



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. Beilein

COMMISSIONERS
Phyllis Harrison-Ross, M.D.
Thomas J. Loughren

MEMORANDUM

TO: COMMISSION MEMBERS
FROM: Brian Callahan, Acting Counsel 
RE: AGENDA FOR COMMISSION MEETING
DATE: August 13, 2013 at 11:00AM

I. MINUTES

SCOC
July 23, 2013

CPCRC
August 8, 2013

MRB
Administrative Closures

II. VARIANCES

A. Orleans County Jail
98-V-19
(Section 7040.3 Facility Population Limitation)

III. MFC

B. Essex County Jail

C. Suffolk County Jail-Yaphank

IV. Construction

**D. NYS Department of Corrections and Community Supervision
Bedford Hills Correctional Facility**

Recreation Area Expansion, RMU Building No. 126 and
Sitewide CCTV Upgrade

**E. NYS Department of Corrections and Community Supervision
Taconic Correctional Facility**

Provide Cell Locking System Housing Unit Building No. 81

F. Tompkins County Jail

PSB Roof Renovation Proposal

V. REGULATORY REFORM

G. Notice of Proposed Rule Making

Amendment of Sections 7032.5 and 7032.8 of Title 9 NYCRR



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CHAIRMAN
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MINUTES

LOCATION:

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

DATE OF MEETING: July 23, 2013

Chairman Beilein called the meeting to order at 12:08pm.

PRESENT:

- Thomas A. Beilein, Chairman
- Phyllis Harrison-Ross M.D., Commissioner
- Thomas J. Loughren, Commissioner
- Michael Donegan, Counsel
- Brian Callahan, Staff Counsel
- Rich Kinney, CFS III
- Jim Lawrence, Director of Operations
- Tricia Amati, Assistant to Chairman/Commissioners
- Peggy Loffredo, Forensic Unit, Supervisor
- Terry Moran, Capital West, Supervisor
- Bill Benjamin, Hudson Lakes, Supervisor
- Steve Savoy, South Central, Supervisor
- Bob Cuttita, Correctional Specialist II
- Emelia, Knox, Correctional Specialist I
- Michelle Crane, Correctional Specialist I
- Walter McClure, Deputy Director of Public Information
- New York State Division of Criminal Justice Services

I. MINUTES

SCOC
 June 18, 2013

Approved Unanimous
Ross/Loughren

CPCRC
 July 11, 2013

Approved Unanimous
Loughren/Ross

MRB
Administrative Closures

Approved Unanimous
Ross/Loughren

II. VARIANCES

A. Monroe County Correctional Facility
98-V-20
(Section 7040.3 Facility Population Limitation)

Denied Unanimous
Loughren/Ross

B. Monroe County Correctional Facility
13-V-05 (New)
(Section 7040.3 Facility Population Limitation)

Approved Unanimous
Six (6) Months
Ross/Loughren

C. Monroe County Jail
07-V-01
(Section 7040.3 Facility Population Limitation)

Denied Unanimous
Ross/Loughren

III. MFC

D. Essex County Jail

Approved Unanimous
Tabled Pending Receipt of
information for Facility
Planning

E. Monroe County Correctional Facility

Approved Unanimous
Loughren/Ross

IV. CONSTRUCTION

F. Montgomery County Courthouse
Holding Cells-Renovation

Approved Unanimous
Loughren/Ross

G. NYS Department of Corrections
and Community Supervision
Auburn Correctional Facility
Cell Back & Domestic Piping "C" Block-
Renovation

Approved Unanimous
Ross/Loughren

H. NYS Department of Corrections and
and Community Supervision
Green Haven Correctional Facility
Rehab Showers Blocks A-H-Renovation

Withdrawn For Revision
at DOCCS Request

**I. NYS Department of Corrections
and Community Supervision
Mid-State Correctional Facility
Replace Windows Buildings 1, 2, 4 & 9-
Renovation**

**Approved Unanimous
Loughren/Ross**

**J. Ontario County Jail
(1) Dorm Conversion**

**Approved Unanimous
Loughren/Ross**

(2) Housing Pod Sub dayroom-Renovation

**Approved Unanimous
Ross/Loughren**

Commissioner Ross made a motion to go into executive session at 12:26pm 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 12:55pm, which was seconded by Commission Loughren.

The meeting resumed at 12:56pm. Motion was made by Commissioner Ross to ratify actions taken in Executive Session regarding MRB and Construction items, seconded by Commissioner Loughren and approved.

Commissioner Ross made a motion to adjourn at 12:57pm, which was seconded by Commissioner Loughren.

Respectfully submitted,

Tricia Amati
Assistant to Chairman/Commissioner



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CHAIRMAN
Thomas A. Beilein

COMMISSIONERS
Phyllis Harrison-Ross, M.D.
Thomas J. Loughren

EXECUTIVE SESSION

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

DATE OF MEETING: July 23, 2013

PRESENT:

Thomas A. Beilein, Chairman
Phyllis Harrison-Ross M.D., Commissioner
Thomas J. Loughren, Commissioner
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Steve Savoy, South Central, Supervisor
Bob Cuttita, Correctional Specialist II
Emelia, Knox, Correctional Specialist I
Michelle Crane, Correctional Specialist I
Walter McClure, Deputy Director of Public Information
New York State Division of Criminal Justice Services

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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: 7-17-13

Last Approved: May 2013 Length of Approval: 3 Months Expiration: Sept. 1, 2013

Write-up Prepared by: Terrence Moran

Recommendation by Field Staff: Approve for 3 months

Recommendation at Briefing:

Final Recommendation:

SUMMARY OF VARIANCE REQUEST

The facility is requesting a continued extension of the variance beds authorized via variance 98-V-19 which authorizes the county to house an additional 17 inmates in the jail through the use of housing in day space areas. The continuation of these variance beds is necessary due to commencement (August 15) of the shower replacement project, which should take 3 months to complete.

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 17 inmates in any of the following areas:

<u>Location</u>	<u>MFC</u>	<u>Increase</u>	<u>Total Housed*</u>
1st Floor			
East Dorm	5	1	6
West Dorm	5	1	6
Southeast Block	7	4 (3 with cell vacated)	10*
Southwest Block	7	4 (3 with cell vacated)	10*
Northwest Block	7	4 (3 with cell vacated)	10*
Northeast	7	4 (3 with cell vacated)	10*
2nd Floor			
North East Block	7	4 (3 with cell vacated)	10*
		17 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 boat 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.
- 7) 98-V-19 shall be null and void should the shower replacement project be completed at any time between September 1, 2013 and December 1, 2013.

VARIANCE HISTORY

2013	Recommendation Action Taken Length of Variance Conditions, if changed	Approval Approved at 5/21 Meeting 3 months
2012	Recommendation Action Taken Length of Variance Conditions, if changed	Approval Approved at 12/18 Meeting 6 months
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

SCOC VARIANCE WRITE-UP FORM: EFFECTIVE JANUARY 2010

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 jail roof renovation project commenced on April 25, 2013 and is anticipated to take 30 days to complete. The shower replacement project is on hold, pending additional work by engineers.

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 May 8, 2013.

DATE OF LAST CYCLE VISIT THAT STANDARD VIOLATIONS WERE IDENTIFIED:

December 2012

ANY OPEN MINIMUM STANDARD VIOLATIONS:

7006 – Misbehavior Report requires revision

7070 – Minor inmates were not being afforded the full 3 hours of GED per day. SCOC staff offered various options available to rectify the situation.

SCOC awaiting response on corrective action taken.

ANY VIOLATIONS WHICH PERTAIN TO THE VARIANCE'S CONDITIONS:

None

JUSTIFICATION FOR WHY VARIANCE SHOULD OR SHOULD NOT BE EXTENDED:

1. A review of population records for 2010 through 2012 revealed that the facility averaged 73 inmates per day, not counting boarder inmates. The rated capacity for the jail is 82. The county has no long-term plans to increase capacity.
2. The shower replacement project will result in the closure of housing areas during construction.
3. Approval of this variance for a three month period will allow the facility to house inmates in accordance with Correction Law 500-b and Part 7013 during the shower replacement project.

REVIEWED BY REGIONAL SUPERVISOR:

[Signature] DATE: 7/29/13
[Signature] 7/30/13

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

July 17th 2013.

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,

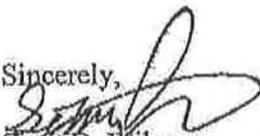
The purpose of this letter is to respectfully request an extension for the Orleans County Jail bed space variance (#98-V-19). The additional bed space is required to accommodate jail inmates during the capital shower retrofit project that is scheduled to commence immediately following the final engineer inspection of the roof replacement project.

The necessity of this request is due to having to close one housing unit at a time to allow for the construction phase of the shower retrofit project to begin. The tentative time frame for this construction will begin on August 15th, 2013 and will continue for approximately 3 months.

Approval of the temporary bed space variance will allow the Orleans County Jail to continue to maintain a formal and objective classification system for the duration of the shower retrofit project. Furthermore, the proposed variance will only apply to the general population male housing units and will also allow the Orleans County Jail to fulfill its lawful obligation to accommodate intermittent remands.

Thank you for your continued assistance. Please feel free to contact my office with any questions or concerns.

Sincerely,


Scott D. Wilson
Jail Superintendent
Orleans County Jail



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: Supt. 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)

This variance is necessary due to having to close one housing unit for facility renovations. (general population housing). the closures will occur in each general population housing unit for a period of three (3) months.

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

_____ Days _____ Weeks 3 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).

G. Has this variance been previously approved?

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

Signature (Sheriff) (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)

ORLEANS COUNTY JAIL
26 PLATT ST
ALBION, NEW YORK 14411
OFFICE (585)-589-4310
FAX (585)-589-2522

FACSIMILE TRANSMITTAL SHEET

TO: CHAIRMAN THOMAS A.
BEILEIN

FROM: SUPT. SCOTT D. WILSON

COMPANY: NYSCOC

DATE: 7/18/2013

FAX NUMBER: (518)485-2467

NO. OF PAGES INCLUDING COVER:

6

PHONE NUMBER:

RE: VARIANCE EXTENSION 98-
V-19.

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS: PLEASE FEEL FREE TO CONTACT MY OFFICE IF
YOU REQUIRE ANY FURTHER INFORMATION.

Amendment to facility MFC

Facility: Essex County Correctional Facility

Date of Last Site Visit: June 17-20, 2013

Name of Person Who Conducted the Last Site Visit to Facility: Deane McGeary

Date of Last MFC report: October 2007

Update on Capital Construction Project: N/A

Summary of amendment(s) to current MFC

Increase MFC from 134 to 158

By double celling:

A Pod	10 Cells	10 Beds
B Pod	10 Cells	10 Beds
C Pod	4 Cells	<u>4 Beds</u>
Total		+ 24 Beds

Recommendation/Comments:

The 2007 MFC inaccurately lists the facility capacity at 126 beds. Actual capacity is 134 beds. When the facility was constructed 16 Cells in each of A and B Pods and four cells in C Pod were cast as 100 sq. ft. cells. Hardware to install a second bunk in each cell already exists. Absent an exception made to Commission policy, only 10 of the 16 cells in each of A and B Pods can be approved. The facility has sufficient program space and food services to accommodate the increase. The facility has been advised that additional visitation hours will be required as the population increases. There will be no impact on staffing requirements as a result of double celling in the above referenced cells.

Approve: X

Amended Capacity: Increase from 134 to 158

Deny: _____

No Recommendation _____
(Check One)

Approved by Regional Supervisor: _____

Date:

Approved by Facility Planning: _____

Date:

Approved by Deputy Director: _____

Date:

**NEW YORK STATE
COMMISSION OF CORRECTION**



July 2013

MAXIMUM FACILITY CAPACITY

**for the
Essex County Correctional Facility
in
Lewis, New York**

Thomas A. Beilein

Chairman

Phyllis Harrison-Ross, M.D.

Commissioner

Thomas J. Loughren

Commissioner

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

INDIVIDUAL OCCUPANCY HOUSING UNITS:

1. Each such unit shall only house 1 inmate and contain at least 60 square feet of floor space.
2. Each such unit shall contain:
1 bed and mattress;
1 functioning toilet; and
1 functioning sink.
3. At least 1 functioning shower shall be available for each tier/section of such units.

EXCEPTIONS:

1. A unit may contain less than 60 square feet of floor space if such unit was originally constructed for single occupancy or rated for single occupancy by the Commission of Correction prior to the effective date Part 7040, September 13, 1989.
2. Each such unit used to house inmates apart from general population for the purpose of medical observation or treatment shall have a minimum of 80 square feet of floor space.
3. Required equipment (bed, mattress, toilet, sink) may be modified or excluded for units used for short term medical/mental health observation of inmates when the presence of such equipment may pose a threat to such inmates or to the safety or security of the facility.

MULTIPLE OCCUPANCY HOUSING UNITS:

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

I. A. INDIVIDUAL OCCUPANCY HOUSING UNITS USED FOR GENERAL HOUSING

Name of Housing Area/Section	Number of Individual Housing Units	Total Size of Unit (Sq. Ft. of Floor Space)	# of Shower Available per Section	Proposed Inmate Capacity
A POD				
Right Sub Pod	8	75 sq. ft.	1 shower	8
Center Sub Pod	4	75 sq. ft.	1 shower	4
Main Pod	12	75 sq. ft.	2 showers	12
	6	100 sq. ft.		6
				Sub-total: 30
B POD				
Left Sub Pod	8	75 sq. ft.	1 shower	8
Center Sub Pod	4	75 sq. ft.	1 shower	4
Main Pod	12	75 sq. ft.	2 showers	12
	6	100 sq. ft.		6
				Sub-total: 30
C POD				
Left Sub Pod	6	75 sq. ft.	1 shower shared	6
Right Sub Pod	2	75 sq. ft.	By left and right sub pods	2
Main Pod	8	75 sq. ft.	1 shower	8
				Sub-total: 16

Individual Housing Unit Total: 76

I. B. INDIVIDUAL OCCUPANCY HOUSING UNITS USED FOR SPECIAL HOUSING

Name of Housing Area/Section	Purpose/ Type of Special Housing	Number of Individual Housing Units	Total Size of Unit (Sq. Ft. of Floor Space)	# of Showers Available per Section	Maximum Inmate Capacity
SPECIAL WATCH UNIT	Additional Supervision	3	90 sq. ft.	1 shower	3
SEGREGATION	Administrative / Punitive Segregation	5	77 sq. ft.	1 shower	5
Left Side			4	77 sq. ft.	1 shower
Right side		1		68 sq. ft.	

Individual Special Housing Unit Total: 13

II. A. MULTIPLE OCCUPANCY HOUSING UNITS USED FOR GENERAL HOUSING

Name of Housing Area/Section	Number of Toilets	Number of Sinks	# of Showers Available per Section	Total Size of Unit (Sq. Ft. of Floor Space)	Maximum Inmate Capacity
A POD Main Pod Cells 3-5, 22-28	1	1	2	100 sq. ft.	20
B POD Main Pod Cells 33-39, 15-17	1	1	2	100 sq. ft.	20
C POD Right Sub Pod Cells 9, 10	1	1	1	100 sq. ft.	4
Main Pod Cells 19, 20	1	1	1	100 sq. ft.	4
					Sub-total: 8
LEFT DORM	3	3	2	781 sq. ft.	10
RIGHT DORM	3	3	2	860 sq. ft.	11

Multiple General Housing Unit Total: 69

II. B. MULTIPLE OCCUPANCY HOUSING UNITS USED FOR SPECIAL HOUSING

Name of Housing Area/Section	Number of Toilets	Number of Sinks	Number of Showers Available per Section	Total Size of Unit (Sq. Ft. of Floor Space)	Maximum Inmate Capacity

Multiple Special Housing Unit Total: N/A

III. A. NON-STANDARD HOUSING

Name of Housing Area/Section	Number of Toilets	Number of Sinks	Total Size of Unit (Sq. Ft. of Floor Space)	Description of use (limit as to use, time frame, etc.)
Intake				These cells may be used for short-term individual and multiple occupancy holding of inmates during the intake process, provided supervision is maintained pursuant to Part 7003 of 9NYCRR.
Holding #1	1	1	78 sq. ft.	The facility shall limit individual occupancy holding to 12 hours. Multiple occupancy shall be limited to four (4) hours.
Holding #2	1	1	65 sq. ft.	
Holding #3	1	1	50 sq. ft.	When utilized for holding multiple inmates, the facility may hold up to: Holding #1: 5 inmates
Holding #4	1	1	50 sq. ft.	
Holding #5	1	1	50 sq. ft.	Holding #2: 6 inmates
Holding #6	1	1	50 sq. ft.	Holding #3: 6 inmates
				Holding #4: 6 inmates

This housing may be used only for the durations shown, as listed in the right hand column. Any other use is prohibited. This housing is non-standard and will not be added to the MFC.

HOUSING TYPE	TOTALS
Subtotal Individual Housing Units Used for General Housing:	76
Subtotal Individual Housing Units Used for Special Housing:	13
Subtotal Multiple Housing Units Used for General Housing:	69
Subtotal Multiple Housing Units Used for Special Housing:	N/A
MAXIMUM FACILITY CAPACITY:	158

Other identified housing areas not on Max. Facility Capacity **Yes (X) No ()**

The above-noted capacity is based upon the following:

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

X Adjustments have not been made based on the facility's ability to provide required programs and services and to comply with other rules and regulations of 9 NYCRR Chapter IV which are related to facility capacity.

 Adjustments have been made based on the facility's ability to provide required programs and services and to comply with other rules and regulations of 9 NYCRR Chapter IV which are related to facility capacity. (Explain below.)

COMMENTS:

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

Submitted by:

Diane M. Geyer CSTA 7/3/13

(Preparer's Signature and Title, and Date)

Approved by:

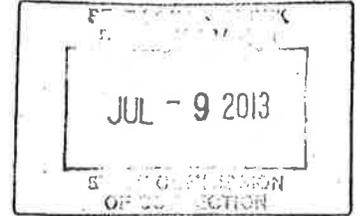
W. B. [Signature] CSTA 7/3/13

(Signature Title and Date)



Office of the Essex County Sheriff
702 Stowersville Road, PO Box 68, New York 12950
Phone: (518) 873-6321
Richard C. Cutting, Sheriff
Michael D. Badger, Undersheriff
<http://www.co.essex.ny.us/sheriffs/index.htm>

July 2, 2013



Chairman Thomas A. Beilein
New York State Commission of Correction
Alfred E. Smith State Office Building
80 S. Swan St, 12th Floor
Albany, NY 12210

RE: Maximum Facility Capacity for Essex County Correctional Facility

Dear Chairman Beilein:

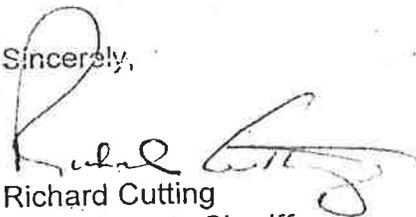
Please accept this letter as our official request for an increase in our maximum capacity for the Essex County Correctional Facility to a total of 158 beds.

When this facility was built in 2007, we anticipated the need someday to increase our housing abilities and as such had cells sized for double occupancy. We are at a juncture where we can now utilize these extra beds should this be approved.

Should there be any questions or issues, please contact me for further information.

As always, thank you for your time and consideration.

Sincerely,



Richard Cutting
Essex County Sheriff

•Major David Reynolds, Chief Deputy •Major Thomas W. Murphy II, Jail Administrator
•Deputy Shawn LaPier, Civil Officer •Captain Peter Feeley, Assistant Jail Administrator

Civil Office 518-873-6907

Patrol 518-873-6915
Emergency 911

Shift Supervisor 518-873-6950





Office of the Essex County Sheriff
 702 Stowersville Road, PO Box 68, New York 12950
 Phone: (518) 873-6321
 Richard C. Cutting, Sheriff
 Michael D. Badger, Undersheriff
<http://www.co.essex.ny.us/sheriffs/index.htm>

July 29, 2013

Chairman Thomas A. Beilein
 New York State Commission of Correction
 Alfred E. Smith State Office Building
 80 S. Swan St, 12th Floor
 Albany, NY 12210



RE: Maximum Facility Capacity for Essex "County Correctional Facility

Dear Chairman Beilein:

I have been given to understand that our request for double bunking has been tabled for further information.

Essex County is a very rural county with minimal industry and no city within our borders. Thus the costs of the Public Safety Building are a strain on the county budget. We have done our best to alleviate this strain by taking in boarders from other jurisdictions. In the meantime, we have seen our own population grow significantly. We planned this facility for the needs of Essex County for the next 30 years with the thought that in the interim, we would board to help with the tax burden. We have been somewhat successful in this venture and would like to be able to double bunk some of our areas to continue with both the revenue and the ability to have neighboring counties house within a reasonable distance for travel.

While we have not seen an overcrowding issue, we have had to refuse some boarders due to lack of space or classification issues. With the availability of the extra cells, we would be better able to utilize classification to satisfy both our own inmate needs and that of the boarders.

In anticipation of approval, we have developed a policy and procedure, a copy of which is attached along with our screening document for your review and approval.

If there are any further issues that I can address, please let me know and if needed, I would be happy to attend the next meeting or one of your choosing to address the issue.

As always, thank you for your time and consideration.

Sincerely,


 Richard Cutting
 Essex County Sheriff

- Major David Reynolds, Chief Deputy
- Major Thomas W. Murphy II, Jail Administrator
- Deputy Shawn LaPier, Civil Officer
- Captain Peter Feeley, Assistant Jail Administrator

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 Emergency 911

Shift Supervisor 518-873-6950



**New York State Commission of Correction
Chairman Thomas A. Beilein**

Memorandum

From: Chairman Thomas A. Beilein
2013

Date: August 2,

Access Number:

To: Jim Lawrence
Brian Callahan
Richard Kinney

Sender: Sheriff Richard Cutting

Agency: Essex County Sheriff's Office

Date Original Received: 7/29/13

Re: Maximum Facility Capacity for Essex CCF

Document Description: Letter/enclosures

Chairman's Comments:

Routing Information

Regional Supervisor: Moran

CC:



**Essex County
Office of the Manager**

7551 Court Street - PO Box 217 - Elizabethtown, New York 12932
Telephone (518) 873-3333 - Fax (518) 873-3339

Daniel L. Palmer, County Manager
danp@co.essex.ny.us

Michael Mascarenas, Deputy County Manager
mmascarenas@co.essex.ny.us

August 1, 2013

Chairman Thomas A. Beilein
New York State Commission of Correction
Alfred E. Smith State Office Building
80 S. Swan St., 12th Floor
Albany, NY 12210



Re: Essex County Correctional Facility

Dear Chairman Beilein:

I had a discussion with Richard Cutting our County Sheriff as it relates to his request to the Commission on double bunking within our facility. The Sheriff indicated to me that his request was tabled primarily based upon published news articles whereby a member of our Board asked the Sheriff about closing one of our pods in an effort to reduce costs by reducing staff.

The intent of this letter is to address the Commissions concern as it relates to this particular issue. For reason which are not always apparent, one member of our 18 member Board has always seemed to have issues with the operation of this facility. However, although his concerns have been voiced on numerous occasions, the Board has never entertained a resolution to even consider the closure of a pod.

The reality of the situation is the County committed to a \$35 million dollar bond for the construction of this facility. The closure of a pod would result in the loss of inmate boarding revenue in an amount that would exceed \$1 million dollars a year. The loss of revenue would equate to nearly an 8% increase in our Real Property Tax Levy. Given the Property Tax Cap and the tremendous loss of revenue that the County has seen in all of its revenue streams, the closure of a pod would be untenable.

As the Budget Officer for the County I want to assure the Commission that the intent of the request is to provide a way for the County to increase revenue. The plan for the facility has always been based upon the idea that we built larger than our current needs specifically so that we would have a way to generate boarding revenue in the early years of the bond.

Thank you for your time and consideration of our Sheriff's request. If you need additional information please feel free to contact my office at any time.

Sincerely yours,

Daniel L. Palmer
Essex County Manager

Notice of Proposed Rule Making

Correction, State Commission of
(SUBMITTING AGENCY)

- Approval has been granted by Executive Chamber to propose this rule making.
- This rule making does not require Executive Chamber approval.

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.

1. A. <i>Proposed action:</i>			
Amendment of	sections 7032.5 and 7032.8 of	Title <u>9</u>	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(4), 45(6) and 45(15).

3. *Subject of the rule:*
Electronic submission of grievances.

4. *Purpose of the rule:*

To allow local correctional facilities to submit inmate grievances electronically.

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

- 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. The full text of the rule is attached because it does not exceed 2,000 words.

B. A summary of the rule is attached because the full text of the rule exceeds 2,000 words.

Full text is posted 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:

- 45 days after publication of this notice (MINIMUM public comment period when full text is attached because it does not exceed 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).

No additional material required by statute.

15. Regulatory Agenda (See SAPA §202-d[1]):

- This rule was a Regulatory Agenda item for this agency in the following issue of the *State Register*:

- This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the *Register*.
- Not applicable.

16. 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 discussion 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 its publication of a list of rules to be reviewed.

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

- 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:

 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. 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. 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. 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 08/13/2013

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 should be e-filed via the Department of State website.

Text:

Subdivision (b) of section 7032.5 of Title 9 is amended to read as follows:

(b) Within three business days after receipt of the grievant's notice of appeal, the grievance coordinator shall mail, or electronically submit in a manner and form prescribed by the Commission of Correction, the appeal, the accompanying investigation report and all other pertinent documents to the Commission's Citizens' Policy and Complaint Review Council.

Paragraph (1) of subdivision (d) of section 7032.5 of Title 9 is amended to read as follows:

(1) Except as provided in paragraph (2) of this subdivision, the Citizens' Policy and Complaint Review Council shall issue a written determination to the appeal within 45 business days of receipt, copies of which shall be [sent] provided to the grievant, the chief administrative officer and the grievance coordinator. If such determination is in favor of the grievant as a matter of law, the chairperson of the Citizens' Policy and Complaint Review Council shall direct the chief administrative officer to comply with the grievance and provide an appropriate remedy.

Section 7032.8 of Title 9 is amended to read as follows:

(a) The grievance coordinator shall act as a liaison between the grievant, the chief administrative officer and the Commission of Correction in all matters that pertain to the inmate grievance program.

(b) For any grievance initially submitted electronically pursuant to subdivision (b) of section 7032.5 of this Part the Citizens' Policy and Complaint Review Council may issue its determination to the chief administrative officer and grievance coordinator, as required by subdivision (d) of section 7032.5 of this Part, in a similar electronic manner. In such an instance, the grievance coordinator shall print and provide a paper copy of the written determination to the grievant, if still incarcerated in the facility, within one (1) business day.

Regulatory Impact Statement (RIS):

The New York State Commission of Correction ("Commission") seeks to amend sections 7032.5 and 7032.8 of Title 9 NYCRR.

1.) Statutory authority:

Subdivision (4) of section 45 of the Correction Law allows the Commission of Correction to establish procedures to assure the effective investigation of grievances of, and conditions affecting, inmates of local correctional facilities. 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 and maintain minimum standards which provide for the efficient and effective investigation of local correctional facility inmate grievances by the Commission's Citizens' Policy and Complaint Review Council (CPCRC).

3.) Needs and Benefits:

As set forth in section 42 of the Correction Law and Part 7032 of Title 9 NYCRR, there exists, within the Commission of Correction, a Citizen's Policy and Complaint Review Council (CPCRC). Comprised of unpaid members appointed by the Governor, the CPCRC accepts, reviews and renders determinations of appeals of written inmate grievances denied by the administrators of local correctional facilities.

Currently constructed, 9 NYCRR §7032.5(b) requires the grievance coordinator of a local correctional facility to "mail the appeal, the accompanying investigation report and all other pertinent documents" to the CPCRC. As such submissions are often both numerous and voluminous, local correctional facilities must expend both significant postage fees and staff hours to accomplish the mailing.

In an effort to reduce these costs, as well as expedite the process by which grievance appeals are submitted to the CPCRC, distributed to the members, and resulting determinations are returned to the facility and grievant inmate, the Commission is currently developing a procedure to accomplish the above electronically. To implement such a process, the regulation requiring submission of grievance appeals by mail must be amended.

4.) Costs:

a. Costs to regulated parties for the implementation of and continuing compliance with the rule: None. The proposed rule only provides another avenue by which local correctional facilities may submit inmate grievance appeals to the CPCRC.

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 local correctional facility.

5.) Local government mandates:

None.

6.) Paperwork:

No change is sought to the necessary forms and documents by which local correctional facility inmate grievances are appealed to the CPCRC, and thus this rule does not require any additional paperwork on regulated parties. The proposed rule seeks only to provide another avenue by which local correctional facilities may submit inmate grievance appeals to the CPCRC.

7.) Duplication:

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

8.) Alternatives:

The alternative, maintaining current regulations that require local correctional facilities to mail inmate grievance appeals to the CPCRC, was explored by the Commission. This alternative was rejected upon the Commission's finding that the proposed amendment could reduce postage fees, as well as expedite the process by which grievance appeals are submitted to the CPCRC, distributed to the members, and resulting determinations are returned to the facility and grievant inmate.

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 electronically submit inmate grievances to the Citizens' Policy and Review Council. 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 electronically submit inmate grievances to the Citizens' Policy and Review Council. 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 electronically submit inmate grievances to the Citizens' Policy and Review Council. As such, there will be no impact on jobs and employment opportunities.

