

Law Enforcement & Public Safety Committee
Regular Meeting Minutes

DATE & TIME: April 1, 2019 – 6:15 PM (or immediately following Public Health & Social Services Committee)
LOCATION: KL Binder Library, 6th Floor, County Office Building
PRESIDING OFFICER: Chairwoman Lynn Eckert
LEGISLATIVE STAFF: Jay Mahler, Deputy Clerk
PRESENT: Legislators Collins, Haynes, Heppner & Ronk
ABSENT: None
QUORUM PRESENT: Yes

OTHER ATTENDEES: Dr. Russ Blair (via teleconference) – NCCHC Resources, Legislator Petit, Dennis Doyle – UC Planning Department, Steve Peterson, Director & Everett Erichsen, Deputy Director of Fire Services – UC Emergency Management/Emergency Communications, Sheriff Figueroa – UC Sheriff's Office, Supervisor James Quigley – Town of Ulster, Frank Banks, Chair – UC Fire Advisory Board, Jared Mance, Chair – UC Fire Chiefs Assoc., Jerimiah McDonough, Chief – Spring Lake Fire Department, Mr. Tom Kadgen – League of Women Voters, Hugh Reynolds - Media

Chairwoman Eckert called the meeting to order at 6:20 PM.

Chairwoman Eckert advised the members that they would begin with a report by NCCHC Resources entitled Technical Assistance: Accreditation Readiness (appended to these minutes). She welcomed Dr. Russ Blair, author of the report, who joined the committee via teleconference. Dr. Blair informed the members that he and his colleague had a very good visit in Ulster County. He advised the members that the nursing staff had almost a complete turnover in the month before their visit, the Health Director had been in place for a year, and the Director of Nursing had only been on board for about two months. He stated that the program was heading in the right direction and seemed to be addressing the issues that were contributing to the turnover. He advised the members that consistency in timely access to care needed improvement, but receiving screenings were completed within two hours which was great. He added that some improvement in refusal of care documentation would be greatly beneficial. He summarized for the members that: staffing levels were determined to be sufficient, coordination of chronic care services could be improved, mental health services were good, and policies and procedures were being updated to conform to new standards.

He asked if there were any questions. Chairwoman Eckert asked what the timeline was for implementation of the recommendations before accreditation would be granted. Dr. Blair responded that the report did not find anything that needed major tweaking and commented that many of the suggestions have most likely already been addressed. Legislator Heppner asked if NCCHC observed or reviewed policies and procedures in regard to inmates who enter with issues of addiction. Legislator Eckert added that she thought those issues may be tied to NCCHC suggested improvements in chronic care services. Legislator Heppner added that he was aware that a Vivitrol program had been instituted in the recent past. Dr. Blair responded that the report indicated that protocols for withdrawal treatment need to be reviewed and updated. He did not see any other reference to addiction treatments. Chairwoman Eckert asked if there was anything that gave NCCHC grave concerns about

the operations in Ulster County. Dr. Blair responded that there were no grave concerns, adding that their primary concerns were improving consistency for timely access to sick calls and improvement to documentation when care was refused.

Chairwoman Eckert asked Dr. Blair if he had any knowledge or experience with the provider PrimeCare who would be taking over medical services at the facility in the coming months. Dr. Blair responded that he did not have any experience with that provider. He complimented the administrators he dealt with at the Ulster County facility, indicating that they were headed in the right direction, and advised the members to forward any additional questions they may have. Chairwoman Eckert thanked Dr. Blair for his time.

Chairwoman Eckert advised the members that Director Doyle of the Ulster County Planning Department was in attendance to offer a status update on the proposed Fire Training Center in the Town of Ulster. She introduced the following individuals who were also in attendance to discuss the facility: Town of Ulster Supervisor Quigley, President of the Ulster County Fire Advisory Board Frank Banks, President of the Ulster County Fire Chiefs Association Jared Mance, and Chief of the Spring Lake Fire Department Jeremiah McDonough.

Director Doyle thanked the members for the opportunity to address the members and introduced Mr. Everett Erichsen, Ulster County Fire Coordinator, who would assist with his presentation. Director Doyle provided a brief background on the discussions, evaluation and need for a county-wide Fire Training Center and the debate and evolution of the location. He stated that the number one priority that came out of the discussions was the need for a burn building. He added that the project also evolved into a multi-site versus a single site model.

Director Doyle and Coordinator Erichsen presented a PowerPoint which detailed the location of the proposed Fire Training Center in the Town of Ulster. They reviewed in great detail each building proposed at the site on Ulster Landing Road. He advised the members that the site is currently used by Town of Ulster Fire Services, and provides a firearms range utilized for training and practice by the Town of Ulster and Ulster County law enforcement agencies. Fire Coordinator Erichsen highlighted the need for facilities that can accommodate the increasing training requirements for firefighters being mandated by the state.

Legislator Heppner asked if the burn building being proposed is two or three stories. Mr. Erichsen responded that the proposal includes both variations. He added that buildings fire services are called to respond to are being built up, not out and stated his support for a three story burn building.

Legislator Petit asked if, because a portion of the funding for the facility is provided by SUNY Ulster, non-firefighters or students would be training at the facility. Coordinator Erichsen responded that the college will have to develop and offer a fire service course. He added that many colleges require students already be a firefighter to be eligible to take any live fire training courses.

Director Doyle and Coordinator Erichsen highlighted renovations proposed to the existing administration building, including the need to replace the HVAC system and boiler. They also spoke about measures that will be put in place to provide safe separation from the firing range.

Legislator Heppner asked when in the design and evaluation process would the decision to build a two or three story tower be made. Director Doyle responded that they would be putting the base bid out for a three-story building with a two-story option. He added that the current estimated cost difference would be about \$700,000. Legislator Ronk stated that the decision will come down to the Legislature. He added that the decision needs to be made with the needs of 30 years into the future in mind. Legislator Haynes asked what the projected life of the building is and whether it would survive the length of the bond. Coordinator Erichsen stated that the expected life of the tower would be 25-30 years. Legislator Ronk commented that the building would outlast the length of the bond. Legislator Heppner agreed with Legislator Ronk that the county should be considering future needs when determining what should be built. He asked if a completely new facility would need to be built in 25-30 years. Coordinator Erichsen responded that, with proper maintenance, the facility can last much longer than the 25-30 year estimated timeline. Director Doyle agreed that a proper maintenance schedule would extend the life of the facility. Legislator Haynes asked how long the agreement with the Town of Ulster is for. Director Doyle responded that the easement is in perpetuity. He added that he believed the MOA was for 30 years, but did not have the document in front of him.

Legislator Ronk asked for confirmation that there has been no move to end plans for a site at the Community College. Director Doyle responded that the county is concerned with budget issues but has not eliminated plans to complete facilities at the SUNY Ulster Campus. Legislator Heppner asked what the relationship will be with the City of Kingston Professional Firefighters. Coordinator Erichsen responded that they currently have a good working relationship with the City and would continue to coordinate training.

Chairwoman Eckert asked Fire Advisory Board President Banks if he had any questions or comments. Mr. Banks asked what the timeline was for the project and if there was any budget adopted. Legislator Ronk responded that there is currently a \$4.5 million Capital Plan for the Ulster site with half of the funding from the State Dormitory Authority. Director Doyle stated that they were at 90% completion of the design phase. He added that he was hoping for a June start date, if the bid and contract process moves forward quickly. He added that, weather permitting, they were projecting a spring completion for the burn building. He added that renovations to the administration building will require coordination with law enforcement to ensure access to their firearms training facility during construction.

Chairwoman Eckert asked if Supervisor Quigley had any comments or questions. Supervisor Quigley thanked the Chair and members for coordinating the meeting. He added that there has been a tremendous amount of progress made between now and a March meeting of the Town Planning Board where the construction of a three-story building seemed to be off the table. He added his support for a three-story building. Mr. Mance advised the members that the county Fire Chiefs agree that a three-story facility will provide the best opportunities for comprehensive training of their members now and into the future. Mr. McDonough agreed and stated that a third story greatly increases the complexity of training that can be offered.

Chairwoman Eckert thanked everyone for attending and for their time.

Motion No. 1: Moved to APPROVE the Minutes of the March 4, 2019 meeting

Motion By: Legislator Ronk
Motion Seconded By: Legislator Heppner

Discussion: None

Voting In Favor: Legislators Collins, Eckert, Haynes, Heppner & Ronk
Voting Against: None
Votes in Favor: 5
Votes Against: 0
Disposition: **Minutes APPROVED**

Resolutions for the April 16, 2019 Session of the Legislature

Resolution No. 133: Approving The Execution Of A Contract Amendment Causing The Aggregate Amendment Amount To Be In Excess Of \$50,000.00 Entered Into By The County – American Tower Management, LLC – Emergency Management

Resolution Summary: This resolution approves the execution of a contract amendment in the amount of \$42,142.08 with American Tower Management, LLC to extend the term of a lease agreement for antenna space on Illinois Mountain for Fire Frequency for an additional five years.

Resolution No. 134: Approving The Execution Of A Contract Amendment In Excess Of \$50,000.00 Entered Into By The County – American Tower Management, LLC – Emergency Management

Resolution Summary: This resolution approves the execution of a contract amendment in the amount of \$57,198.24 with American Tower Management, LLC to extend the term of a lease agreement for antenna space on Illinois Mountain for Fire Frequency 2 for an additional five years.

Resolution No. 135: Approving The Execution Of A Contract Amendment Causing The Aggregate Amendment Amount To Be In Excess Of \$50,000.00 Entered Into By The County – New York Communications Company, Inc. – Emergency Management

Resolution Summary: This resolution approves the execution of a contract amendment in the amount of \$23,112 with New York Communications Company, Inc. to extend the term of a lease agreement for common police radio frequency equipment for one additional year.

Legislator Ronk stated that Resolution Nos. 133, 134 and 135 all encompass the same subject of Tower rents and suggested the committee act on the Resolutions together.

Motion No. 2: **Motion to consider Resolution Nos. 133, 134 & 135 As A BLOCK**
Motion By: Legislator Ronk
Motion Seconded By: Legislator Heppner

Voting In Favor: Legislators Collins, Eckert, Haynes, Heppner & Ronk
Voting Against: None

Votes in Favor: 5
Votes Against: 0
Disposition: **Resolutions BLOCKED**

Discussion:

Chairwoman Eckert informed the members that she had a notation from the Clerk stating that Resolution No. 134 should read Amendment Number 3, not Amendment Number 5. She added that there no action is required by the committee to correct the ministerial error.

Motion No. 3: **Motion ADOPT Blocked Resolution Nos. 133, 134 & 135**
Motion By: Legislator Ronk
Motion Seconded By: Legislator Heppner

Voting In Favor: Legislators Collins, Eckert, Haynes, Heppner & Ronk
Voting Against: None
Votes in Favor: 5
Votes Against: 0
Disposition: **Resolutions ADOPTED**

Resolution No. 136: Approving The Execution Of A Contract In Excess Of \$50,000.00 Entered Into By The County – PrimeCare Medical Of New York, Inc.– Ulster County Sheriff

Resolution Summary: This resolution approves the execution of a three-year contract with PrimeCare Medical of New York, Inc. in the amount of \$3,162,880.88 for the initial year with CPI increases for years 2 and 3 to provide inmate medical services at the Ulster County Jail.

Motion No. 4: **Motion to ADOPT Resolution No. 136**
Motion By: Legislator Ronk
Motion Seconded By: Legislator Heppner

Discussion: None

Voting In Favor: Legislators Collins, Eckert, Haynes, Heppner & Ronk
Voting Against: None
Votes in Favor: 5
Votes Against: 0
Disposition: **Resolution ADOPTED**

Chairwoman Eckert informed the members that she had an update that Albany had passed bail reform, pretrial retention reform, discovery reform and speedy trial reform. She added that materials provided by the Sheriff also on the topic were forwarded to the members last week and are available on the OneDrive (appended to these minutes.)

She informed the members that each month they would receive a Financial Report of every Department under their purview. She added that the report would contain details from two months

prior due to conflicts with the committee meeting date and the timing of end of month financial closing procedures.

Chairwoman Eckert advised the members that the next meeting was scheduled for May 6th and asked if there was any other business, and hearing none;

Adjournment

Motion Made By: Legislator Heppner

Motion Seconded By: Legislator Haynes

No. of Votes in Favor: 5

No. of Votes Against: 0

TIME: 7:55 PM

Respectfully submitted: Jay Mahler, Deputy Clerk

Minutes Approved: May 6, 2019



Technical Assistance: Accreditation Readiness

ULSTER COUNTY JAIL

DECEMBER 2018

*This report details findings from a site visit,
October 19, 2018, to Ulster County Jail,
Kingston, New York*

ULSTER COUNTY JAIL

Technical Assistance: Accreditation Readiness

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DISCLAIMER

Technical assistance by NCCHC Resources, Inc., is a professional activity that is completely separate from accreditation by the National Commission on Correctional Health Care and in no way guarantees accreditation, reaccreditation, or any other outcome of a survey.

ULSTER COUNTY JAIL

Technical Assistance: Accreditation Readiness

Executive Summary

On October 19, 2018, NCCHC Resources, Inc., conducted an on-site technical assistance review of the health services provided at the Ulster County Jail. The review included an assessment of compliance with the National Commission on Correctional Health Care's 2018 *Standards for Health Services in Jails* and an evaluation of the facility's readiness for an accreditation site survey. At the time of the visit, the health services policy and procedures manual was based on the 2014 *Standards*, although it was being updated.

Over the preceding 6 months, the facility experienced a nearly complete turnover of nursing staff. At the time of our visit, the health services administrator had been on board for less than 1 year and the director of nursing for about 2 months. The nurses, custody staff, and inmates we interviewed reported improvement in health services since the hiring of the HSA and DON, as well as improved collaboration and communication among health staff and between health staff and custody staff. The consensus was that all areas of health services are moving in a positive direction.

Detailed findings are presented in seven sections that align with the *Standards*, accompanied by a summary of recommendations at the end of each section. Major findings are as follows.

- Overall, access to sick call is easy and well-understood by the inmates. However, the length of time for sick call requests to receive a response was inconsistent and could range from a few hours to several days.
- Receiving screening generally is completed within 1 to 2 hours; it is done well and documentation is exceptional. Information regarding tuberculosis and oral hygiene is provided during the screening.
- Most of the patient records we reviewed lacked initial health assessments, which is a concern.
- Inmate refusals of the health assessment were often noted in the health record, yet refusal forms were lacking.
- The mental health department is highly staffed and mental health services appear to be managed well.
- Infectious disease management appeared appropriate for this facility. However, improvements are needed in chronic disease management and continuity of care.

- No deaths had occurred at the facility in the past 3 years.
- One of the housing units is referred to as an infirmary, but is primarily used as shelter housing for inmates with special needs who cannot be appropriately housed in a general population unit.
- We found no evidence of annual review of health care policies and procedures or the nursing protocols. The DON is addressing documentation problems as they arise.

With attention to the areas cited above and implementation of the recommendations presented, we expect that the Ulster County Jail will be ready for the NCCHC accreditation survey.

Introduction

On October 19, 2018, NCCHC Resources, Inc., conducted an on-site technical assistance review of health services at the Ulster County Jail, Kingston, NY, with the primary purpose of determining the facility's readiness for accreditation.

The review was conducted by two correctional health experts, a physician and an administrator, who used their professional expertise and NCCHC's 2018 *Standards for Health Services in Jails* as the basis of this review.

This report describes our findings and makes recommendations aimed at improving compliance with NCCHC's requirements for accreditation. The findings are organized based on the seven sections of the *Standards*. For each standard listed in the findings, the notations of (E) and (I) correlate to the "essential" and "important" designations used in the accreditation program.

PROJECT OBJECTIVES

1. Evaluate and provide feedback on the quality of health services based on compliance with the *Standards for Health Services in Jails*
2. Assess the health services policies and procedures
3. Recommend policy and procedure changes that can result in improved health care efficiency and effectiveness
4. Review specific information (e.g., charts, procedures, policies, interviews) pertaining to readiness for accreditation
5. Conduct an exit briefing to leadership on observations from the assessment
6. Provide a written report to summarize findings and recommendations

METHODS

The visit began with a meeting with the assistant warden, who restated the purpose of the project. We then toured the facility, including the booking unit, inmate housing units (male, female, and juvenile), the segregation unit, the health service areas, and the "infirmary" unit. We observed the booking, medication administration, and sick call processes.

We also interviewed health staff, custody staff, and inmates selected from the male, female, and juvenile housing units.

Documents reviewed included policies and procedures, nursing assessment protocols, medical records, constant observation logbooks, narcotic logs/counts, medication

ABOUT NCCHC RESOURCES

With our roots in the National Commission on Correctional Health Care – the nation's leader in setting standards for correctional health services – NCCHC Resources, Inc., provides customized consultation, technical assistance, accreditation readiness, training, and other services to correctional facilities interested in health care quality improvement. A nonprofit organization, we work to strengthen NCCHC's mission: to improve the quality of health care in prisons, jails, and juvenile detention and confinement facilities.

administration records, pharmacy invoice and receiving records, and meeting minutes of the medical advisory committee and the continuous quality improvement committee.

FACILITY PROFILE

Ulster County Jail is a centrally located reception and processing center for sentenced and unsentenced inmates. It has medium- and maximum-security housing units based on inmate classification. With an average daily population of 285, the facility is at 62% of capacity (458). Of the 285 inmates, 86% (246) are males, 15% (44) are females, and 3% (8) are juvenile males. Average daily intake is 5 to 10.

Health services are provided by CBH Medical. Health staff are on-site 24 hours a day, 7 days a week. At the time of our visit, there were 20 full-time staff, several part-time staff, and three vacancies.

Findings

SECTION A – GOVERNANCE AND ADMINISTRATION

J-A-01 ACCESS TO CARE (E)

Inmates have access to health care and are seen by a qualified clinician for their serious medical, dental, and mental health needs. The facility does not charge a fee for services. Custody staff provide sick call slips upon request. The slips are deposited in a locked box on each unit. A nurse picks up the requests daily, and they are triaged on the night shift. Sick call is conducted daily at 8:30 a.m. Access to sick call requests is easy and well-understood by the inmates. However, through records review and inmate interviews we found that responses to requests were inconsistent and unpredictable, ranging from a few hours to several days.

J-A-02 RESPONSIBLE HEALTH AUTHORITY (E)

The correctional health contractor is the responsible health authority. The on-site representative is at the facility 2 days per week. Clinical judgments rest with a designated responsible physician who is on-site.

J-A-03 MEDICAL AUTONOMY (E)

Qualified health care professionals make decisions regarding patients' serious medical, dental, and mental health needs in the patients' best interests. We noted good cooperation between custody and health staff, and improvement in this area was reported by health staff, custody staff, and inmates.

J-A-04 ADMINISTRATIVE MEETINGS AND REPORTS (E)

The health and correctional administrators coordinate the health care delivery system through joint monitoring, planning, and problem resolution. Recommendations for improvement are discussed in collaboration with custody and administrative personnel. During our visit, the DON and assistant warden discussed ways to improve compliance with the receiving screening standard. The medical advisory committee (MAC) meets quarterly and includes the HSA, DON, physician, correctional health contractor regional manager, and key custody and administrative personnel.

J-A-05 POLICIES AND PROCEDURES (E)

The health services policy and procedures manual is under development. The current manual is based on the 2014 *Standards for Health Services in Jails*; it is dated 2016 and was last reviewed 1/23/18.

J-A-06 CONTINUOUS QUALITY IMPROVEMENT PROGRAM (E)

The continuous quality improvement (CQI) committee is part of the MAC and meets quarterly. Monthly statistical data are reviewed at the meeting. At the October meeting, the committee addressed concerns raised at the August meeting, including review of a medical emergency in the infirmary.

J-A-07 PRIVACY OF CARE (I)

Health care encounters and exchanges of health information occur in private. The nurse conducts sick call in a medical room on each housing unit. Should an inmate require an assessment that requires exposure, the inmate is escorted to a private examination room in the medical unit.

J-A-08 HEALTH RECORDS (E)

A confidential health record is created and maintained using a standardized paper format, which is used by both medical and mental health providers. We did not review the dental records as this health service was not staffed during the visit.

J-A-09 PROCEDURE IN THE EVENT OF AN INMATE DEATH (I)

The responsible health authority conducts a thorough review of all deaths in an effort to improve care and prevent future deaths. The facility reported no deaths in the past 3 years.

J-A-10 GRIEVANCE PROCESS FOR HEALTH CARE COMPLAINTS (I)

A grievance process is in place to protect patients' right to disagree with or question the health care system. The HSA assigns staff to address grievances, which are to receive priority attention and a response as requested by corrections. Grievances are discussed at the quarterly MAC/CQI meeting. At the last meeting 21 grievances were reviewed and found to be without merit.

RECOMMENDATIONS

- A1 Respond to sick call requests in a timely manner.
- A2 Update the policy and procedure manual in accordance with the 2018 *Standards for Health Services in Jails*.
- A3 Review documentation related to the continuous quality improvement program for compliance with standard J-A-06 in the 2018 *Standards*.

SECTION B - HEALTH PROMOTION, SAFETY, AND DISEASE PREVENTION

J-B-01 HEALTHY LIFESTYLE PROMOTION (I)

Health services policies, procedures, and practices were under the 2014 *Standards* and emphasize health promotion, wellness, and recovery. Upon admission inmates are given information regarding tuberculosis and appropriate dental care.

J-B-02 INFECTIOUS DISEASE PREVENTION AND CONTROL (E)

Tuberculosis screening is done upon admission. Sharps and biohazardous wastes are disposed of properly. Health staff use standard precautions to minimize the risk of exposure to blood and body fluids. Should respiratory precautions be necessary, the patient would be transported to a hospital as the jail does not have negative pressure rooms. Time limitations prevented us from examining all compliance indicators, but management of infectious disease appeared to be appropriate.

J-B-03 CLINICAL PREVENTIVE SERVICES (E)

Compliance with this standard was not specifically addressed during this site evaluation.

J-B-04 MEDICAL SURVEILLANCE OF INMATE WORKERS (I)

Medical screening is performed on inmate workers to protect their health and safety.

J-B-05 SUICIDE PREVENTION AND INTERVENTION (E)

The facility has a suicide prevention program and complies with all state regulations related to suicide prevention. Custody staff are trained in suicide prevention.

J-B-06 CONTRACEPTION (I)

At the time of our visit, the facility had stopped offering birth control for females during the receiving screening. This physician consultant discussed this during the visit.

J-B-07 COMMUNICATION ON PATIENTS HEALTH NEEDS (E)

Facility administration and treating health staff communicate with regard to inmates' significant health needs that must be considered in classification decisions. Health staff complete a form to assess for special housing or other accommodation needs for every inmate admitted as well as change-of-status inmates. The form is given to the custody classification supervisor and a copy is kept in the health records file.

J-B-08 PATIENT SAFETY (I)

Compliance with this standard was not specifically addressed during this visit.

J-B-09 STAFF SAFETY (I)

Facility staff implement measures to ensure a safe environment. Custody staff are within sight or sound of health staff, and are present during medication administration and sick call encounters.

RECOMMENDATIONS

- B1 Implement processes to ensure compliance with J-B-01 Healthy Lifestyle Promotion in the 2018 *Standards for Health Services in Jails*.
- B2 The HSA, DON, and responsible physician need to complete an annual review of institutional programs, starting with implementation of the 2018 *Standards*.

SECTION C – PERSONNEL AND TRAINING

J-C-01 CREDENTIALS (E)

The HSA reported that all health care personnel have current licenses and other appropriate credentials on file. The HSA monitors renewal due dates for licensure, certification, and registration. Health staff do not perform tasks beyond those permitted by their credentials.

J-C-02 CLINICAL PERFORMANCE ENHANCEMENT (I)

Compliance with this standard was not addressed during this visit.

J-C-03 PROFESSIONAL DEVELOPMENT (E)

The facility training office confirmed that staff are provided with annual training.

J-C-04 HEALTH TRAINING FOR CORRECTIONAL OFFICERS (E)

A training program is established and approved by the responsible health authority in cooperation with the facility administrator. Training is provided on a cycle for all correctional officers. The training coordinator maintains all training syllabi and records.

J-C-05 MEDICATION ADMINISTRATION TRAINING (E)

Medications are administered by licensed practical nurses. Training is provided at orientation for all nursing staff and is documented on employees' orientation records.

J-C-06 INMATE WORKERS (E)

Inmates do not provide health care services.

J-C-07 STAFFING (I)

The RHA ensures sufficient numbers and types of health staff to care for the inmate population. Health services is staffed 24 hours per day, 7 days a week. The list below shows full-time equivalent (FTE) health staff at the time of our visit. As of Oct. 10, vacancies included one RN and one LPN.

Medical Staff	FTE	Mental Health Staff	FTE
HSA	1.0	Psychiatrist	0.8
DON	1.0	Mental health RN	1.0
Physician	0.4	MSW	1.0
RN	8.0		
LPN	5.0		
Dentist	0.4		
Dental hygienist	1.0		
Discharge planner	1.0		

J-C-08 HEALTH CARE LIAISON (I)

This standard is not applicable as health staff is on-site 24 hours a day.

J-C-09 ORIENTATION FOR HEALTH STAFF (I)

Documentation for current employees was on-site and confirmed that health staff have received appropriate orientation.

RECOMMENDATION

C1 Ensure that all documentation related to health staff training and credentialing is available at the time of the survey.

SECTION D – ANCILLARY HEALTH CARE SERVICES

J-D-01 PHARMACEUTICAL OPERATIONS (E)

A national company and a local back-up pharmacy provide pharmaceutical services that are sufficient to meet the needs of the patients. Most routine medications are received in 12 to 24 hours. Medications needed prior to scheduled deliveries, including emergency medications, are obtained through the local pharmacy. The facility maintains records to ensure adequate control and accountability for all medications except those available over the counter.

J-D-02 MEDICATION SERVICES (E)

We observed medication ordering, administration, and control procedures. The facility appears to be in compliance with this standard.

J-D-03 CLINIC SPACE, EQUIPMENT, AND SUPPLIES (I)

The health services unit has two examination rooms, one of which also serves as a laboratory. There are two dental operatories; the dental services unit was not reviewed as no dental provider was on-site during our visit. The facility appears to be in compliance with this standard.

J-D-04 ON-SITE DIAGNOSTIC SERVICES (I)

Radiological services and laboratory services are provided on-site by outside providers.

J-D-05 MEDICAL DIETS (E)

Medical diets are provided that enhance patients' health.

J-D-06 PATIENT ESCORT (I)

Patients are transported safely and in a timely manner for clinic appointments both inside and outside the facility. Confidentiality is maintained during transport. The health services unit has an assigned officer who escorts three patients at a time to the unit.

J-D-07 EMERGENCY SERVICES AND RESPONSE PLAN (E)

The facility provides 24-hour emergency medical, dental, and mental health services by means of an emergency medical services provider who responds with the fire department. Patients are transported to nearby hospitals' emergency departments. We could not review the mass disaster drills and man-down drills due to time constraints.

J-D-08 HOSPITAL AND SPECIALTY CARE (E)

Hospitalization and specialty services are provided at one of the three nearby hospitals.

RECOMMENDATION

D1 The HSA, DON, and responsible physician need to collaborate to review all documentation that supports compliance with these standards.

SECTION E - PATIENT CARE AND TREATMENT

J-E-01 INFORMATION ON HEALTH SERVICES (E)

The facility has an effective system for informing newly arrived inmates about the availability of health care services and how to access them.

J-E-02 RECEIVING SCREENING (E)

We observed that receiving screenings are appropriate and completed within 1 to 2 hours with good documentation. Instruction on oral hygiene is given during receiving screening.

J-E-03 TRANSFER SCREENING (E)

This standard is not applicable.

J-E-04 INITIAL HEALTH ASSESSMENT (E)

Most of the charts we reviewed showed that the health assessment was refused, but there was no signed refusal on file.

J-E-05 MENTAL HEALTH SCREENING AND EVALUATION (E)

Mental health screening is completed upon admission by custody staff and followed up by health services staff. Referrals to mental health services are timely. Mental health services and follow-up were appropriate as evidenced in chart reviews and staff interviews.

J-E-06 ORAL CARE (E)

We did not assess dental services as no dental provider was on site. Based on chart reviews, it appeared that dental care was deficient. Since health assessments were not done, oral cavity examination was not completed for a majority of patients.

J-E-07 NONEMERGENCY HEALTH CARE REQUESTS AND SERVICES (E)

Based on our chart reviews and patient interviews, we identified inconsistencies in the length of time between triage of sick call requests and health staff response, with responses ranging from a few hours to several days.

J-E-08 NURSING ASSESSMENT PROTOCOLS AND PROCEDURES (I)

The nursing protocols were last reviewed in May 2015. The HSA reported that a new set of protocols is being developed at the corporate level.

J-E-09 CONTINUITY, COORDINATION, AND QUALITY OF CARE DURING INCARCERATION (E)

Continuity of care needs some improvement, including better documentation in laboratory interpretations, care plans based on lab results, and documentation that the results were shared with patients.

J-E-10 DISCHARGE PLANNING (E)

A discharge planner is employed in the health services unit.

RECOMMENDATIONS

- E1 Develop and implement an effective health assessment process in accordance with J-E-04 in the 2018 *Standards for Health Services in Jails*.
- E2 Perform oral screening by a dentist or qualified health care professional trained by a dentist.
- E3 Establish acceptable time lines in responding to sick call requests.
- E4 Review and update nursing assessment protocols and procedures.
- E5 Focus on continuity of care by providing better documentation of laboratory interpretations, care plans based on lab results, and documentation that the results were shared with the patient.

SECTION F – SPECIAL NEEDS AND SERVICES

J-F-01 PATIENTS WITH CHRONIC DISEASE AND OTHER SPECIAL NEEDS (E)

Chronic disease management requires a number of improvements, as noted in recommendation E5. Hypertension, diabetes, and lipid management appeared to be appropriate. Peak flows were completed on patients with asthma. Follow-up times for chronic care were acceptable. However, chronic care guidelines were outdated and inappropriate.

J-F-02 INFIRMARY-LEVEL CARE (E)

The compliance indicators for infirmary-level care were met. However, the infirmary unit was being used as sheltered housing for inmates with special needs who cannot be appropriately housed in the general population.

J-F-03 MENTAL HEALTH SERVICES (E)

Mental health services were appropriate and appeared to be managed well. Mental health is highly staffed, with two on-site psychiatrists, one mental health RN, and one MSW.

J-F-04 MEDICALLY SUPERVISED WITHDRAWAL AND TREATMENT (E)

Nursing treatment protocols exist for inmates undergoing withdrawal. However, the protocols need to be reviewed and updated.

J-F-05 COUNSELING AND CARE OF THE PREGNANT INMATE (E)

Pregnant inmates are given comprehensive counseling and care in accordance with national standards and the patients' expressed desires regarding their pregnancy.

J-F-06 RESPONSE TO SEXUAL ABUSE (E)

Facility staff ensure that victims of sexual abuse receive appropriate intervention. All staff receive annual training on the Prison Rape Elimination Act.

J-F-07 CARE FOR THE TERMINALLY ILL (I)

We did not specifically address this standard during the visit.

RECOMMENDATIONS

- F1 Ensure that the critical elements of chronic diseases management are documented in the patients' health records.
- F2 Update the chronic care guidelines to meet current standards of care.
- F3 Review the nursing protocols and procedures manual and update as necessary.

SECTION G – MEDICAL-LEGAL ISSUES

J-G-01 RESTRAINT AND SECLUSION (E)

The responsible health authority ensures that when restraints are used for clinical or custody reasons, the inmate is not harmed by the intervention.

J-G-02 SEGREGATED INMATES (E)

Health staff are notified when inmates are placed in segregation. They review the inmate's health records, and nursing staff performs rounds as required by the standard.

J-G-03 EMERGENCY PSYCHOTROPIC MEDICATION (E)

Health staff follow policies developed for the emergency use of forced psychotropic medications as governed by the applicable laws.

J-G-04 THERAPEUTIC RELATIONSHIP, FORENSIC INFORMATION, AND DISCIPLINARY ACTIONS (I)

Health staff protect the integrity of the therapeutic partnership with their patients. The facility is in compliance with this standard.

J-G-05 INFORMED CONSENT AND RIGHT TO REFUSE (I)

Patient refusal forms were lacking in the health record; this is not in compliance with compliance indicator # 4.

J-G-06 MEDICAL AND OTHER RESEARCH (I)

The inmates are not participants in any medical or other research.

RECOMMENDATION

G1 Improve documentation of patients' refusal of care through use of refusal-of-care forms that are placed into the health record.

Criminal Justice Reform: New York continues its commitment to a fairer criminal justice system with the inclusion of the following reforms in the FY 2020 Enacted Budget:

- **Reforming Bail and Pretrial Detention Reform:** As part of a groundbreaking plan to modernize New York's bail system, cash bail will be eliminated for misdemeanors and non-violent felonies, alongside a new requirement that police officers must issue desk appearance tickets to most people charged with misdemeanors and Class E felonies, rather than making a custodial arrest. Together, these reforms will ensure approximately 90 percent of people charged, but not yet convicted of a crime, are not sitting in jail awaiting trial solely because they do not have the economic resources to meet bail.
- **Transforming the Discovery Process:** In order to overhaul New York's antiquated discovery process by which prosecutors were able to withhold basic evidence until the day the trial begins, legislation included in the FY 2020 Enacted Budget will require that both prosecutors and defendants share all information in their possession well in advance of trial. Defendants will also be allowed the opportunity to review whatever evidence is in the prosecution's possession prior to pleading guilty to a crime. In addition, the legislation will ensure that victims and witnesses are protected from intimidation and other forms of coercion by providing prosecutors with the ability to petition a court for a protective order, shielding identifying information when necessary to ensure the safety of witnesses and the sanctity of the judicial process.
- **Ensuring the Right to a Speedy Trial:** Under New York State law, misdemeanors are required to be resolved within 90 days and felonies within 180 days, however, the average length of pretrial detention is far longer. To address this injustice, the FY 2020 Enacted Budget includes legislation that requires courts to take a proactive role in advising litigants on how time will be charged. When appropriate, courts will also inquire into the government's readiness to proceed to trial and require that the government file all appropriate paperwork before a statement of readiness is accepted, ensuring that the government is not able to proceed to trial until the defendant has been provided with all of the information in the case against them.



March 27, 2019

For More Information:

DAASNY: 518-598-8968

NYSSA: 518-434-9091

NYSACOP: 518-355-3371

***DISTRICT ATTORNEYS, CHIEFS OF POLICE AND SHERIFFS
CALL ON GOVERNOR AND LEGISLATURE TO ENACT
SENSIBLE CHANGES TO NEW YORK'S BAIL SYSTEM***

***Threats to public safety must be taken into account before releasing individuals
back into our communities***

Albany, NY- The District Attorneys Association of New York (DAASNY), the New York State Sheriffs' Association (NYSSA) and the New York State Association of Chiefs of Police (NYSACOP) join together in calling on the Governor and the Legislature to adopt sensible changes to New York State's bail system that will benefit all the people of our State. The three Associations endorsed the recommendations of the New York State Justice Task Force on Bail Reform. (Task Force Report Attached)

DAASNY, NYSSA and NYSACOP jointly agree that there should be a presumption of release in most instances for those who commit misdemeanor or non-violent felonies and who pose little or no flight risk. However, these law enforcement organizations believe that this presumption should be allowed to be rebutted for certain crimes or where there is a significant risk that a defendant will not return to court. In addition, with regard to the public safety of our residents and visitors, a judge should be permitted to consider whether a defendant poses a credible risk to an identifiable person or group of persons.

"We are supportive of some modifications to our current bail system. We believe that this is an appropriate path forward on bail reform," said Oneida County Sheriff Rob Maciol, President of the New York State Sheriffs' Association. "While we

still believe that New York is as safe as it's ever been under the existing bail system, we agree that there is always room for improvement, for us as law enforcement officials, and for the communities we serve.”

“District Attorneys agree with presumptive release of defendants in a majority of criminal cases and support presumptive release in many cases. But we want the opportunity to provide evidence to a court that an individual poses a threat to public safety or is likely to flee,” said DAASNY President Albany County District Attorney David Soares. “In rare instances those who pose a threat to public safety should be held until trial.”

“The New York State Association of Chiefs of Police believes that the determination of release should be left in the hands of Judges and Magistrates in the State of New York. Public safety dictates that we must allow courts to determine whether someone will pose a threat to our communities,” said Chief John Aresta President of NYSACOP.

DAASNY, NYSSA and NYSACOP have concluded that the recommendations of the Task Force, if properly executed, would result in meaningful, fair reform to the bail system in New York State without significantly compromising public safety. The Task Force’s proposal would create a presumption of release for most defendants, but would allow judges to remand individuals for pre-trial detention when aggravating circumstances are present. It would also allow judges to consider a person’s credible threat to public safety when making a determination whether pre-trial detention is appropriate. Also, the recommendations would not curtail a police officer’s existing discretion regarding whether to issue an appearance ticket or conduct an arrest.

DAASNY, NYSSA and NYSACOP urge the Governor and the Legislature to adopt the Justice Task Force recommendations on bail as a way of achieving improvements to the bail system, which we all desire.

###



New York State Justice Task Force

Report on Bail Reform

February 2019

Justice Task Force Recommendations

February 2019

I. Introduction

The New York State Justice Task Force (the “Task Force”) was formed in May 2009 by former Chief Judge of the State of New York Jonathan Lippman to work to eradicate wrongful convictions across the State. Nearly 10 years later, the Task Force continues this work under current Chief Judge Janet DiFiore, who has since expanded the Task Force’s mission to promote fairness, effectiveness, and efficiency in the criminal justice system; to eradicate harms caused by wrongful convictions; to further public safety; and to recommend judicial and legislative reforms to advance these causes throughout the State.

The Task Force is now chaired by former Court of Appeals Judge Carmen Beauchamp Ciparick and acting Supreme Court Justice Mark Dwyer. The Task Force’s members represent a broad cross-section of the criminal justice community in New York State, consisting of judges, prosecutors, defense attorneys, law enforcement officials, victim advocates, and others who are committed to investigating and building consensus around some of the most important and difficult issues in our criminal justice system.

Since its inception, the Task Force has studied and provided recommendations on a number of issues, including: expanding the State’s DNA databank; granting post-conviction access to DNA testing and databanks; utilizing electronic recording of custodial interrogations; implementing best practices in identification procedures; granting greater access to forensic case file materials; reforming criminal discovery; using root-cause analysis to prevent wrongful convictions; and addressing attorney misconduct, including through orders reminding both prosecutors and defense attorneys of their respective obligations. Meanwhile, Task Force members, in their individual capacities, have been proactive in implementing new measures to promote the Task Force’s mission.

II. Executive Summary

Since the 1960s, New York State has played an integral role in the national dialogue around bail reform.¹ In recent years, the issue has garnered increased attention across the country and in our State, where various stakeholders, including New York Governor Andrew Cuomo, the New York State Legislature, and Chief Judge DiFiore, have advocated for meaningful bail reform. Put simply, it has become abundantly clear that far too many defendants, who are presumed innocent, are nonetheless left to languish in our State’s jails because they cannot afford to pay bail. This has a profound toll on those individuals, who are disconnected from society and stand to lose jobs or housing, and who may also feel pressure to plead guilty even when they are not. And it has a

¹ See Center on the Administration of Criminal Law, *Preventive Detention in New York: From Mainstream to Margin and Back* (February 2017) (outlining the history of bail reform in New York State).

profound toll on society, which bears the burden of incarcerating individuals who simply should not be in jail.

In recent weeks, Governor Cuomo put forward his latest proposal, which would effectively eliminate bail in favor of releasing defendants on their own recognizance in most instances.² The New York State Assembly and Senate have put forward proposals of their own, which are now being discussed in Albany. Bail reform is inevitable, and it is important that we take this pivotal moment to ensure that the reform is done in a way that is safe and meaningful, on a systematic level.

Over the past 21 months, the Task Force has performed an in-depth study and analysis of how to improve the procedures through which defendants charged with criminal offenses are released prior to trial. The Task Force focused primarily on how to do so under our current statutory regime, but also recognized that changes involving the consideration of risk to public or physical safety might require legislative change. In the end, as detailed below, a narrow majority of the Task Force recommended that the New York Legislature consider adopting new legislation that would permit a court to consider whether a defendant currently poses a credible threat to the physical safety of an identifiable person or group of persons.

The Task Force began its work back in June 2017, with a comprehensive survey of bail systems and bail reform efforts across all 50 states and the District of Columbia. Beginning in September 2017, the Task Force heard from a number of presenters, including the Vera Institute of Justice, which spoke about the current state of bail and pretrial justice in New York State, and a panel of key stakeholders involved in New Jersey's recent bail reform efforts, including New Jersey Chief Justice Stuart Rabner, as well as representatives from the New Jersey Office of the Attorney General, the American Civil Liberties Union, and the New Jersey Office of the Public Defender. In addition, the Task Force heard from panels of practitioners from both New York City and Upstate New York, who noted the variance in bail practices across the State, especially between counties in New York City with significant and concentrated resources, and counties in Upstate New York with fewer and more diffuse resources.

In February 2018, the Task Force convened a bail reform subcommittee (the "Subcommittee") to further investigate various issues that had been raised during the Task Force's initial analysis. In the months that followed, the Subcommittee met more than a half-dozen times and heard from various other presenters, including from the Governor's Council on Community Reentry and Reintegration, the Arnold Foundation, Upturn, the New York Federal-State-Tribal Courts, the New York Criminal Justice

² Under the Governor's bill, when release on recognizance would not reasonably assure a defendant's future attendance in court, courts would be permitted to release the defendant under the least restrictive non-monetary conditions appropriate. The court would also be permitted to consider pretrial detention for a limited group of defendants charged with specific enumerated offenses, where the court finds clear and convincing evidence, after a hearing, that the defendant poses a high risk of flight before trial or a current threat to the physical safety of a reasonably identifiable person or persons.

Agency (“CJA”), and the Mayor’s Office on Criminal Justice. The Subcommittee also invited individuals from various other organizations to engage in these meetings, including representatives from the Vera Institute of Justice, the Legal Aid Society, Bronx Defenders, and the Innocence Project. The Task Force is indebted to all these organizations and individuals for their invaluable contributions.

In March 2018, the Task Force, in full consensus, released a statement on bail reform (the “Statement”),³ which set forth a number of bail reform recommendations based on current law and the Task Force’s analysis up to that point. At the outset, the Statement emphasized the need for sufficient funding for any bail reform efforts the State embarked on, including pretrial services and data collection, and called for enhanced training on the use of non-monetary alternative forms of bail. The Statement also endorsed a presumption that defendants facing misdemeanor and certain non-violent felony charges—who, together, make up the vast majority of those incarcerated—be released without any bail. This presumption could be rebutted, the Statement further explained, if a court determined that there were aggravating circumstances, whereupon the court would use the factors set forth in CPL § 510.30 to set the least restrictive conditions necessary to ensure the defendant’s future attendance in court, and explain its rationale on the record.

This Report on Bail Reform (the “Report”) builds on that March 2018 Statement, including by explaining which non-violent felony charges should not be included in the presumption of release, as well as which aggravating circumstances could cause that presumption to be rebutted. After four full Task Force meetings, eight Subcommittee meetings, and four Subcommittee subgroup meetings,⁴ the 24 voting members of the Task Force achieved consensus on a majority of the recommendations considered, in many instances reaching near-unanimous agreement. Along the way, the Task Force tracked and considered various other bail reform proposals that have been raised in recent years, including whether New York should consider public safety in making bail determinations or utilize some form of preventive detention, which it has never done before. As noted above, the issue of whether courts might consider physical safety sparked a robust debate and discussion, and was ultimately passed by a close margin.

Having considered all of this, the Task Force makes the following recommendations, which are explained more fully below:

- **Rebuttable Presumption of Release.** The Task Force recommends there be a presumption that defendants facing misdemeanor and certain non-violent felonies be released without imposing any bail, either on their own

³ The Statement can be found at **Appendix A**.

⁴ The full Task Force meetings were held on September 18, 2017, November 30, 2017, January 10, 2019, and February 4, 2019. The Subcommittee meetings were held on February 12, 2018, May 7, 2018, June 27, 2018, August 20, 2018, October 10, 2018, December 5, 2018, December 14, 2018, and January 28, 2019. The Subcommittee subgroup meetings were held on February 20, 2018, March 1, 2018, September 17, 2018, and January 4, 2019.

recognizance or with the least restrictive non-monetary conditions necessary to ensure their appearance in court.

- **Relevant Offenses.** This presumption would not apply to defendants who face a life sentence of imprisonment or who are charged with a non-violent Class B felony carrying a mandatory state prison term (excluding Class B drug offenses), nor would it apply if the defendant is charged with conspiracy to commit one of these offenses.⁵
- **Aggravating Factors.** The presumption may be rebutted if the court, in considering the factors set forth in CPL § 510.30, determines that there is a significant risk the defendant will not return to court. In such a case, the court must use the factors set forth in CPL § 510.30 to set the least restrictive conditions necessary to ensure the defendant's future attendance in court. In addition, the presumption may be rebutted if the court determines that the defendant currently poses a credible threat to the physical safety of an identifiable person or group of persons (e.g., in domestic violence cases). In any case where the court determines that the presumption has been rebutted, it must explain its rationale on the record.
- **Consideration of Physical Safety.** As noted above, courts may consider whether a defendant currently poses a credible threat to the physical safety of an identifiable person or group of persons in determining whether the presumption of release may be rebutted. In addition, courts should be permitted to consider—when making bail determinations for any offense, including more serious felonies—whether a defendant currently poses a credible threat to the physical safety of an identifiable person or group of persons.
- **Six Other Bail Reform Initiatives.** The Task Force recommends that the State: (1) improve its review and reconsideration process of any bail set in local criminal court under CPL § 530.30; (2) augment training and education, including for the court; (3) expand the use of pretrial services, including for supervised release (and ensure proper State-wide funding for the same); (4) expand data collection and reporting (and ensure proper State-wide funding for the same); (5) further study the use of risk-assessment tools, and use certain best practices if such tools are in fact implemented; and (6) further study the use of “\$1 bail” and how to mitigate any of its unintended harms.

⁵ This provision was added to exempt from the presumption of release certain offenses, including certain homicide crimes, that do not otherwise fall within the State's definition of a violent felony offense under Penal Law § 70.02.

III. Bail Reform Recommendations

a. Rebuttable Presumption of Release

i. Relevant Offenses

As initially stated in the March 2018 Statement, the Task Force recommends that there be a presumption that defendants facing misdemeanor and certain non-violent felony charges be released without imposing bail, as defined in CPL § 520.10(1). These defendants should be released either on their own recognizance or with the least restrictive non-monetary conditions necessary to ensure they appear in court as required.

That said, the Task Force recommends that the presumption of release not apply where the defendant faces a life sentence of imprisonment, or is charged with a non-violent Class B felony that carries a mandatory state prison term (excluding Class B drug offenses). Nor would the presumption apply if the defendant is charged with conspiracy to commit one of these offenses.

ii. Aggravating Circumstances

In addition, the Task Force recommends that, even for offenses receiving the presumption of release set forth above, the court may find that there are aggravating circumstances that rebut that presumption.

The Task Force recommends that the presumption may be rebutted if the court, upon considering the various factors set forth in CPL § 510.30, determines that there is a significant risk that the defendant will not return to court as required. In such a case, the court must use the factors set forth in CPL § 510.30 to set the least restrictive conditions necessary to ensure the defendant's future attendance in court.⁶

⁶ CPL § 510.30(2)(a) provides that “[w]ith respect to any principal, the court must consider the kind and degree of control or restriction that is necessary to secure his court attendance when required.” The factors that the court must consider are: (1) “The principal’s character, reputation, habits and mental condition”; (2) “His employment and financial resources”; (3) “His family ties and the length of his residence if any in the community”; (4) “His criminal record if any”; (5) “His record of previous adjudication as a juvenile delinquent, as retained pursuant to section 354.2 of the family court act, or, of pending cases where fingerprints are retained pursuant to section 306.1 of such act, or a youthful offender, if any”; and (6) “His previous record if any in responding to court appearances when required or with respect to flight to avoid criminal prosecution.” Moreover, the court must consider additional factors “[w]here the principal is charged with a crime or crimes against a member or members of the same family or household as that term is defined in subdivision one of section 530.11 of this title” If the principal is a defendant, the court must consider “the weight of the evidence against him in the pending criminal action and any other factor indicating probability or improbability of conviction; or, in the case of an application for bail or recognizance pending appeal, the merit or lack of merit of the appeal”; and “the sentence which may be or has been imposed upon conviction.” In addition, CPL § 510.30(2)(b) provides that, if the principal is a “defendant-appellant in a pending appeal from a judgment of conviction, the court must also consider the likelihood of ultimate reversal of the judgment.”

Moreover, a narrow majority of the Task Force recommends that the presumption may be rebutted if the court determines that the defendant currently poses a credible threat to the physical safety of an identifiable person or group of persons (e.g., in domestic violence cases). In any case where the court determines that the presumption has been rebutted, it must explain its rationale on the record.

As noted earlier, the Task Force engaged in a vigorous debate and discussion as to whether courts should be able to consider public safety, in any capacity, in making bail determinations. While New York State has long eschewed the notion that public safety may be considered, the topic has received renewed attention in recent years, as several recent bail proposals eliminate the alternative of bail. The Task Force ultimately determined that although a court should not consider whether a defendant poses a threat to public safety, it should be allowed to consider whether a defendant currently poses a credible threat to the physical safety of an identifiable person or group of persons, such as in domestic violence cases. During these discussions, several members of the Task Force acknowledged that, as a practical matter, there is a perception that courts do take into account threats to public or physical safety when considering the monetary conditions of bail, looking to, among other things, the factors set forth in CPL § 510.30. These members of the Task Force noted that there is a benefit to promoting transparency regarding when such considerations are appropriate, and to ensuring that there is proper due process regarding such determinations. Other members of the Task Force noted that the New York Legislature had long considered and rejected the notion of considering public safety, and should not adopt such a consideration at this juncture.

b. Factors to Consider in All Bail Determinations

In making any bail determination, regardless of whether the relevant offense falls within the scope of the presumption outlined above, the Task Force recommends that the court weigh the factors set forth in CPL § 510.30, and examine whether the defendant's release on recognizance is reasonable. Moreover, even when such release is deemed not reasonable, the court should set the least restrictive conditions necessary to ensure that defendant's future attendance in court as required.

In addition, as indicated above, a narrow majority of the Task Force recommends that courts—in making any bail determinations, including for more serious offenses that fall outside the scope of the presumption of release outlined above—be permitted to consider whether a defendant currently poses a credible threat to the physical safety of an identifiable person or group of persons. The Task Force, once again, recognizes that permitting a court to consider this factor would require legislative change, and recommends that the New York Legislature consider making such a change.

c. Six Other Bail Reform Initiatives

i. Bail Reviews and Bail Reconsiderations

The Task Force recommends that the bail review and bail reconsideration process of any bail set in local criminal court under CPL § 530.30 be improved. Specifically, the

Task Force recommends that in misdemeanor and unindicted felony cases, CPL § 530.30 bail reviews should be made upon oral request of the defense attorney and notice to the court and the prosecution, which is allowed but not expressly provided for in the current statute. In cases where bail review has been requested, the Task Force recommends that the judiciary adopt a uniform rule across the State that CPL § 530.30 bail reviews be held no later than 48 hours after the defense counsel's request (excluding weekends and holidays).

The Task Force further recommends that at each court appearance prior to the disposition of a case, the court must review the bail conditions of any incarcerated defendant. District Attorneys' offices and the institutional defense providers in each county, including Article 18-B assigned counsel, should implement systems within their offices to periodically consider whether there are incarcerated defendants for whom bail should be lowered or release should be granted.

ii. Training and Education

The Task Force recommends that there be enhanced training and education of judges, courtroom personnel, prosecutors, and defense attorneys regarding the diverse set of alternatives to cash bail and insurance company bail bonds available under the existing framework, including, but not limited to, unsecured and partially secured bonds.

In particular, the Task Force recommends that the judiciary augment its standardized and mandatory training programs on bail for judges and clerks who work on criminal cases, including civil court judges rotating into arraignments, and that this augmented training be conducted annually. In designing the training, courts should periodically include perspectives from individuals directly impacted by bail decisions. Trainings should include statistics about current bail-setting practices and discussion of any risk-assessment tools in use in the jurisdiction. In addition, the trainings should include a focus on less restrictive alternatives to incarceration, as well as assessing a defendant's ability to pay if monetary bail is being considered.

As part of their training, judges should also be required to visit the local county jail that houses pretrial detainees once within the first year of being elected or appointed, and every four years after that as currently required under 22 NYCRR 17.1 (which requires that judges and justices who sit in criminal parts visit facilities and institutions for detention every four years, including facilities and institutions for pretrial detention). Clerks should also be provided an opportunity to visit such jails.

iii. Pretrial Services

The Task Force recommends that the State provide sufficient funding for pretrial services, including supervised release as an alternative to bail, in order to ensure that such services are meaningful, robust, and effective. The Task Force further recommends the use of pretrial services across the State to increase the likelihood that defendants will appear in court as required, including through reminders of upcoming court dates by phone calls, texts, and letters. Over the course of its review, the Task Force heard from a

number of speakers about the effectiveness of pretrial services, including the fact that a simple reminder to appear in court can have a dramatically positive impact on a defendant's likelihood of showing up to court as required.

iv. Data Collection and Reporting

The Task Force recommends that the State provide sufficient funding for uniform data collection and reporting on pretrial practices in order to enable the thorough tracking and study of bail reform efforts.

Data collection should include, but not be limited to, detention requests by prosecutors and detention orders by courts across race or ethnicity groups. In addition, data collection should include the various types of bail set, including data about the use of partially secured and unsecured bonds, along with what form of bail the defendant relied upon to pay bail.

v. Risk-Assessment Tools

The Task Force heard from a number of speakers about the use of risk-assessment tools, including from the CJA, which claims to have a transparent risk-assessment tool that only measures flight risk, rather than propensity. In the end, the Task Force determined that the question of whether judges should be able to use risk-assessment tools that measure flight risk to assist them in making bail determinations requires further study.

Based on its own study of the issue, the Task Force recommends that certain best practices should be used if, in fact, risk-assessment tools are implemented in some capacity. In particular, the Task Force recommends that any such tool should be regularly updated to ensure its continued usefulness, and monitored to ensure that it does not foster racial disparity. In addition, the Task Force recommends that judges, prosecutors, and defense counsel be trained on the tool's strengths and weaknesses. Finally, the tool's methodology and the data it uses should be transparent and made accessible to third parties for testing and analysis.

vi. "\$1 Bail"

During the Task Force's discussions, the issue of "\$1 bail" arose, whereby defendants in New York City and some other jurisdictions across the State can be unnecessarily held in jail for minor offenses solely on \$1 bail.⁷ As a general matter, the

⁷ This form of bail is set when the defendant is ordered released on one case, but held on another case. The nominal bail is set on the case where release was available to make sure the defendant receives credit for time served for both cases. The problem, however, is that for various reasons, including the dismissal of the case that did not have the release order, certain defendants are held only on \$1, without timely notification that the other hold has been eliminated. Thus, at present, the process of releasing the detainee can be quite burdensome.

(...continued)

Task Force believes that the issue of \$1 bail requires further study, including as to whether there should be legislative reform to, among other things, replace it with an administrative hold or other legislative solution, so that the goals of production and jail time credit do not result in some individuals being held only on \$1. For the time being, however, the Task Force recommends that judges, defense attorneys, and prosecutors in jurisdictions utilizing \$1 bail be trained on the nuances of the practice to limit any of its unintended harms.

(continued....)

The Task Force is aware that a relatively new process has been implemented in New York City that seeks to address this \$1 bail issue. Every weekday morning, the Department of Correction's ("DOC") Information Technology department automatically generates a report of those individuals being held solely on \$1 bail. For each individual, an alert is sent to their housing facility and the individual is notified that they can post \$1 bail to be released. If the individual is not able to post \$1, they are notified that they can call a surety. If the individual can neither post \$1 nor locate a surety, DOC Social Services will post the \$1 bail for them.

Appendix A



New York State Justice Task Force

Statement on Bail Reform

March 21, 2018

The New York State Justice Task Force (the “Task Force”) applauds the efforts of Governor Andrew Cuomo, the New York State Legislature, Chief Judge Janet DiFiore, and many others across the State working to improve the procedures by which defendants charged with criminal offenses are released prior to trial. This is important and pressing work, and it is multifaceted, requiring thoughtful consideration and, at times, compromise.

The Task Force is currently conducting in-depth research and analysis on the State’s bail system and process for timely disposal of cases. The aim is for us, as a body consisting of judges, prosecutors, defense attorneys, law enforcement officials, victim advocates, and others across the criminal justice system, to build on the important work now being done and to develop consensus on a number of difficult issues connected to that work—including, but not limited to, the most prudent way to approach pretrial services, preventive detention, and bail alternatives. At the outset, however, we emphasize that it is critical for the State to provide sufficient funding in order for any of these bail reform packages to succeed.

In addition, at this early stage, the Task Force notes several points that we hope can help animate the current discussion about pretrial release of defendants charged with criminal offenses.

- First, the Task Force endorses a presumption that defendants facing misdemeanor and certain non-violent felony charges be released without employing cash bail or the traditional bail bonds, either on their own recognizance or with the least restrictive non-monetary conditions necessary to ensure those defendants’ presence in court as required. The presumption may be rebutted where a court determines that aggravating circumstances exist. To the extent the court determines that the presumption has been overcome, the court should set forth its rationale on the record.
- Second, we recommend that there be enhanced training and education of judges, courtroom personnel, prosecutors, and defense attorneys regarding the diverse set of alternatives to cash bail and insurance company bail bonds available under the existing framework, including, but not limited to, unsecured and partially secured bonds.

- Third, we recommend that the State provide sufficient funding for pretrial services, in order to ensure that such services are meaningful, robust, and effective.
- Finally, we recommend that the State provide sufficient funding for uniform data collection and reporting on pretrial practices, in order to enable the thorough tracking and study of bail reform efforts. Data collection should include, though not be limited to, detention requests by prosecutors and detention orders by courts across racial groups.

We look forward to further contributing to this important conversation in the months ahead.