COUNTY OF MONROE
OFFICE OF THE SHERIFF
ROCHESTER, NEW YORK

GENERAL ORDER JAIL BUREAU	DATE OF ISSUE October 10, 2022	EFFECTIVE DATE October 10, 2022	NO. 068-22
SUBJECT: GENERAL ORDER Segregated Confinement & Residential Rehabilitation Units		DISTRIBUTION Jail Bureau Personnel	AMENDS
REFERENCE: 9NYCRR Part 7006, 7076, & 7077 of Title 9 of the Official Compilation of Codes, Rules & Regulations of the State of New York, Correction Law - Section 1, Subdivision 23 of Section 2, NYSSA 113 & 149			RESCINDS

Purpose: To institute and maintain procedures within the Monroe County Sheriff's Office (MCSO) which promote the safety, security and good order of incarcerated individuals housed in both the Monroe County Jail (MCJ) and Andrew P. Meloni STAR Academy (MSA) Segregated Confinement or Residential Rehabilitation Units.

Policy: It is not the policy of MCSO to utilize Segregated Confinement or placement in a Residential Rehabilitation Unit. In the event the CAO determines that Segregated Confinement or the use of an RRU is necessary, the facility shall supervise Incarcerated Individuals (II) housed in segregated confinement and residential rehabilitation units in accordance with the guidelines set forth in this policy, NYS Minimum Standards and NYS Corrections Law. Regardless of the use of Segregated Confinement and RRU placement, the facility will adhere to the recordkeeping and reporting requirements outlined in this General Order.

Definitions:

Facility shall mean Monroe County Jail (MCJ) and the Andrew P. Meloni Star Academy (MSA)

Essential Service shall mean any right, service; item or article guaranteed an incarcerated individual by the provisions of the Minimum Standards and facility General Orders.

Segregation (Punitive Segregation) shall mean the involuntary confinement of an incarcerated individual to an individual occupancy housing unit, or to the sleeping area of a multiple occupancy housing unit, for any duration. Segregation shall not include such confinement during established sleep hours, confinement for purposes of medical or mental health treatment, confinement to a housing unit designated for classification purposes, confinement for the purpose of providing constant supervision, routine confinement necessary for a change of shift, conducting an incarcerated individual population count, or the provision of routine services, or temporary confinement necessary to quell a disturbance or incident.

Segregated II shall mean any II subject to segregation.

Administrative Segregation shall mean any segregation that does not constitute a disciplinary sanction, or segregation pending a disciplinary hearing.

Segregated Confinement shall mean the confinement of an II to an individual occupancy housing unit, in any form, for more than seventeen (17) hours a day, other than in a facility wide emergency or for the purpose of providing medical or mental health (MH) treatment.

Special Population shall mean any II who is twenty-one (21) years of age or younger, fifty-five (55) years of age or older. An II with a disability. An II who is pregnant in the first (8) eight weeks of post-partum recovery period or caring for a child in the facility.

Residential Rehabilitation Unit (RRU) shall mean a separate housing unit used for therapy, treatment and rehabilitative programming of II considered special population who do not qualify for a Segregation Unit, or IIs who have been determined to require more than fifteen days (15) of segregated confinement pursuant to department proceedings. Special population shall only be confined in an RRU in accordance with 7006.7(a) (2) of the NYSCOC Minimum Standards. Such units shall be therapeutic, trauma informed and aim to address individual treatment and rehabilitation needs and underlying causes of problematic behaviors as stated in Part 7077.4 (a) of the NYSCOC Minimum Standards.

Special Housing Unit (SHU) shall mean any II housing area or subdivision thereof, used principally for punitive or other Administrative Segregation.

Chief Administrative Officer (CAO) shall mean the highest-ranking facility official present during the time period in which a determination must be rendered.

Major Infraction shall mean conduct of an II that constitutes a violent felony act:

A. Causing/Attempt to cause serious physical injury/death to another or making a threat of serious physical injury/death and such person has a history of such and MH determines strong likelihood they will do so.

B. Compel of force another in a sexual act.

C. Extorting by force/threat for property or money.

D. Coercing another by force/threat to violate any rule.

E. Leading, organizing or inciting a riot resulting in major property damage, a hostage or physical harm to another (intent).

F. Procuring deadly weapons or dangerous contraband that causes a threat to the facility.

G. Escape / attempted escape (intent).

H. Committing a Violent felony Offense within the facility.

Minor Infraction shall mean any other infraction that does not fall under the definition of a major infraction.

Maximum Facility Capacity, Individual Occupancy Housing Unit, Multiple Occupancy Housing Unit, Medical Housing Unit, Dayroom Space and Sleeping Area shall each have the same meaning as provided in JBGO 066-Maximum Facility Capacity.

I. General Provisions

A. All facility housing areas in which incarcerated individuals are subject to segregated confinement or RRU's shall create the least restrictive environment necessary for the safety of incarcerated persons, staff, and the security of the facility. (7076.4(a) & 7077.4(b))

B. No individual may be placed in segregated confinement or RRU's based on the same act or incident that was previously used as the basis for such placement. (7076.4(b) & 7077.4(c))

C. No individual may be held in segregated confinement for protective custody. Any unit used for primarily for protective custody will conform to the requirements governing residential rehabilitation units, as set forth in 9NYCRR 7077 and this General Order. (7076.4(c))

D. Residential rehabilitation units shall be therapeutic and trauma-informed, and aim to address individual treatment and rehabilitation needs and underlying causes of problematic behaviors. (7077.4(a))

E. All RRU staff and their supervisors shall undergo specialized training prior to assignment to such unit, and regular specialized training thereafter, on substantive content developed in consultation with relevant experts, on topics including, but not limited to, the purpose and goals of the non-punitive therapeutic environment, trauma-informed care, restorative justice, and dispute resolution methods. (7017.1(b))

F. Incarcerated individuals of a special population shall not be placed in segregated confinement for any length of time, except for administrative segregation pending a disciplinary hearing, as authorized by 9NYCRR 7006.7(a) and this General Order. (7076.6(a))

II. Segregated Confinement

A. Incarcerated individuals in segregated confinement shall be offered out-of-cell programming at least four (4) hours per day, including at least one (1) hour for exercise. (7076.5)

1. Out-of-cell programming shall be led by program or therapeutic staff five (5) days per week, except on recognized state legal holidays. All other out-of-cell time may include peer-led programs, time in a day room or out-of-cell recreation area with other people, congregate meals, volunteer programs, or other congregate activities.

2. If an incarcerated individual commits a violent felony act while in segregated confinement and poses a significant and unreasonable risk to the safety and security of other incarcerated individuals or staff, the CAO may restrict the individual's participation in programming and out-of-cell activities to at least four (4) hours out-of-cell time daily.

    a. This restriction shall include at least two (2) hours of therapeutic programming and two (2) hours of exercise, and the facility must make reasonable efforts to reinstate access to programming as soon as possible and in no case shall the restriction extend beyond fifteen (15) days unless the incarcerated individual commits a new violent felony act justifying restrictions on program access, or if the CAO reasonably determines that the incarcerated individual poses an extraordinary and unacceptable risk of imminent harm to the safety or security of other incarcerated individuals or staff.

    b. Any extension of program restrictions beyond fifteen (15) days must be meaningfully reviewed and approved at least every fifteen (15) days by the CAO. Each review must consider the impact of therapeutic programming provided during the fifteen (15) day period on the individual's risk of imminent harm and the CAO must articulate in writing, with a copy provided

to the incarcerated individual, the specific reason why the individual currently poses an extraordinary and unacceptable risk of imminent harm to the safety or security of incarcerated individuals or staff.

c. In no case may restrictions imposed by the CAO extend beyond ninety (90) days unless the individual commits a new violent felony act justifying restrictions on program access.

B. Segregated Confinement for Administrative Segregation pending a hearing may occur if the CAO reasonably believes, and issues a written determination, that the individual committed a violent felony act, and if the CAO determines in writing, based on specific objective criteria, the act was so heinous or destructive that placement of the individual in general population housing creates a significant risk of imminent serious physical injury to staff or other incarcerated persons, and creates an unreasonable risk to the security of the facility. (7006.7(a)(1))

1. Any incarcerated individual of a special population placed in segregated confinement pending a disciplinary hearing shall, as expeditiously as possible, but in no case longer than forty-eight (48) hours from the time of such placement, be given at least seven (7) hours a day outside his or her assigned individual occupancy unit, or shall be transferred to a RRU. (7006.7(a) (2))

2. In the event an incarcerated individual is placed in segregated confinement pending a disciplinary hearing, the hearing shall occur as soon as reasonably practicable and at most within five (5) days of such placement, unless the charged individual seeks postponement of the hearing. (7006.8(a))

C. For any hearing in which segregated confinement is an authorized sanction upon a finding of guilt by a preponderance of the evidence, the incarcerated individual shall be permitted to be represented by any attorney or law student, or by any paralegal or incarcerated individual unless the chief administrative officer reasonably disapproves of such paralegal or incarcerated person based upon objective written facility criteria. (7006.8(c))

D. If the charges against the incarcerated individual are sustained as a result of the hearing, Segregated Confinement may be imposed based upon the incarcerated individual's past record and the severity of the offense.

1. An incarcerated individual shall only be sanctioned to segregated confinement for up to three (3) consecutive days, and no longer than six (6) days in any thirty (30) day period. (7006.9(a)(5)(ii)

2. An incarcerated individual may be sanctioned to segregated confinement beyond the limitations II-D-1 of this General Order, only if the disposition contains a finding that the individual committed a major infraction/violent felony act, and if the CAO determines in writing, based on specific objective criteria, the act was so heinous or destructive that placement of the individual in general population housing creates a significant risk of imminent serious physical injury to staff or other incarcerated persons, and creates an unreasonable risk to the security of the facility. (7006.9(a)(5)(iii)

a. No incarcerated individual may be placed in segregated confinement for longer than necessary and no more than fifteen (15) consecutive days, nor shall any individual be placed in segregated confinement for more than

twenty (20) total days within any sixty (60) day period except as otherwise provided in II-D-2-c of this General Order. (7076.6(b))

b. At the limits listed in II-D-2-a of this General Order, the incarcerated individual must be released from segregated confinement or diverted to a separate RRU. If placement of such individual in segregated confinement would exceed the twenty (20) day limit and the CAO determines that the individual committed a violent felony act, the CAO may place the individual in segregated confinement until admission to a RRU can be effectuated, as expeditiously as possible and in no case take longer than forty-eight (48) hours from the time such individual is placed in segregated confinement. (7076.6(b))

c. For offenses determined to constitute a violent felony act, if occurring more than one time within any sixty (60) day period, up to an additional fifteen (15) consecutive days in segregated confinement may occur for each such additional incident. If such subsequent incident takes place in a RRU or general population, the incarcerated individual may be returned to segregated confinement for up to fifteen (15) consecutive days. If such subsequent incident takes place in segregated confinement and causes physical injury to another person, the incarcerated individual may receive up to an additional fifteen (15) consecutive days in segregated confinement, provided however that the individual must spend at least fifteen (15) days in a RRU in between each placement of up to fifteen (15) consecutive days in segregated confinement. (7076.6(c))

III. Residential Rehabilitation Unit

A. No II shall be admitted to a RRU, unless the II requires a sanction that exceeds (15) fifteen days of segregated confinement pursuant to facility proceedings; or a member of the Special Population has been placed in Segregated Confinement pending a disciplinary hearing and the 48 hour limit has been met. (7077.2(b) & (7006.7(a)(2))

B. Upon admission to a RRU, program and mental health staff shall administer assessments and develop an individual rehabilitation plan in consultation with the incarcerated individual, based upon the individual's medical, mental health, and programming needs. Such plan shall identify specific goals and programs, treatment, and services to be offered, with projected time frames for completion and discharge from the RRU. (7077.5(a))

C. Incarcerated individuals admitted to a RRU shall be offered at least six (6) hours of daily out-of-cell congregate programming, services, treatment, recreation, activities and/or meals, with an additional minimum of one hour for exercise. (7077.5(b))

1. Exercise in all residential rehabilitation units shall take place in a congregate setting, unless exceptional circumstances mean doing so would create a significant and unreasonable risk to the safety and security of other incarcerated individuals, staff, or the facility. (7077.5(b))

2. Out-of-cell programming shall be led by program or therapeutic staff five (5) days per week, except on recognized state legal holidays. All other out-of-cell time may include peer-led programs, time in a dayroom or out-of-cell recreation area with other people, congregate meals, volunteer programs, or other congregate activities. (7077.5(c))

3. An incarcerated individual in a RRU shall have access to programs and work assignments comparable to core programs and types of work assignments in general population. Such incarcerated individuals shall also have access to additional out-of-cell, trauma-informed therapeutic programming aimed at promoting personal development, addressing underlying causes of problematic behavior resulting in placement in a residential rehabilitation unit, and helping prepare for discharge from the unit and to the community. (7077.5(d))

4. If established that an incarcerated individual committed a violent felony act while in a RRU and poses a significant and unreasonable risk to the safety and security of other incarcerated individuals or staff, the CAO may restrict such individual's participation in programming and out-of-cell activities to at least four (4) hours out-of-cell time daily. (7077.5(e))

    a. This restriction shall include least two (2) hours of therapeutic programming and two (2) hours of exercise, and must make reasonable efforts to reinstate access to programming as soon as possible. In no case may such restrictions extend beyond fifteen (15) days unless the individual commits a new violent felony act justifying restrictions on program access, or if the CAO reasonably determines that the individual poses an extraordinary and unacceptable risk of imminent harm to the safety or security of incarcerated individuals or staff. (7077.5(e))

    b. Any extension of program restrictions beyond fifteen (15) days must be meaningfully reviewed and approved at least every fifteen (15) days by the chief administrative officer. Each review must consider the impact of therapeutic programming provided during the fifteen (15) day period on the individual's risk of imminent harm and the CAO must articulate in writing, with a copy provided to the incarcerated individual, the specific reason why the individual currently poses an extraordinary and unacceptable risk of imminent harm to the safety or security of other incarcerated individuals or staff. (7077.5(e))

    c. In no case may restrictions imposed by the CAO extend beyond ninety (90) days unless the individual commits a new violent felony act justifying restrictions on program access. (7077.5(e))

    d. Restraints shall not be used when incarcerated individuals are participating in out-of-cell activities within a RRU unless an individual assessment is made that restraints are required because of a significant and unreasonable risk to the safety and security of other incarcerated individuals or staff. (7077.5(f))

D. Any sanction imposed on an incarcerated individual requiring segregated confinement shall run while the individual is in a RRU and the individual shall be discharged from the unit before or at the time such sanction expires. If the individual's rehabilitation plan is successfully completed before the sanction expires, the individual shall have a right to be discharged from the unit upon such completion. (7077.6(a))

E. If an incarcerated individual has not been discharged from a RRU within one (1) year of initial admission to a RRU, the individual shall have a right to be discharged from the unit unless

the individual committed a violent felony act within the prior one hundred eighty (180) days and the individual poses a significant and unreasonable risk to the safety or security of incarcerated persons or staff. (7077.6(b))

1. In any such case the decision not to discharge such individual shall be immediately and automatically subjected to an independent review by the CAO. An incarcerated individual may remain in a RRU beyond the time limits provided in this General Order if approved by the CAO. (7077.6(b))

2. In extraordinary circumstances, a person who has not committed a violent felony act within the prior one hundred eighty (180) days may remain in a RRU beyond the time limits provided in this General Order if the CAO determines that such individual poses an extraordinary and unacceptable risk of imminent harm to the safety or security of incarcerated persons or staff. (7077.6(b))

F. There shall be a meaningful periodic review of the status of each incarcerated individual in a RRU at least every sixty (60) days to assess the individual's progress and determine if the individual should be discharged from the unit. (7077.6(c))

1. Following such periodic review, if the individual is not discharged from the unit, program and mental health staff shall specify in writing the reasons for the determination and the program, treatment, service, and/or corrective action required before discharge. (7077.6(c))

2. The incarcerated individual shall be given access to the programs, treatment and services specified, and shall have a right to be discharged from the RRU upon the successful fulfillment of such requirements. (7077.6(c))

3. When an incarcerated individual is discharged from a RRU, any remaining time to serve on any underlying disciplinary sanction shall be dismissed. (7077.6(d))

4. If an incarcerated individual substantially completes the developed rehabilitation plan, the individual shall have any associated loss of good time restored upon discharge from the unit. (7077.6(d))

IV. Recordkeeping and Reporting

A. Any restriction, determination, extension, review or approval required or authorized by this General Order shall be made by the CAO in writing, and shall state the specific facts and underlying reasons. These records will be maintained in a centralized location. (7077.7(a-b) & 7076.7(a-b))

B. The facility will publish monthly reports on its website, with semi-annual and annual cumulative reports, of the total number of people who are in segregated confinement on the first day of each month containing a breakdown of the number of people in segregated confinement by age, race, gender, special health accommodations or needs, need for and participation in substance use disorder programs, pregnancy status, and number of days in segregated confinement. (7076.7(c))

C. The facility will publish monthly reports on its website, with semi-annual and annual cumulative reports, of the total number of people who are in residential rehabilitation units on the first day of each month containing a breakdown of the number of people in residential rehabilitation units by age, race, gender, special health accommodations or needs, need for

and participation in substance use disorder programs, and pregnancy status. (7077.7(c))

D. The facility shall submit a report to the Commission of Correction, by February 1st each year, detailing all aspects of segregated confinement and residential rehabilitation units occurring in the facility during the preceding calendar year. Such report shall be submitted in a form and manner prescribed by the Commission of Correction. (7000.1(f))

By Order of the Sheriff

Todd K. Baxter