



**BOARD OF CORRECTION
OF THE CITY OF NEW YORK**

APPENDIX B

BOC COMMENTS ON NEW VISIT DIRECTIVE¹

The Board’s comments on Visit Directive 2007R-C (eff. 7/14/17) (“Directive”) are divided into two parts. Part I includes comments, questions, and recommendations regarding provisions about visit limitations and restrictions. Part II includes comments, questions, follow-up requests, and recommendations about the visit process described in the Directive.

Part I: Visit Limitations and Restrictions

1. Minimum Standard (“MS”) § 1-09(a) (“Policy”) states, in pertinent part:

Maintaining personal connections with social and family networks and support systems is critical to improving outcomes both during confinement and upon reentry. Visitation with friends and family plays an instrumental role in an inmate’s ability to maintain these connections and should therefore be encouraged and facilitated by the Department.

In 2015, the Board amended subdivision (a) of MS 1-09 to emphasize the importance of contact visits. Absent in the Directive, however, is a sufficient statement that encapsulates the importance of visitation on improving outcomes for incarcerated people, both during confinement and upon reentry, and creating a safer jail environment. This fundamental point is alluded to in the first sentence of the Dress Code section on page 13 of the Directive (“The Department encourages inmate family members and friends, including children of the elderly to visit inmates. To provide for the safety and security of staff, inmates, and visitors and to maintain a family friendly environment, visitors must wear appropriate clothing to visit inmates”) (Section III(G)(1) at 13).

► Recommendation # 1

DOC should include in the Directive (II(A) (“Policy”) at 1), either verbatim or in substance, the above text of § 1-09(a).

¹ Hereinafter, “Directive” refers to DOC’s new Directive 2007R-C re Inmate Visit Procedures, eff. 7/14/17.

2. MS 1-09(h)(1) (“Visiting”/“Restrictions on visiting rights”) states that “[t]he visitation rights of an inmate with a particular visitor may be denied, revoked *or* limited only when it is determined that the exercise of those rights constitutes a *serious* threat to the safety or security of a facility, provided that visitation rights with a particular visitor may be denied only if revoking the right to contact visits would not suffice to reduce the serious threat” (emphasis added). Similar language in the Directive refers to a “threat” — but not a “serious” threat — as the basis for denying contact visits (III(F)(1)(a) at 5 (2nd bold ¶)).²

► **Recommendation # 2**

DOC should add the word “serious” to the text in section III(F)(1)(a) of the Directive.

3. MS 109(h)(1) also states that a visit can be denied only if the denial is based on “specific acts committed by the visitor during a prior visit to a facility that demonstrate the visitor’s threat to the safety and security of a facility, or on specific information received and verified that the visitor’s plans to engage in acts during the next visit that will be a threat to the safety or security of the facility.”

The Directive, however, does not adhere to this standard when determining whether a visitor who refuses to be pat frisked should be denied a visit entirely. Section IV(C)(2)(c) (at 18) states: “The visitor may refuse to be pat frisked and may be denied a contact visit for that day and offered a non-contact visit instead. *If the Captain determines, in accordance with BOC Minimum Standards, that a non-contact visit would still constitute a serious threat to the safety and security of the institution, the visitor may be denied a visit entirely in accordance with section III.F*” (emphasis added).

► **Questions**

- Under what circumstances would DOC deny a contact visit?
- What training or guidelines are given to Captains to support fair and consistent decision-making?

► **Recommendation # 3**

DOC should revise the italicized sentence to make clear that, pursuant to MS 1-109(h)(1), a visit can be denied only if the denial is based on “specific acts committed by the visitor during a prior visit to a facility that demonstrate the visitor’s threat to safety and security of a facility, or on specific information received and verified that the visitor’s plans to engage in acts during the next visit that will be a threat to the safety and security of the facility.”

4. MS 109(h)(3) states that “[r]estrictions on visitation rights must be tailored to the threat posed by the inmate or prospective visitor and shall go no further than what is necessary to address that threat.” However, this requirement does not appear in the Directive.

► **Recommendation #4**

DOC should add this requirement to the Directive’s Section II (“Policy,” at 1-2) and Section III(F) (“Rules and Procedures Relative to Limiting or Denying Visits,” at 5-6).

² Unless otherwise stated, information in the parentheses refers to the applicable section and page number of the Directive.

5. Section IV(L)(2) of the Directive (“The Visit”) reads in part: “In accordance with BOC Minimum Standards, the Department may impose certain limitations for visitors to inmates in [ESH]” (at 32-33). MS 1-16(d)(2) (ESH) states that limitations on an inmate’s or visitor’s access to contact visits must be determined in accordance with the criteria in the Minimum Standard on Visiting (§ 1-09(h)). This provision could be misinterpreted as permitting DOC to impose booth visits (or other restrictions) on ESH inmates and their visitors in accordance with criteria other than that set forth in § 1-09(h).

► **Recommendation # 5**

DOC should delete this text.

6. Throughout the Directive, including in the “Visit Limitation or Denial Grid” (at 9-11) and in the Grid portion of Attachment A to the Directive (at 2), inmates’ and visitors’ access to visitation is at times referred to as a “privilege,” and at other times, a “right.”³ MS 1-09(h) refers to inmates’ “visitation rights,” not “visitation privileges.” Subdivision (h) does not refer to a visitor’s ability to visit as either a right or a privilege; rather, when referring to a visitor’s, or both a visitor’s and inmate’s, ability to visit, MS 1-09(i)(1) states that “any person affected by the Department’s determination to deny, revoke or limit access to visitation, may appeal to the Board.”

► **Recommendation # 6**

The word “privilege” should be deleted from the Directive given that incarcerated persons have a New York State constitutional right to contact visits. DOC should revise the Directive as follows: (1) replace all references to an inmate’s visitation “privileges” with visitation “rights”; (2) replace all references to a visitor’s visitation “rights” or “privileges” with a visitor’s “access to visitation”; and (3) replace all references to “rights” and “privileges” with “access to visitation,” when speaking about *both* inmates and visitors.

7. There is no mention in the Directive of the prohibition set forth in MS 1-09(h)(4)(i)-(xii) against restricting visitation rights based on an actual or perceived demographic or other characteristics of a visitor or inmate.

► **Recommendation #7**

DOC should incorporate this prohibition, verbatim or in substance, in Section II (“Policy”) of the Directive (at 1-2).

8. MS 1-09(h)(5) states:

Any determination to deny, revoke or limit an inmate’s visitation rights pursuant to paragraphs (1) and (2) of this subdivision shall be in writing and *shall state the specific facts and reasons underlying such determination*. A copy of this determination, including a description of the appeal procedure, shall be sent to the Board and

³ See Sections III(F)(3)(b) (at 8); III(F)(4) (at 9); and III(F)(4) (at 9-11) (Visit Limitation or Denial Grid, including footnote with double asterisk at 11).

to any person affected by the determination within 24 hours of the determination.

(Emphasis added).

The italicized phrase does not appear in the Directive. Additionally, MS 1-09(i)(1)(iv) states that “[w]here there exists good cause to extend the period in which the Board or designee “may issue a written decision beyond five (5) business days, the Board or designee may issue a single extension not to exceed ten (10) business days.” However, the Directive states that the Board or designee may issue a single extension of “up to ten (10) days” (III(F)(3)(b) at 8-9).

► Recommendation # 8

DOC should add the italicized phrase in Section III(F)(1)(c) of the Directive (at 6) and in the notice restriction form itself (Attachment A to the Directive).⁴ DOC should also state in the Directive that determinations with respect to *both* inmates and visitors shall state the specific facts and circumstances underlying such decisions. Finally, DOC should change calendar days to business days.

9. Section III(F)(c)(iv) of the Directive states, in part: “As a general matter, limitations to non-contact visits should not be continued beyond six (6) months unless the inmate has engaged in further infractions of violent activity during the previous six (6) months period *or unless there is evidence of prior activity which would support continued limitation*” (emphasis added) (at 8). The italicized text is ambiguous and leaves DOC with overly broad discretion in determining what “prior activity” supports continuation of a visit restriction.

Section III(F)(2)(c)(ii)(A)-(C) of the Directive states that for each inmate who has been denied contact visits for six months or more, a report shall be prepared which shall include whether the inmate (a) was found guilty of any infractions for violent activity, promotion of dangerous contraband ((ii)(A)); (b) has been “*involved*” in any inmate fights or other acts of violence during the previous six months ((ii)(B)); or (c) has “*otherwise been implicated*” as a participant in any promotion of dangerous contraband which would threaten the safety or security of a facility ((ii)(C)) (emphasis added) (at 7-8). The word “involved” suggests that an inmate could be denied contact visits for six or more months without being found guilty of participating in the misconduct. The phrase “otherwise been implicated” would permit DOC to deny contact visits to an inmate based on activity that does not constitute promoting dangerous contraband and, again, without, an adjudication of guilt.

► Questions

- What do the italicized phrases “evidence of prior activity,” “involved in,” and “otherwise been implicated” mean? Do they mean activity which DOC is unable to prove by a preponderance of the evidence?
- What training or guidelines are provided to Wardens to support fair and consistent decision-making?

⁴ There is a typographical error in Section III(F)(1)(c) (at 6): “This determination to restrict inmate and visitor restrictions [sic] shall be made by the Deputy Warden for Programs . . .”. The sentence should read: “This determination to restrict inmate and visitor access to visitation shall be made by the Deputy Warden for Programs . . .”.

► **Recommendation # 9**

To ensure compliance with the Standards, DOC should delete from the Directive the following phrases: (a) “or unless there is *prior activity* which would support continued limitation”; (b) “whether the inmate has been *involved in* any inmate fights or other acts of violence during the previous six months”; and (c) “*or has otherwise been implicated* as a participant in any promotion of dangerous contraband which would threaten the safety or security of a facility” (emphasis added).

10. The Directive states that should a determination be made to deny, revoke, or limit an inmate’s right to contact visits in the usual manner, “alternative arrangements for affording the inmate the requisite number of visits shall be made, including, but not limited to, non-contact visits” (III(F(1)(b) at 6).

► **Questions**

- What alternative arrangements are there other than non-contact visits?

► **Recommendation # 10**

DOC should specify in the Directive alternative arrangements other than booth visits.

11. Form 143(R) (Attachment A to the Directive) does not, address restricting someone for a slashing or stabbing when they are found guilty of using a weapon to assault someone off the visit floor or when someone is found in possession of a scalpel/knife off the visit floor.

► **Recommendation # 11**

If DOC intends to continue restricting people for this, then DOC must revise the Directive’s Attachment A to address these two offenses.

12. As reflected in the Directive’s “Visit Limitation or Denial Grid” (at 9-11), a visitor who engages in certain misconduct (e.g., bringing in a weapon, illegal drugs, or other contraband (e.g., electronic devices, tobacco-related products, matches/lighters) is denied access to visits with any inmate for periods ranging from 180 days to indefinitely, depending on whether it is the visitor’s first, second or third offense. The inmate with whom the offending visitor was visiting or attempted to visit is limited to booth visits with any visitors for varying periods of time ranging from 180 days to the duration of incarceration (here again, depending on whether it is the visitor’s first, second, or third offense).

► **Recommendation # 12**

DOC should eliminate indefinite denial of a visitor’s access to visits. This is because charges against the visitor could, e.g., be dropped or the visitor could be acquitted of the charges. Additionally, it would be inequitable to continue denying visits indefinitely to a visitor who had served a sentence for a contraband offense.

13. The Directive states that “[a]ny visitor who presents false ID or attempts to impersonate another person or otherwise fails to follow instructions of staff (i.e., refusal to submit to security procedures such as [sic]) and thereby causes disruption of the visit process, shall have his/her right to visit any inmate in any facility limited/denied” (III(F), Grid, Row 6 at 11).⁵ In the Directive, the penalties “for refusal to follow instructions of staff that causes disruption of the visit process are 45-day denial to visitor of visits with any inmate (first offense), 90-day denial (2nd offense), and 180-day denial (3rd offense).

► **Questions**

- What constitutes a refusal to follow instructions “that causes *disruption* of the visit process”? (emphasis added).
- What guidance is given to staff at what conduct causes disruption of the visit process?
- What circumstances would trigger a one-day cancellation of visits? What circumstances would trigger a 45-day cancellation?

► **Recommendation # 13**

DOC should give the Board and visitors detailed guidance on what constitutes “disruption of the visit process” caused by a refusal to submit to security procedures.

14. The Directive states that an inmate or visitor can choose to seek the Deputy Warden of Program’s review of a restriction “every 30 days” (single asterisk-footnote at 11).

► **Questions**

- What is the purpose of this 30-day review? How is it different than the six-month review?
- What training or guidelines are provided to Deputy Wardens to support fair and consistent decision-making?
- Provide DOC documentation that explains this provision (e.g., Visitor’s Handbook, other literature provided to visitors/inmates that explains this provision).

► **Recommendation # 14**

DOC should delete the 30-day review from the Directive as visitors and people in custody may confuse it with their ability to appeal to the Board and conclude that they may do only one or the other.

15. The Directive states that an inmate who “attempts” to pass illegal drugs will receive 180 days of non-contact visits (double asterisk footnote at 11).

► **Questions**

- What evidence would support an “attempt” to pass contraband (e.g., Genetec, confidential tip)?
- Would a restriction for this attempted misconduct be imposed if drugs were not found?

⁵ The word “such” before the parentheses is a typo; it appears that the almost identical provision in the 2008 directive — which included the phrase “such as refusal to participate in an ION Scan Search, refusal to be photographed after a positive ION Scan Search” — was intended to be deleted in the new Directive.

16. The Directive states that visitors may bring prescription medication in its original container to the facility which, “except for life saving prescription medication, such as an asthma pump or nitroglycerin,” must be stored in a facility locker and not be brought to the facility visit floor (III(F)(2) at 13; III(H)(3) at 15).

► **Questions**

- What is the definition of “life saving prescription medication”?
- If there is a question about whether certain medication is life-saving, who determines what is life saving and how is that determination documented?
- How would a visitor check to see if her medication was “life-saving”?

► **Recommendation # 16⁶**

DOC should include in the Directive (a) a definition of life-saving prescription medication that is determined by CHS; (a) text to the effect that if a question arises as to whether certain medication is life-saving, CHS should make this determination; and (c) DOC should include in the Directive a process for documenting these determinations.

17. The Directive states that the “area supervisor” is charged with determining whether a visitor should be denied a visit (III(F)(1)(a) at 5). The Directive elsewhere states that the determination to impose restrictions on a visitor or inmate shall be made by the Deputy Warden for Programs (III(F)(1)(c) (first paragraph at 6)) and refers to “[t]he supervisor authorizing the denial” of visitation (*Id.*, second paragraph).

► **Questions**

- What are the specific roles of the “area supervisor,” Deputy Warden for Programs, and “[t]he supervisor authorizing the denial.”
- Is the area supervisor always a captain?

► **Recommendation # 17**

DOC should clarify in the Directive the specific roles of these three (3) individuals in imposing restrictions on visitors/inmates.

II. The Visit Process

Significant clarification of the Directive is required (1) as to what constitutes contraband, the possession of which is illegal; (2) what constitutes contraband or dangerous contraband, the possession of which does not constitute a crime, but nevertheless is prohibited in DOC facilities; (3) at what step in the visit process discovery of DOC-designated contraband can result in an arrest, denial of a visit entirely or a booth restriction; and (4) at what point in the process are visitors given an offer of amnesty or the option to exit the facility or receive a non-contact visit.

Following is a summary of each step in the visit process at Rikers⁷ as described in the Directive (and in other DOC directives referenced therein) followed by questions, requests for follow-up, and/or recommendations.

⁶ There are no recommendations for items 15 and 16.

⁷ The visit process in borough jails is discussed at the end of this section.

A. Rikers Visit Process

Step 1: Amnesty Offer/On Bus⁸

All visitors enter Rikers Island on the MTA-Q100 bus. Upon arrival, an officer enters the bus and advises visitors that they (a) will be subject to a canine (“K-9”) search upon exiting the bus; (b) cannot bring contraband into DOC facilities; and (c) have amnesty to dispose of contraband on the bus or to place it in an amnesty box before entering a DOC facility.

► Questions/DOC Follow-Up

1. Are visitors given a written list of prohibited items on the bus or is this information orally conveyed to them? While on the bus, what, if anything, are visitors told orally or in writing about contraband the possession of which is not illegal, e.g., cell phones, knives, cigarettes, prescription drugs? Are visitors told they can put such items in a locker?
2. Do officers follow a written script?
3. Is the amnesty offer provided in Spanish? (BOC staff has observed twice that the offer of amnesty on the bus is not given in Spanish). What happens if a visitor does not understand English or Spanish? Is an interpreter provided on the bus or before the K-9 search?
4. Are amnesty boxes still in place at the Samuel Perry Center (“Perry Building”), the Benjamin Ward Visit Control Building (“Visit Control Building”), and individual jail entrances? (BOC staff reports that the amnesty box was recently removed from the entrance to the Perry Building and that the amnesty boxes previously located outside the Perry and Visit Control Buildings were inaccessible from visitors’ line of sight because they were blocked by a barricade).
5. DOC should provide us with all written materials that are given to visitors at any step in the visit process and indicate at what step(s) in the process these materials are made available (e.g., the Directive states that the following “printed hand out materials must be available to visitors: (a) Visit Schedules; (b) Information Brochures; (c) Permissible Package Items (Listing); and (d) Public and private transportation schedules” (IV(O)(7), at 35-36).
6. How are the materials listed immediately above made available to visitors?

► Recommendations

1. Before visitors depart the bus, they should be given a written list of prohibited items and the consequences resulting from discovery of these items during other steps in the visit process (e.g., if a cell phone is discovered upon a pat-frisk search, the visitor may be restricted to a booth visit or denied a visit altogether; if a razor blade is discovered upon an electronic search, the visitor will be arrested; if illegal drugs are discovered upon a K-9 search, the visitor will be arrested).
2. DOC should ensure that the amnesty offer on the bus is provided in Spanish and that an interpreter is provided for non-English and non-Spanish speaking visitors before they are subject to the K-9 search.
3. DOC should maintain a clear and up-to-date webpage for relevant visitor information.

Step 2: K-9 Search/Perry Building⁹

⁸ Applicable directives are: Visit Directive (IV(A)(2) at 16); Directive 4513R-B re Canine Units (“K-9 Directive”) (IV(R)(2)(3) at 18); Directive 4525 re Amnesty Boxes (“Amnesty Box Directive”) (IV(A)(1)(2) at 2).

⁹ Applicable directives are: Visit Directive (IV(A)(2) and IV(B) at 16); and K-9 Directive (IV(R)(4)(5) at 18).

1. Staff escorts visitors off the bus into the Perry Building and instructs them to remain still during the K-9 passive alert scent detection search.
2. Visitors who are found in possession of illegal drugs are subject to arrest and further restriction.
3. After completion of the search, staff instructs visitors (who passed the search) to go to the Visit Control Building to undergo further DOC search procedures.

► **Questions/DOC Follow-up**

1. Is the reference to “Visit Control Building” in the heading to subdivision (B) of the Directive a reference to the Perry Building or the Benjamin Ward Central Visit Building?
2. Does the K-9 search take place in the Perry Building or Visit Control Building?

► **Recommendations**

1. DOC should summarize the K-9 search process and specify location in the Directive, including stating that visitors will be subject to arrest if illegal drugs are discovered in their possession.

Step 3: Electronic Search/Central Visit Building¹⁰

1. Each visitor is subject to an electronic search involving a walk-through metal detector.
2. A hand-held metal detector is used when the walk-through metal detector indicates the presence of metal, the walk-through metal detector is not functioning, or at the discretion of the search officer.
3. Handbags, briefcases, containers, and packages shall be physically searched as well as inspected via the fluoroscope machine.
4. Visitors [may or will] be subject to an Ion Scan search.¹¹
5. Visitors caught with items the possession of which is illegal shall be arrested and the visit denied.
6. Items other than electronic devices¹² which are not permitted in DOC facilities (including borough jails and hospital prison wards), but the possession of which does not constitute a criminal act (hereinafter referred to as “other DOC-designated contraband”), will be returned to the visitor who shall be directed to place such items in a locker.

► **Questions/DOC Follow-up**

1. What are the consequences for visitors who are discovered with electronic devices at this step in the visit process? The Directive includes several conflicting provisions on possession of electronic devices: (a) “None of the following items may be brought into the Rikers Island Visit Control Building, jails on Rikers Island or Borough facilities, or any other facility including the Hospital Prison Wards”; these items include “electronic devices” (III(F)(1)(m) at 12); (b) visitors can put items other than electronic devices in a locker (IV(B)(2)(d) at 17); (c) “Under no circumstances will visitors be permitted to enter DOC facilities with electronic devices” but “[a] visitor arriving with such items [referring to electronic devices] shall be given

¹⁰ Applicable directives are: Visit Directive (IV(B)(1)(c) at 16-17; IV(B)(2) at 17, and IV(D) and (D)(1) at 23).

¹¹ Ion search scanners are electronic devices that aim to detect traces of drugs on clothing, body parts, and other surfaces (e.g., handbag, footwear).

¹² The Visit Directive defines “electronic devices” as “including cellular telephones, cellular telephone accessories, personal digital assistants, portable media players (including, but not limited to iPods, MP3 Players, iPads, and E-Readers), pagers, laptops, cameras, recording devices, and radios” (III(F)(1)(m) at 12).

the opportunity to secure them in the designated area or deposit them in the amnesty box and continue with the visit process or to depart the facility” (*Id.*).

2. What are the consequences for visitors who are discovered at this step in the process with other items the possession of which does not constitute a criminal act, but are potentially dangerous or could facilitate escape (such as bullets, a razor, matches/lighters, nail clippers, rope, tape/other adhesives, tools, metal, glass, or sharp objects, padlocks, syringes)? Are visitors forewarned about these items before the electronic search and advised to place these items in a locker before being electronically searched?¹³
3. The Directive defines “dangerous contraband” as “weapons,” which will subject visitors to arrest (IV(C)(4) at 19). Are the items listed in no. 2 immediately above considered “weapons”?
4. What are the consequences for visitors who are discovered at this step in the process with items the possession of which does not constitute a criminal act and are not inherently dangerous (such as food, cash, chewing gum, metal hairclips and hairpins, more than three (3) books, non-prescription medication, gels, photographs of an inmate, or polaroid photographs)?¹⁴
5. Are all visitors subject to an Ion Scan search and if not, what circumstances trigger such a search?¹⁵

► Recommendations

1. DOC should clarify in the Directive (a) the distinction between illegal items, electronic devices, and other DOC-designated contraband; (b) list the items in each category; (c) make clear the consequences for possession of each category of items (such as arrest, visit limitation, or visit denial); and (d) detail what visitors are told at each step in the process as to what consequences will result from discovery of each type of contraband, including whether amnesty is offered.
2. DOC should clarify in the Directive what “weapons” are included in its definition of “dangerous contraband.”
3. DOC should clarify in the Directive whether an Ion Scan search is mandatory for all visitors; if it is not, DOC should state what circumstances will trigger such a search.

Step 4: Pat Frisk Search/Visit Control Building¹⁶

1. If a visitor has been checked with a metal detector and staff reasonably believes further inspection is necessary to preclude the introduction of contraband — e.g., the triggering of the metal detector, a suspicious bulge in the visitor’s clothing, confidential information, or the visitor’s documented history of attempting to bring in contraband — the staff member shall immediately notify the area supervisor, who shall evaluate the situation to determine if further inspection is warranted (IV(C)(1) at 18).
2. If the cause for further inspection is a suspicious item on the visitor’s person, the visitor should be given an opportunity to remove it or forego the visit, prior to further action (*Id.*).
3. If the area supervisor determines that further inspection is warranted, he or she shall notify the Commanding Officer (or designee) and, if given approval by the Commanding Officer, shall seek the visitor’s consent to a pat-frisk search (*Id.*).

¹³ These items are on the prohibited items list in the Directive (III(F) at 12).

¹⁴ These items are on the prohibited items list in the Directive (III(F) at 12-13).

¹⁵ The Directive is unclear as to whether a visitor “may” be subject to an Ion Scan search or all visitors are subject to such a search (Compare first paragraph of IV(D) to IV(D)(1) at 23).

¹⁶ The applicable directive is: Visit Directive (IV(C) at 17-22).

4. The visitor may refuse to be pat frisked and may be denied a contact visit for that day and offered a non-contact visit instead unless:
 - (a) The Visit Captain determines, in accordance with BOC Minimum Standards, that a non-contact visit would still constitute a serious threat to the safety and security of the institution (IV(C)(2)(c) at 18).
 - (b) The Commanding Officer (or designee) deems that the visit be denied entirely for security reasons based on reliable confidential information or the presence of a suspicious bulge in the visitor's clothing (IV(C)(2)(d)(i) at 18); or
 - (c) A metal detector search has indicated the presence of a metallic object on the visitor and the visitor does not consent to a pat frisk (IV(C)(2)(d)(ii) at 18).

In these three (3) instances, the visit will be denied entirely (IV(C)(2)(c)(d) and Note at 18).
5. Prior to conducting a pat frisk, "consenting" visitors shall be informed that if they consent to the pat frisk and the search finds "dangerous contraband such as illegal drugs or weapons," they shall be arrested (IV(C)(4) at 19).
 - (a) Prior to the pat frisk, the visitor shall be provided with an up-to-date list of what DOC considers to be "dangerous" contraband. If the visitor can't read English, the list shall be explained orally to the visitor by the "visit supervisor" with the assistance of a translator if needed (IV(C)(5) at 19).
 - (b) The visitor shall then be given the choice of:
 - (i) Agreeing to the search;
 - (ii) Not being allowed a contact visit and having a non-contact visit instead; or
 - (iii) Not visiting and exiting the facility (IV(C)(5)(a)-(c) at 19).
 - (a) Visitors who choose to forego the visit will be permitted to leave freely without further searches or questions (IV(C)(6) at 19).
 - (b) Alternatively, visitors who "voluntarily surrender" any contraband items in their possession, may be permitted to visit after a pat frisk provided the possession of any voluntarily surrendered item does not constitute a criminal offense (*Id.*).
6. If the pat frisk results in the discovery of contraband, the Tour Commander shall be notified and he or she shall determine whether an arrest is warranted (IV(C)(7)(a) at 20)).
7. If an arrest is not made and the visit is not denied entirely, the visit supervisor shall secure the contraband and a non-contact booth visit shall be arranged instead of a contact visit (IV(C)(7)(b) at 20).
8. If the pat frisk "does not adequately resolve the Area Supervisor's concerns about the possible introduction of contraband," a contact visit may still be denied in accordance with Section III.F of the Directive and a non-contact visit substituted, provided that the Area Supervisor explains the reasons for the decision in the remarks section of Form 439 (Search Consent Report-Attachment B) and Form 143R (Notice of cancellation/limitation/denial-Attachment A), and the Tour Commander concurs with the decision (IV(C)(9) at 21).

► Questions/DOC Follow-up

1. DOC should provide the Board with (a) pat-frisk search script (if any) and (b) list of "dangerous contraband" that are provided to visitors before a pat frisk.
2. Under what circumstances would a pat frisk "not adequately resolve the Area Supervisor's concerns about the introduction of contraband" such that the Area Supervisor could deny a visit entirely? (IV(C)(9) at 21).

3. How does the Tour Commander determine whether an arrest is warranted? What training or guidelines are provided to Tour Commanders to support fair and consistent decision-making?

► **Recommendations**

1. DOC should specify in the Directive what items of contraband voluntarily surrendered by a visitor would result in arrest, denial of a visit entirely, or a booth visit.
2. DOC should specify in the Directive what contraband discovered in a pat frisk would result in arrest, denial of a visit entirely, or a booth visit.
3. The Directive states that if a visitor refuses a pat frisk, the Visit Captain can deny a visit entirely (as opposed to granting a booth visit) if the Captain decides, “in accordance with BOC Minimum Standards, that a non-contact visit would still constitute a serious threat to the safety and security of the institution” (IV(C)(2)(c) at 18). DOC should add that, pursuant to § 1-09(h), a visit can be denied only if the denial is based on “specific acts committed by the visitor during a prior visit to a facility that demonstrates the visitor ‘s threat to the safety and security of a facility, or on specific information received and verified that the visitor plans to engage in acts during the next visit that will be a threat to the safety or security of the facility.”
4. DOC should delete the provision in the Directive permitting the Area Supervisor, with the Tour Commander’s approval, to deny a visit entirely even after a visitor passes a pat frisk (see question no. 2, above) or at least justify in writing why the visitor is being denied a visit altogether.

Step 5: Visit Shuttle Bus to Individual Jails¹⁷

1. Each Rikers Island jail has its own shuttle bus(es) and driver(s) operating between the Visit Control Building and the jail’s visit house (IV(H)(1) at 27).

Step 6: Jail Visit Area Search¹⁸

1. After a visitor completes registration, the visitor is directed to place any personal items (coats, sweaters, purses) in lockers provided for that purpose. Visitors will retain the locker key and retrieve items from the locker upon conclusion of the visit (IV(H)(1)(2) at 32).
2. Prior to the visitor entering the Contact Visit Room, the searches outlined in Steps 2 through 4, above are repeated (IV(K)(3) at 32).

► **Questions**

1. To what extent are K-9s used during the visit process at individual jails?
2. What items can be brought inside the individual jail? What should lockers at the individual jail be used for versus lockers at Central Visits? How is this communicated to visitors?

► **Recommendation**

Visitors should be provided with a written list of what items, if any, can be brought into individual jails.

Step 7: Visit Exit Procedures¹⁹

¹⁷ Visit Directive (IV(H) at 27-28).

¹⁸ *Id.* (IV(K) at 32).

¹⁹ *Id.* (IV(M) at 33-34)

1. Upon completion of the visit, visitors await the arrival of the shuttle bus in the designated facility waiting area, which will transfer them back to the Visit Control Building (IV(M) at 33-34).
2. At the Visit Control Building, visitors wait for the Q100 Bus to transport them off the Island.

B. Borough Jails Visit Process

Step 1: Amnesty Box

Visitors to borough jails are afforded the opportunity to dispose of any contraband into an amnesty box (IV(A)(2) at 16).

► Questions

1. Are amnesty boxes still being used at borough jails?
2. Do visitors receive the same amnesty speech in borough jails as that given to visitors before they exit the bus at Rikers?

Step 2: K-9 Search

BOC staff reports that K-9s are frequently posted at facility visit entrances but they are not necessarily posted there for a full tour during each visit day.

► Questions

1. Do visitors undergo a K-9 search at borough jails?
2. If not, how are K-9s used in the visit process?

Steps 3-6 (Discussed above re Rikers)

Confirm with DOC that visitors to borough jails undergo the same search procedures as visitors to the Island.