Yes XX If yes, include the variance number 95-V17 No _____

Capt. J. C. Liska

Signature (Sheriff) (Chief Administrative Officer) Date 11/01/2012

Captain John Liska

Additional copies of this form can be obtained by contacting the Commission, or online at www.scoc.state.ny.us. Click on table of contents, Commission Forms, Request for a Variance (Formal application statement).

(SCOC Form #V-1)
(07/06)

For Department of State use only.

Notice of Proposed Rule Making

Correction, State Commission of
(SUBMITTING AGENCY)

[x] Approval has been granted by GORR to propose this rule making.
[ ] This rule making does not require GORR approval.

TEXT/SUBSTANCE AND ATTACHMENTS SUBMITTED: [ ] **E-MAIL** (nysregister@dos.state.ny.us)
[ ] **DISK**

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.

1. A. *Proposed action:*

Amendment of	sections 7005.7 and 7025.2 of	Title 9	NYCRR
		Title	NYCRR
		Title	NYCRR
		Title	NYCRR
		Title	NYCRR
		Title	NYCRR

B. [ ] This is a consensus rule making. A statement is attached setting forth the agency's determination that no person is likely to object to the rule as written [SAPA §202(1)(b)(i)].

C. [ ] This rule was previously proposed as a consensus rule making under I.D. No. _____. Attached is a brief description of the objection that caused/is causing the prior notice to be withdrawn [SAPA §202(1)(e)].

D. [ ] This rule is proposed pursuant to [SAPA §207(3)], 5-Year Review of Existing Rules (see also item 16).

2. *Statutory authority under which the rule is proposed:*

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

3. *Subject of the rule:*

Inmate packages.

4. *Purpose of the rule:*

To allow local correctional facilities to regulate the source of incoming inmate packages.

5. *Public hearings* (check box and complete as applicable):

[x] A public hearing is not scheduled. (*SKIP TO ITEM 8*)

[ ] A public hearing is required by law and is scheduled below. (***Note***: first hearing date must be at least 45 days **after** publication of this notice unless a different time is specified in statute.)

[ ] A public hearing is not required by law, but is scheduled below.

Time:	*Date:*	*Location:*

6. *Interpreter services* (check only if a public hearing is scheduled):
   [ ] Interpreter services will be made available to hearing impaired persons, at no charge, upon written request to the agency contact designated in this notice.

7. Accessibility (check appropriate box only if a public hearing is scheduled):
   [ ] All public hearings have been scheduled at places reasonably accessible to persons with a mobility impairment.
   [ ] Attached is a list of public hearing locations that are **not** reasonably accessible to persons with a mobility impairment. An explanation is submitted regarding diligent efforts made to provide accessible hearing sites.

8. *Terms of rule* (SELECT ONE SECTION):
   A. [x] The full text of the rule is attached since it is under 2,000 words.
   B. [ ] A summary of the rule is attached since the full text of the rule is over 2,000 words.
      [ ] Full text is posted at the following State website: _____
      [ ] Full text is not posted on a State website.
      [ ] Full text is not posted on a State website; this is a consensus rule or a rule defined in SAPA § 102 (2)(a)(ii).
   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].

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

Agency contact Brian M. Callahan, 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:* Brian.Callahan@scoc.ny.gov

10. *Submit data, views or arguments to* (complete only if different than previously named agency contact):

Agency contact _____
Agency name _____
Office address _____
_____
Telephone _____ *E-mail:* _____

11. *Public comment will be received until:*

[x] 45 days after publication of this notice (MINIMUM public comment period when full text is attached because it is under 2000 words or full text of rule has been posted on a State web site or the rule is a consensus rule or a rule defined under SAPA §102[2][a][ii] [Rate Making]).

[ ] 60 days after publication of this notice (MINIMUM public comment period when full text is not attached or full text is not posted on a State web site or the rule is not a consensus rule or a rule defined under SAPA §102[2][a][ii] [Rate Making]).

[ ] 5 days after the last scheduled public hearing required by statute (MINIMUM, with required hearing). This box may not be checked and the minimum 60-day comment period applies if full text is not attached or text is not posted on a State web site or the rule is not a consensus rule or a rule defined under SAPA §102[2][a][ii] [Rate Making]).

[ ] Other: (*specify*) _____.

12. A prior emergency rule making for this action was previously published in the _____ issue of the *Register,* I.D. No. _____.

13. *Expiration date* (check only if applicable):

[ ] This proposal will not expire in 365 days because it is for a "rate making" as defined in SAPA §102 (2)(a)(ii).

14. *Additional matter required by statute:*

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

[x] No additional material required by statute.

15. *Regulatory Agenda* (The **Division of Housing and Community Renewal; Workers' Compensation Board;** and the departments of **Agriculture and Markets, Banking, Education, Environmental Conservation, Family Assistance, Health, Insurance, Labor, Motor Vehicles** and **State** and other department specified by the Governor or his designee *must complete* this item. If your agency has an optional agenda published, that should also be indicated below):

[ ] This action was a Regulatory Agenda item in the first January issue of the _____ (year) *Register.*

[ ] This action was a Regulatory Agenda item in the last June issue of the _____ (year) *Register.*

[ ] This action was not under consideration at the time this agency's Regulatory Agenda was submitted for publication in the *Register.*

[x] Not applicable.

16. ***5-Year Review of Existing Rules*** (ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

This rule is proposed pursuant to SAPA §207 (item 1D applies) (check applicable boxes):

[ ] Attached is a statement setting forth a reasoned justification for modification of the rule. Where appropriate, include a decision of the degree to which changes in technology, economic conditions or other factors in the area affected by the rule necessitate changes in the rule.

[ ] Attached is an assessment of public comments received by the agency in response to the listing of the rule in the regulatory agenda.

[ ] An assessment of public comments is not attached because no comments were received.

[x] Not applicable.

17. ***Regulatory Impact Statement (RIS)***
(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS, EXCLUDING SUMMARIES OF STUDIES, REPORTS OR ANALYSES [Needs and Benefits]):

A. The attached RIS contains:

[x] The full text of the RIS.

[ ] A summary of the RIS.

[ ] 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. A RIS is **not attached,** because this rule is:

[ ] subject to a consolidated RIS printed in the *Register* under I.D. No.: _____ - _____; issue date: _____.

[ ] exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].

[ ] exempt, as defined in SAPA §102(11) [Consensus Rule Making].

C. [ ] A **statement is attached** claiming exemption pursuant to SAPA § 202-a (technical amendment).

18. ***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.

[ ] A consolidated RFA, because this rule is one of a series of closely related rules.

B. [x] 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: _____.

[ ] is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].

[ ] is exempt, as defined in SAPA §102(11) [Consensus Rule Making].

19. ***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.

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

B. [x] 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: _____.

[ ] is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].

[ ] is exempt, as defined in SAPA §102(11) [Consensus Rule Making].

20. ***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.

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

B. [x] 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 explains the agency's finding 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.

[ ] 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: _____.

[ ] is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].

[ ] is proposed by the State Comptroller or Attorney General.

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 12/18/2012

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. **Collate the original notice and attachments** as: (1) form; (2) text or summary of rule; and, ***if any***, (3) regulatory impact statement, (4) regulatory flexibility analysis for small businesses and local governments, (5) rural area flexibility analysis, (6) job impact statement. Submit the originals, as collated **and ONE copy of that collated set.**
3. **Mail or hand deliver hard copy of rule making package to:** Department of State, Division of Administrative Rules, 99 Washington Ave., Suite 650, Albany, NY 12231-0001.
4. **E-mail text/substance and attachments to:** nysregister@dos.state.ny.us **or** attach a disk containing the text/substance and required material.

Text:

Subdivisions (c) and (f) of section 7005.7 of Title 9 are amended to read as follows:

(c) Women prisoners shall be permitted to wear brassieres. Women prisoners shall be permitted to receive brassieres from any source, subject to the limitations of subdivision (d) of section 7025.2 of this Title, and to wear such brassieres within the facility.

(f) Prisoners who are not required to wear facility-issued clothing shall be permitted to wear clothing worn by such prisoners at the time of admission to the facility and[/or] clothing received from any other source, subject to the limitations of subdivision (d) of section 7025.2 of this Title.

Section 7025.2 of Title 9 is amended to read as follows:

§ 7025.2 Incoming prisoner packages

(a) The chief administrative officer shall maintain a list of items prisoners may receive.

(b) As used in this [section] Part, the term *contraband* shall mean any item in an incoming prisoner package which constitutes a threat to the safety, security or good order of a facility, or the health of any individual, or any item not permitted pursuant to subdivisions (a) and (d) of this section or any item which may constitute a criminal offense or may be the fruits or instruments of a crime [shall constitute contraband].

(c) Upon admission to the facility, prisoners shall be provided with a copy of the list referenced in subdivision (a) of this section.

(d) In his or her discretion, the chief administrative officer may require that the contents of any incoming prisoner package be purchased from, and mailed to the facility by, a company whose ordinary business includes the sale and shipping of such items.

Regulatory Impact Statement (RIS):

The New York State Commission of Correction ("Commission") seeks to amend sections 7005.7 and 7025.2 of Title 9 NYCRR.

1.) Statutory authority:

Subdivision (6) of section 45 of the Correction Law authorizes the Commission of Correction 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.

2.) Legislative objectives:

By vesting the Commission with this rulemaking authority, the Legislature intended the Commission to promulgate minimum standards setting forth an inmate's entitlement to packages from friends and relatives.

3.) Needs and Benefits:

In response to Executive Order No. 17, Commission of Correction Chairman Thomas A. Beilein convened a workgroup to undertake a regulatory review of the Commission's Rules, Regulations and Minimum Standards for the Management of County Jails and Penitentiaries. Participants included sheriffs, jail administrators, and representatives of the New York State Division of the Budget, New York State Sheriffs' Association and the New York State Association of Counties. Of the various issues discussed, many expressed their desire to

amend the Commission's regulations requiring a local correctional facility's obligation to accept inmate packages, as it is believed that it is often a means for inmates to acquire contraband.

While there is no constitutional right to receive packages in a local correctional facility [Bell v. Wolfish, 441 U.S. 520, 99 S.Ct. 1861 (1979)], the Commission's minimum standards do provide for the receipt of packages by inmates. 9 NYCRR Part 7025. Specifically, 9 NYCRR §7025.1 provides that any "prisoner shall be permitted to receive packages and send packages to any person." Section 7025.2(a) requires the facility to maintain a list of items inmates may receive, while section 7025.2(c) requires that such list be provided to each inmate upon admission.

Inmate packages often contain items such as food and clothing, and are often sent directly from friends and relatives. As discussed in the workgroup, local correctional facilities have noticed an increased sophistication in the concealment of contraband in prisoner packages, including the practice of resealing food and clothing packages. Consequently, it is the Commission's opinion that such opportunities may be diminished if a local correctional facility can implement a rule whereby inmate packages must be purchased from, and mailed to the facility by, a company whose ordinary business includes the sale and shipping of such items. Further, given the ease by which items may now be ordered and delivered by such companies as Amazon, Walmart, etc., the Commission maintains that an inmate's access to packages will not be significantly limited by the proposed amendment.

4.) Costs:

a. Costs to regulated parties for the implementation of and continuing compliance with the rule: None. The regulation allows for, but does not require, a local correctional facility's chief administrative officer to implement a rule that prisoner packages be purchased from, and mailed to the facility by, a company whose ordinary business includes the sale and shipping of such items.

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 will be no 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 a county correctional facility.

5.) Local government mandates:

None.

6.) Paperwork:

This rule does not require any additional paperwork on regulated parties.

7.) Duplication:

This rule does not duplicate any existing State or Federal requirement.

8.) Alternatives:

The alternative, maintaining the current regulations relative to inmate packages, was explored by the Commission. This alternative was rejected upon the Commission's finding, as set forth above, that the proposed amendment may diminish opportunities for inmates to acquire contraband, thus increasing the safety and security of local correctional facilities.

9.) Federal standards:

There are no applicable minimum standards of the federal government.

10.) Compliance schedule:

Each county correctional facility is expected to be able to achieve compliance with the proposed rule immediately.

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 allow local correctional facilities to regulate the source of incoming inmate packages. Accordingly, it 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.

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 allow local correctional facilities to regulate the source of incoming inmate packages. Accordingly, 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.

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 allow local correctional facilities to regulate the source of incoming inmate packages. As such, there will be no impact on jobs and employment opportunities.