Because the rights of access to judicial documents rest in part on the vital function of public oversight, *e.g.*, *Amodeo*, 71 F.3d at 1049, those rights are to "*contemporaneous* public access," as "the passage of time erodes to some extent the vindication of the public access right." *NBC*, 635 F.2d at 952, 954 (emphasis added). Closure of court proceedings or records protected by the First Amendment creates irreparable harms, such that "each passing day may constitute a separate and cognizable infringement." *Nebraska Press Ass'n v. Stuart*, 423 U.S. 1327, 1329 (1975) (describing a four-week delay in public access to a court proceeding as "exceed[ing] tolerable limits"). *See also*, *e.g.*, *Courthouse News Serv. v. Gabel*, No. 21-cv-132, 2021 WL 5416650, at *15 (D. Vt. Nov. 19, 2021) (collecting contemporaneous access cases, and granting injunction barring state court system from withholding civil complaints from inspection during a clerk's office review procedure that "often takes several days").

And so, our Circuit has expressly directed district courts to avoid impeding requests, declining to decide motions to intervene, or holding unsealing motions in abeyance. Our circuit's landmark judicial documents case, *Lugosch*, was itself a collateral appeal from a decision to hold a media outlet's motion to intervene in abeyance until after a summary judgment decision. The Second Circuit held that the delay in deciding the intervention motion conclusively determined the public's right of immediate access, 435 F.3d at 118, and reversed in relevant part because the "district court erred . . . in failing to act expeditiously" on the access request. *Id.* at 126. *Accord New York Times*, 828 F.2d at 113 (holding that delayed decision in newspaper's motion for disclosure of sealed materials was immediately appealable as "effectively deny[ing] appellants much of the relief they seek, namely, prompt public disclosure").

Respectfully, the Court's actions and inactions to date have done just that, and the briefing schedule it set for the parties stands to compound the injury. The Court should accordingly order the immediate release of the six trial exhibits sought.

5. Conclusion

Because it has plain common law and First Amendment rights of access to the trial exhibits it seeks, and because delay in furnishing that access violates those rights, the ACLU should be granted leave to intervene and the Court should immediately make the requested records available to the ACLU.

/s/ Dan Barrett
Dan Barrett
Jaclyn Blickley
ACLU Foundation of Connecticut
765 Asylum Avenue
Hartford, CT 06105
(860) 471-8471
e-filings@acluct.org

JA-94

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

JUSTIN C. MUSTAFA, *Plaintiff*,	:	CIVIL NO. 3:19-CV-1780(VAB)
v.	:	
C/O BYARS, *Defendant*.	:	DECEMBER 20, 2024

DEFENDANT'S FIRST OBJECTION TO THE LETTER AND PURPORTED "EMERGENCY" MOTION TO INTERVENE AND FOR IMMEDIATE DISCLOSURE FILED BY THE ACLU (Docs. 135; 137)

The defendant objects to the ACLU's motion to intervene and for immediate disclosure (Doc. 137) and to their related letter (Doc. 135). The motion and letter are meritless. They seek for the Court to provide or "release" materials that the Court no longer possesses and that it destroyed 30 days after trial, in the normal course of business. The motion (Doc. 137) is also improperly designated as an "emergency" motion absent good cause or good faith basis. This prejudices the defense and limits the time that can be spent on briefing the issues. The Court should therefore allow the defendant the time from the original briefing schedule to respond more fully with a memorandum of law, until and including January 10, 2025. *See* (ORDER Doc. 135)(allowing the defendant until and including January 10, 2025, to respond).

Finally, even if the Court ordered (over objection) for the defendant to provide access to the video recordings to the ACLU, it must be in a limited, supervised, and

controlled review, given the safety and security justifications that served the basis for the Court's protective order (that still remains in place) controlling disclosure of the videos.

1. The ACLU failed to establish good cause for the purportedly "emergency" nature of its motion.

The ACLU failed to establish good cause for the "emergency" designation of its motion, as required under Local Rule 7.6. In fact, it appears the ALCU lacks good faith basis to designate the motion as an emergency motion under the Local Rules in the first place. That matters here, as the Court set a briefing schedule on the issue after receiving and docketing the ACLU's letter addressed to the Chief Judge. *See* (Doc. 135)(ORDER). That briefing schedule allowed the defense until and including January 10, 2025, to respond. (*Id.*) Undersigned reasonably relied on that briefing schedule in scheduling and accounting for responding to the motion. Now, the ACLU files an "emergency" motion at the close of business on Monday the week before Christmas, apparently just because the ALCU or its counsel does not feel like waiting. They designate the motion as an emergency, but there is such good-cause justification for that in the motion. This prejudices the defense, including providing them limited time to further vet, research, and brief the issues.[1]

[1] Also, it is worth noting that the defendant does have current obligations and upcoming due dates in this very case. This includes *ex parte* settlement memoranda due to Judge Spector on the December 26, 2024 and also a settlement conference scheduled for January 2, 2025. *See* (Doc. 133). Understandably and not surprisingly, the defense is spending its time and resources preparing for these proceedings. The improper "emergency" designation by the ACLU interferes with

The ACLU may not act as it did in its bad-faith emergency designation, and it certainly cannot be rewarded for it. Therefore, the Court should allow the defense the benefit of the original briefing schedule, and the Court should therefore allow and order that the defendant be allowed until and including January 10, 2025, to file a second objection and a memorandum of law in response to both the ACLU's letter (Doc. 135) and motion (Doc. 137).

2. The Court has already issued a protective order restricting the parties' use of the video recordings.

Also, it appears the ACLU filed the wrong motion. While the motion is styled as requesting for the Court to "release" the videos (Doc. 137 § 4 p. 9-11), their papers (Docs. 137; 135) are not actually asking the Court for access to the Court's materials. Instead, it is really asking for the *parties* (not the Court itself) to provide access to the materials. This is because the Court no longer has the materials in question. As a matter of course, the Court retained the electronic versions of videos for 30 days following trial, before they were destroyed in the normal course of business. The ALCU makes no representation that it sought the videos during that 30-day period, and it surely would have claimed otherwise if they had. Therefore, the Court cannot grant the ACLU's request to release materials that the Court no longer possesses.

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that and requires detracting from these and other pre-existing obligations in pending matters, and the ACLU does so improperly, without good cause, and without good faith basis for their improper emergency designation.

Concerning the parties' retaining of videos, that is subject to a protective order (Doc. 129). The Court granted the protective order, as the federal courts often and routinely do, given the obvious safety and security concerns that come with videos depicting the insides of prisons. (Docs. 129; 128); *see also, e.g.*, *Harris v. Livingston Cty.*, No. 14-CV-6260-DGL-JWF, 2018 WL 6566613, 2018 U.S. Dist. LEXIS 210509, *8 (Dec. 13, 2018)("allowing the dissemination of the video surveillance footage would put at risk the safety of corrections officers, other inmates, and the public." "[T]he court finds that there is good cause for a protective order preventing plaintiff disseminating the surveillance footage.")(citing *McMillen v. Windham*, No. 3:16-CV-558-CRS, 2018 U.S. Dist. LEXIS 15662, 2018 WL 652829, at *5 (WD Ky. Jan. 31, 2018)); *Edwards v. Middleton*, 2021 U.S. Dist. LEXIS 48189, *14 (S.D.N.Y. Mar. 15, 2021)("The Court is cognizant that surveillance videos from correctional facilities are highly 'sensitive' and must be treated as confidential for discovery purposes, because they may 'provide information . . . that could be used to exploit potential gaps in surveillance,' such as 'the geographical layout of the jail, the location of the cameras, [and] the view from the cameras.'" "Indeed, courts have found good cause to restrict public access to footage capturing 'the manner in which officers respond[] to . . . incidents [at prisons] and the techniques used to gain control of [inmates],' which 'could be used by inmates to create a disturbance or uprising, or attempt to escape,' or might otherwise compromise the safety of facility staff, inmates and the public.")(collecting cases).

Those reasons are and remain legitimate concerns, and they legitimately serve as the basis for the Court's protective order. *See* (Doc. 129)("granting the protective order for the reasons stated in the underlying motion, ECF No. 128").

The ALCU does not file a motion seeking modification of that protective order, nor does it even address (let alone refute) the safety and security reasons at issue. Instead, it asks the Court to provide access to videos the Court no longer possesses. It appears the ACLU filed the wrong motion. At the very least, it has failed to establish its high burden of showing good cause why the videos should be ordered disclosed in the face of a protective order prohibiting just that. The Court should either deny the ACLU's motion outright, or alternatively, the Court should deny the emergency relief sought and re-instate its prior briefing schedule allowing the defense until and including January 10th, to respond with a second objection and a memorandum of law in response to the ACLU's letter (Doc. 135) and motion (Doc. 137).

3. Alternatively, even if the Court were to deny the defendant further briefing, and were the Court to not sustain the defendant's objections in whole, and were to grant the ACLU's motion, it should be done only in limited part and should protect the safety and security concerns acknowledged in the protective order.

As stated above, the Court should allow the defendant until and including January 10, 2025, to submit a second objection and memorandum of law. However, even if the Court did not allow that, and did not sustain the defendant's current

objections in whole, in that even the Court should only grant the ACLU's motion in part.

For example, were the motion to be granted in part over objection, the access or review must take steps to limit jeopardy to safety and security detailed in the protective order and related motion. The ACLU (and members of the public) cannot be provided their own copies of the videos, nor be allowed their own control over the videos or viewing. The videos cannot end up on the internet or be possessed or maintained in an unsupervised manner. The videos show the inside of the Garner prison, including its restrictive housing unit. The surveillance cameras include showing where blind spots are located, which is dangerous if it is made public and or viewed in an unsupervised manner. Further, the handheld videos show the layout of the prison facility as people walk through different parts of Garner. The layout and blind spots of a prison—especially a Level 4 security facility like Garner—pose obvious safety and security threats. Courts regularly issue protective orders and other orders to protect these concerns. The Court can and may issue such orders under its inherent authority.

If the Court overrules the defendants objections without allowing (necessary) further research and briefing from the defense, the defendant prays that the Court's order allow only for the ACLU's attorney(s) to view the video in a controlled setting, either at the Court or at the Office of the Attorney General, and order that no persons viewing the video be allowed to record or reproduce it, and order that all

persons that view the video sign and log and sign a document agreeing to be subject to the Court's protective order and other related orders in this case. Such measures would limit risk to safety and security, as opposed to unsupervised release of the videos that would put peoples' safety and security at serious risk.

WHEREFORE, the Court should allow the defendant until and including January 10, 2025, to submit a second objection and memorandum of law opposing the ACLU's letter and motion, which the defendant would have been entitled to do absent the ACLU's baseless "emergency" designation of their motion that has prejudiced the defendant. Or, the Court should simply deny the ACLU's letter and motion outright; the Court has already ruled on the safety and security issues and the parties' use of the videos *via* its Protective Order (Doc. 129), which remains in effect and the merits and justifications of which the ACLU wholly and entirely ignores in its papers.

Alternatively, were the Court to grant the ACLU any relief, it should be limited and should take measures to continue to protect the safety and security interests underlying the protective order that remains currently in effect and that the ACLU has not moved to modify, such as supervised viewing at the Court or at the Office of the Attorney General as detailed above.

Respectfully submitted,

DEFENDANT

WILLIAM TONG
ATTORNEY GENERAL

BY: /s/ *Stephen R. Finucane*
Stephen R. Finucane
Assistant Attorney General
165 Capitol Avenue
Hartford, CT 06106
Federal Bar #ct30030
E-Mail: stephen.finucane@ct.gov
Tel: (860) 808-5450
Fax: (860) 808-5591

CERTIFICATION

I hereby certify that on December 20, 2024, a copy of the foregoing was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ *Stephen R. Finucane*
Stephen R. Finucane
Assistant Attorney General

United States District Court
District of Connecticut

Justin Mustafa,
Plaintiff

v.

Christopher Byars,
Defendant

No. 19-cv-1780

December 23, 2024

Reply in Further Support of Limited Intervention and Disclosure of Court Records

1. Exhibits in this pending case are the Court's records, not the parties'.

Plaintiff Justin Mustafa does not oppose the ACLU's limited intervention or the normal disclosure of the trial exhibit videos. ECF # 141. Although there is no order barring it, defendant Christopher Byars opposes regular public access to the trial exhibits because, he posits, the Court "destroyed [them] in the normal course of business," "the Court no longer has the materials in question," and ACLU did not request copies of the videos within thirty days of judgment. Def.'s Opp. 3. These arguments are non sequiturs because the trial exhibits are the Court's records, not the parties', even if the Court has delegated physical custody of them to the parties "until final determination of" this still-pending action. D. Conn. Local R. 83.6(c).

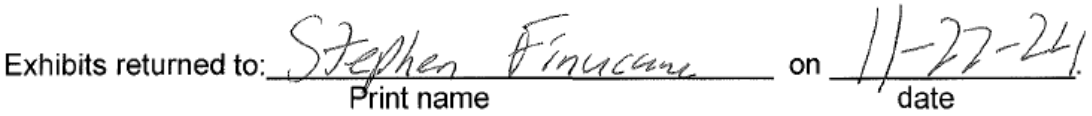
The Court has inherent supervisory power over its records, *e.g.*, *Nixon v. Warner Comm'cns*, 435 U.S. 589, 598, and is well within its authority to dictate how materials are submitted, marked, and stored through its decisions and local rules. The Court could very well choose to retain physical custody of trial exhibits until case disposition, as other judicial districts do. *See*, *e.g.*, D. Maine Local R. 39(f)(1); D. Md. Local R. 113.1(a); D.N.H. Local R. 83.14(b); E.D. Pa. Local R. 39.3(d); D.R.I. Local R. Gen 103(a);

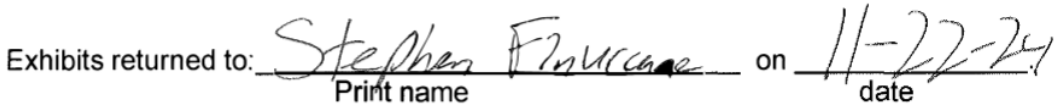
D. Vt. Local R. 40(f). But like the Southern and Eastern Districts, this Court has chosen to delegate physical custody of exhibits to the parties, which its southern neighbors note "differs from the practices of many other courts." Combined S.D.N.Y. & E.D.N.Y. Local R. 39.1 comm. note. That is this Court's prerogative, but its devolution of temporary physical custody does not divest it of legal control over those records, wherever housed. *Cf. Coventry Cap. US LLC v. EEA Life Settlements Inc.*, 333 F.R.D. 60, 64 (S.D.N.Y. 2019) (explaining that as regards Fed. R. Civ. P. 34 requests, "documents are considered to be under a party's control when that party has the right, authority, or practical ability to obtain" them). The retention period, D. Conn. Local R. 83.6(c), enables the Court to re-take trial exhibits for its own use, such as a motion for a new trial or a request for public inspection. Some judicial districts have made that plain in their local rules to head off bad behavior by counsel,[1] but the concept is implicit in the Court's adjudicative function: no party may frustrate the Court's use of its own records by holding them hostage.

Moreover, it is far from clear that the videos were returned[2] in the normal course of business *before* the ACLU asked for copies of them. The ACLU made its request on November 14th, following up with a clerk's office supervisor a few days after that. But on November 22nd, while the ACLU's request was pending and a clerk's office supervisor was looking into whether the Court still had copies of the exhibits, the clerk's office issued Mr. Byars two notices. Each set out that "enclosed is/are the" plaintiff's

[1] *E.g.*, N.D. Ill. Local R. 79.1(b) ("Exhibits retained by counsel are subject to orders of the court."); D. Md. Local R. 113.1(a) ("Upon request by counsel for another party or the Court, counsel having custody of the exhibits must make them available for inspection.").
[2] Mr. Byars conveys finality by using the word "destroyed." Unlike yesteryear's boxes of paper documents, the Court's having returned thumb drives with digital files on them, and/or deleted digital copies from its own systems, does not inhibit it from effortlessly re-taking a copy of each within minutes via the Internet. Mr. Byars does not claim that he has destroyed his copies.

exhibits, ECF # 126, and the defendant's exhibits. ECF # 127. The notices ordered that Mr. Byars "acknowledge receipt of the return at the bottom" of each notice and to file the acknowledgment. His counsel did so, representing to the Court in conformance with Fed. R. Civ. P. 11(b) that the exhibits had been returned that very day.





Ultimately, why the clerk's office returned the records to Mr. Byars alone[3] while the ACLU's records request was pending is immaterial, because the request was timely. Now as then, the Court has the authority to re-take the trial exhibit videos and furnish them to the public for inspection.

2. The 'good cause' standard governing protective orders like the one Mr. Byars relies on falls far short of clearing the common law and First Amendment guarantees of public access to trial exhibits.

Mr. Byars is additionally wrong to lean on the existence of a protective order as grounds for restricting public access to the trial evidence. Def.'s Opp. 3-5. Protective orders are governed by the low bar of Rule 26's good cause standard, because the public has no First Amendment right to the information passed between adversaries in discovery. *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 33 (1984). But judicial documents, like the trial exhibits here, "stand on a different footing," *Olson v. Major*

[3] The clerk's office returned Mustafa's exhibits "C/O Stephen R. Finucane on behalf of" Mustafa's lawyer.

League Baseball, 29 F.4th 59, 90 (2d Cir. 2022) (internal quotation omitted), as "a traditionally public source of information." *Seattle Times*, 467 U.S. at 33. And so, even if a document "is properly designated as Confidential or Highly Confidential by a protective order governing discovery, that same material might not overcome the presumption of public access once it becomes a judicial document." *Dodona I, LLC v. Goldman, Sachs & Co.*, 119 F. Supp. 3d 152, 155-6 (S.D.N.Y. 2015) (granting movant-intervenor's motion to unseal summary judgment filings).

Protective orders that fail to account for the public's twin common law and First Amendment rights to judicial documents cannot impede normal access. "[P]ost-trial restriction on disclosure of testimony or documents actually introduced at trial" may be justified by "only the most compelling showing." *Poliquin v. Garden Way, Inc.*, 989 F.2d 527, 533 (1st Cir. 1993) (reversing protective order as applied to trial evidence). *See also, e.g.*, *DePuy Synthes Prod., Inc. v. Veterinary Orthopedic Implants,* 990 F.3d 1364, 1370 (Fed. Cir. 2021) (affirming unsealing order, and expressly turning aside litigant's contention that conclusions of protective order could govern publicly filed documents without satisfying sealing burden). No such order restricting the public's access to the trial videos exists, and so the Court must permit the ACLU to copy them.

3. Mr. Byars has failed to carry his burden of proving that the trial exhibits may be sealed by restricting their viewing to 'controlled settings' or imposing any other limits on their obtainment.

There is also no hope for the suggestion that the Court restrict access to viewing the exhibits played in open court in a "controlled setting," with anyone viewing it "sign a document agreeing to be subject to the Court's protective order" governing the parties.

Def.'s Opp. 6-7. That is sealing by a different name, and Mr. Byars has not met his burdens of proving entitlement to it.

A movant seeking to seal a judicial document bears the burden of proving that the common law and First Amendment are outweighed, and that sealing is the least-information-squelching method available. *E.g.*, *DiRussa v. Dean Witter Reynolds Inc.*, 121 F.3d 818, 826 (2d Cir. 1997). The burden requires demonstration that specific reasons exist to displace the public's rights of access, such that the Court may make "particularized findings on the record" that restrictions are essential. D. Conn. Local R. 57.1(a). "Broad and general" concerns are insufficient, *United States v. Erie County*, 763 F.3d 235, 239 (2d Cir. 2014), yet that is all that Mr. Byars offers. Def.'s Opp. 4. He does not identify which part of which of the six videos he wishes to restrict from public access, what it shows, or how the depiction harms him. The Court of Appeals has time and again forbade restricting public access on so thin a reed. *E.g.*, *Brown v. Maxwell*, 929 F.3d 41, 48 (2d Cir. 2019) (reversing sealing of summary judgment materials in part because "the District Court made generalized statements about the record as a whole" rather than specific findings). Each of the three cases Mr. Byars cites for the general proposition that prison videos contain sensitive information are protective order decisions.[4] Each applies the lenient good cause standard rather than satisfying the common law and First Amendment access guarantees through particularized findings. *See* D. Conn. Local R. 57.1(c) (collecting applicable standards).

Mr. Byars's opposition also fails to set forth how his interests in sealing could clear the strict scrutiny bar set by the First Amendment and the near-ironclad *NBC* rule

[4] Def.'s Opp. 4. The first citation is incomplete, but is to *Harris v. Livingston County*, No. 14-cv-6260 , 2018 WL 6566613 (W.D.N.Y. Dec. 13, 2018).

of the common law. *In re Nat'l Broad. Co.*, 635 F.2d 945, 952 (2d Cir. 1980) ("Once the evidence has become known to the members of the public . . . through their attendance at a public session of court, it would take the most extraordinary circumstances to justify restrictions on the opportunity of those not physically in attendance at the courtroom to see and hear the evidence, when it is in a form that readily permits sight and sound reproduction.").

Had Mr. Byars done the analysis, it would reveal tough sledding for him, because he "greatly diminished" any sealing interests by playing the videos for the public at trial. *Olson*, 29 F.4th at 91-92 (affirming unsealing order based on "critical" common law balancing fact that "MLB voluntarily disclosed major portions of the content and pertinent conclusions of the internal investigation . . . to the public in the 2017 Press Release."). Attempts to seal information already in the public domain generally fail on that basis. *See*, *e.g.*, Order Denying Defs.' Mot. to Seal [ECF # 169], *Lord v. Padro*, No. 22-cv-322 (D. Conn. Mar. 28, 2024) (denying correctional defendants' motion to seal videos that "have been on the court docket and in the public domain" for seven months); *Matter of Upper Brook Cos.*, No. 22-mc-97, 2023 WL 172003, at *9 (S.D.N.Y. Jan. 12, 2023) (denying motion to seal certain business agreements as containing trade secrets where "several key terms—including the fees [movant-intervenor] charged—have already been made public in the Dutch court decisions that [movant-intervenor] expressly concedes are non-confidential."); *In re Foreign Exch. Benchmark Rates Antitrust Litig.*, No. 13-cv-7789, 2022 WL 15033005, at *2 (S.D.N.Y. Oct. 25, 2022) (denying motions to seal "to the extent that any of the instant ten motions seeks to seal documents that ultimately were admitted into evidence at trial"). It is exceedingly difficult to understand why the videos cannot "be possessed or maintained in an

unsupervised manner," Def.'s Opp. 7, when Mr. Byars intentionally displayed them to the public in an open courtroom. Having failed to meet his burden, he may not have any restrictions imposed upon the trial exhibits.

4. As the Court recognized in its briefing schedule, the compounding First Amendment violation (and looming possibility of settlement) requires dispatch.

Lastly, Mr. Byars objects to being made to state his opposition on a short schedule close to year's end.[5] But he cites no authority at all in that argument, let alone any showing that the ACLU's rights are lesser than those "of immediate public access" as our Court of Appeals has emphasized, *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 126 (2d Cir. 2006), and thus do not merit "expedited consideration" by the Court. D. Conn. Local R. 7(a)(6) (mandating that such requests use the word "emergency"). *Cf. id.* R. 57.1(f) ("Motions for leave to intervene for purposes of opposing sealing . . . must be decided expeditiously by the court.").

Mr. Byars also elides a key fact: he had at least 108 days to object to regular public access before the ACLU was forced to seek intervention. On August 30th, Mr. Byars signed the parties' first joint pretrial memo. In that document, Mr. Mustafa revealed that he would introduce one video at trial, ECF # 84 at 12, and Mr. Byars told the Court that he would introduce four videos. *Id.* 14. On September 16th—ninety-one days before the ACLU's motion—Mr. Byars again signed a joint pretrial memorandum.

[5] Def. Opp. 2-3. The ACLU attempted to obtain copies of the trial exhibit videos forty-one days before Christmas, just as a member of the public might obtain a manually filed exhibit to a complaint, by approaching the clerk's office. The ACLU did not believe that obtaining completely unrestricted court records would take more than a month and require litigation.

This one confirmed that the plaintiff would introduce one video and the defendant four, and that Mr. Byars had no objection to any of them. ECF # 88-1 at 2, 8-9.

For Mr. Byars, then, the clock on restricting public access started ticking on August 30th, when he first announced his intention to show the videos at trial. Whether he spent the intervening three and a half months serene in his decision not to seek any restriction on the videos, or he spent those fifteen weeks whistling past the graveyard hoping that no member of the public would ask to see them, he cannot now be heard to ask for 133 days to formulate an objection instead of 108. He is represented by counsel, and therefore charged with knowing what *NBC* meant for the videos to be played in open court.

Finally, Mr. Byars cites the parties' upcoming settlement conference as a reason why he ought to have the full 133 days to state an objection.[6] He is correct that the possibility of settlement is noteworthy, but not because it indicates that he deserves yet more time to consider what he should have in August. Settlement is noteworthy because it would increase the Court's workload on the ACLU's motion were the Court to leave the records access issue until after the case resolves (if it does).

While it is absolutely clear that closing a case does not alter the public's access to its judicial documents, *Bernstein v. Bernstein Litowitz Berger & Grossmann LLP*, 814 F.3d 132, 140 (2d Cir. 2016), were *Mustafa v. Byars* to close without the Court retaking custody of the exhibits, Mr. Byars could be expected to contend that the Court may not then order their return, citing *Littlejohn v. Bic Corp.*, 851 F.2d 673, 683 (3d Cir. 1988) ("[T]rial exhibits that were restored to their owner after a case has been completely

[6] Def.'s Opp. 2 n.1.

terminated and which were properly subject to destruction by the clerk of court are no longer judicial records within the 'supervisory power' of the district court."). That argument would be wrong, of course, because the ACLU tendered its request while the Court had unquestioned control over the trial exhibit videos in this open case, but the Court may save itself the work of refereeing that contention by immediately ordering Mr. Byars to return copies of the exhibits to the Court.

5. Conclusion

Because the Court has inherent authority over the trial exhibits, there is no order restricting public access to them, Mr. Byars has failed to demonstrate entitlement to any restrictions on that access, and the public's right to access is contemporaneous, the Court should grant the ACLU's unopposed motion for limited intervention,[7] re-take custody of the videos, and permit the ACLU to copy them.

/s/ Dan Barrett
Dan Barrett
Jaclyn Blickley
ACLU Foundation of Connecticut
765 Asylum Avenue
Hartford, CT 06105
(860) 471-8471
e-filings@acluct.org

[7] Byars makes no mention of intervention in his opposition, thus waiving any objection to it. *E.g.*, *Collins v. Fed. Express Corp.*, 731 F. Supp. 3d 368, 381 (D. Conn. 2024).

Notice of Electronic Filing

The following transaction was entered on 12/24/2024 at 2:53 PM EST and filed on 12/24/2024
Case Name: Mustafa v. Byars
Case Number: 3:19-cv-01780-VAB
Filer:
WARNING: CASE CLOSED on 10/21/2024

Document Number: 144(No document attached)
Docket Text:
ORDER granting in part the [137] emergency motion to intervene for immediate disclosure of judicial documents with the remainder of the motion taken under advisement until the Defendant supplements its current response by January 10, 2025.

The motion for the ACLU to intervene in this case for the purpose of seeking the disclosure of judicial documents is granted. Consistent with Rule 24 of the Federal Rules of Civil Procedure, the ACLU has satisfied the standards set forth for mandatory intervention, having shown through the filing of a "timely motion," Fed.R.Civ.P.24(a), "an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties represent that interest." Id.; Catanzano v. Wing, 103 F.3d 223, 232 (2d Cir. 1996) ("In order to intervene as of right under Fed.R.Civ.P. 24(a)(2), an applicant must (1) timely file an application, (2) show an interest in the action, (3) demonstrate that the interest may be impaired by the disposition of the action, and (4) show that the interest is not protected adequately by the parties to the action. Failure to satisfy any one of these requirements is a sufficient ground to deny the application." (citation omitted)). In any event, even if mandatory intervention is not appropriate, at a minimum, permissive intervention would be because of the "claim," Fed. R. Civ. P. 24(b), made here, regarding the relevant documents. Accordingly, the ACLU is permitted to intervene in this case.

At this time, however, the Court does not grant the motion in full, i.e., ordering the immediate release of the judicial documents, given the January 10, 2025 deadline previously established by the Court, and the Court's earlier consideration perhaps, erroneously of the challenges inherent in complying with an end of the year, or early in the next year deadline. Indeed, as a practical matter, this Court routinely extends

deadlines in all of its cases comfortably past the New Year, to the extent practicable. In this case, the Court's decision may not have been practicable, or even wise, given the constitutional considerations at issue.

Nevertheless, and despite the Defendant's failure to address specifically (and adequately, as of yet) the necessity of continued sealing, see, e.g., Reply in Further Support of Limited Intervention and Disclosure of Court Records, at 5 ("He does not which part of which of the six videos he wishes to restrict from public access, what it shows, or how the depiction harms him."), the Court will give the Defendant until January 10th to provide this specificity. In doing so, the Court is neither ignoring the significant First Amendment considerations at issue, see, e.g., In re Nat'l Broad. Co., 635 F.2d 945, 952 (2d Cir. 1980)("Once the evidence has become known to the members of the public.... through their attendance at a public session of court, it would take the most extraordinary circumstances to justify restrictions on the opportunity of those not physically in attendance at the courtroom to see and hear the evidence, when it is in a form that readily permits sight and sound reproduction."), nor any potential public safety issue inherent in unlimited and unfettered access to an aspect of the inner operations of a specific, high-security correctional facility, see Defendant's First Objection to the Letter and Purported "Emergency" Motion To Intervene and For Immediate Disclosure Filed By the ACLU at 6 ("The layout and blind spots of a prison especially a Level 4 security facility like Garner pose obvious safety and security threats."); United States v. Amodeo, 71 F.3d 1044, 1051 (2d Cir. 1995) ("In determining the weight to be accorded an assertion of a right of privacy, courts should first consider the degree to which the subject matter is traditionally considered private rather than public.... This will entail consideration not only of the sensitivity of the information and the subject but also of how the person seeking access intends to use the information."). Instead, the Court is trying to ensure that the appropriate legal standard is properly applied, and the relevant factors properly weighed.

The Defendant must preserve and maintain the exhibits at issue in the pending motion for immediate disclosure, if ultimately ordered by the Court. See Dietz v. Bouldin, 579 U.S. 40, 47 (2016) ("[D]istrict courts have the inherent authority to manage their dockets and courtrooms with a view toward the efficient and expedient resolution of cases.").

In addition, the Court will hold a hearing for the pending motion on January 13, 2025 at 10:00 a.m. (the parties are forewarned that if a previously scheduled criminal trial remains ongoing, this proceeding will be moved to as early as noon on the same day, January 13, 2025).

Signed by Judge Victor A. Bolden on 12/24/2024. (Cunningham, A)

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

JUSTIN C. MUSTAFA, *Plaintiff*,	:	CIVIL NO. 3:19-CV-1780(VAB)
v.	:	
C/O BYARS, *Defendant*.	:	JANUARY 10, 2025

DEFENDANT'S SECOND OBJECTION TO THE FILINGS OF THE ACLU (Docs. 135; 137; 143)

The ACLU's filings, requests, and motions lack merit. *See* (Docs. 135' 137; 143); *see also* (Doc. 142). The Court should deny them outright.

Alternatively, if the Court awarded any relief over objection, any relief must be limited to supervised viewing of the videos in a manner that protects the important safety and security interests, which would serve to benefit the safety and security of both DOC inmates and staff. *See* 18 U.S.C. § 3626(a)(1)(A). "The court shall not grant or approve any prospective relief unless the court finds that such relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right, and is the least intrusive means necessary to correct the violation of the Federal right." *Id.* "The court shall give substantial weight to any adverse impact on public safety or the operation of a criminal justice system caused by the relief." *Id.*

1. Previous arguments are incorporated.

As an initial matter, the defense incorporates its previous arguments from its first objection. *See* (Doc. 142). This includes the argument that the videos are not the Court's videos, nor does the Court have possession or control over them, at least not at this stage after it destroyed its electronic copies 30 days after trial in the normal course of business, well before the movant sought access to them. Further, the defense also incorporates that detailed in its motion for protective order (Doc. 128 *et seq.*), and the Court's order granting same (Doc. 129).

2. Jurisdiction: the Court lacks jurisdiction over the case.

The Court lacks jurisdiction to grant the ACLU (movant's) motions and requests. The Court lacks jurisdiction over the case, which has proceeded to final judgment and full resolution. *See* (Doc. 117); *see also* (Doc. 147); (Doc. 151).

The federal courts are not courts of general jurisdiction, they are courts of limited jurisdiction, allowed to decide only limited cases and controversies of specific types, between parties in active dispute. In fact, there is always a presumption against jurisdiction in the federal courts.

"It has been the rule since nearly the inception of our republic that subject matter jurisdiction may be raised any time." *United States v. Bond*, 762 F.3d 255, 263 (2d Cir. 2014)(quotations omitted). "Unlike state courts, which are courts of general jurisdiction, '[t]he district courts of the United States . . . are courts of limited jurisdiction,' empowered to hear only the narrow range of topics limned by

the Constitution and Congress." *Massad v. Greaves*, 554 F. Supp. 2d 163, 166 (D. Conn. 2008)(quoting *Exxon Mobil Corp. v. Allapattah Servs.,* 545 U.S. 546 (2005)). "Federal courts are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute." *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994)(citation omitted). "It is to be presumed that a cause lies outside this limited jurisdiction . . . ." *Id.* "[T]he burden of establishing the contrary rests upon the party asserting jurisdiction." *Id.*

"'Without jurisdiction the court cannot proceed *at all* in any cause. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause.'" *In Touch Concepts, Inc. v. Cellco P'ship*, 788 F.3d 98, 101 (2d Cir. 2015)(emphasis added)(quoting *Ex Parte McCardle,* 74 U.S. 506, 514, 7 Wall. 506 (1868)).

a. There is no case or controversy.

"Article III of the United States Constitution, requires that 'there be a live case or controversy at the time that a federal court decides [a] case.'" *Severino v. Rovella*, No. 3:22-CV-01529(VAB), 2024 WL 147997, 2024 U.S. Dist. LEXIS 6607, *9-10 (D.Conn. Jan. 12, 2024)(quoting *Burke v. Barnes*, 479 U.S. 361, 363 (1987)). "As a result, when there is no live case or controversy, meaning all of the relief requested has been granted, the case becomes moot." *Severino*, 2024 U.S. Dist. LEXIS 6607, at *10 (quotation omitted). "Article III, § 2, of the Constitution

extends the 'judicial Power' of the United States only to 'Cases' and 'Controversies.'" *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 102 (1998)(quoting U.S. Const. art III, § 2). "In its constitutional dimension, standing imports justiciability: whether the plaintiff has made out a 'case or controversy' between himself and the defendant within the meaning of Art. III." *Cortlandt St. Recovery Corp. v. Hellas Telecomm., S.à.r.l*, 790 F.3d 411, 417 (2d Cir. 2015)(quoting *Warth v. Seldin*, 422 U.S. 490, 498 (1975)). "Standing to sue is part of the common understanding of what it takes to make a justiciable case." *Steel Co.*, 523 U.S., at 102 (citation omitted).

"The 'irreducible constitutional minimum of standing' contains three requirements." *Id.* (quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992)). The "triad of injury in fact, causation, and redressability constitutes the core of Article III's case-or-controversy requirement, and the party invoking federal jurisdiction bears the burden of establishing its existence." *Steel Co.*, 523 U.S. at 103–04 (footnote omitted; citation omitted).

Here, there is no case or controversy remaining. The parties proceeded to final judgment. (Doc. 117). The plaintiff and one remaining defendant settled any remaining disputes or controversies thereafter. (Doc. 147; 148; 151). And they have withdrawn any remaining post-trial motions. (Doc. 151). In sum, this case is over.

An intervening group with no involvement or interest in the litigation whatsoever lacks authority to interpose after the fact—months after judgment was

entered—and in attempt to have the Court order the parties to disclose parts of their work file, all in a closed case.

This presents serious constitutional issues; not only Article III issues, but also Eleventh Amendment issues (as addressed below), and it also implicates the work-product protections.

b. The individual-capacity defendant cannot provide relief.

The individual defendant (who is Captain Byars, not the Connecticut Department of Correction), has no possession or control of the videos. Byars does not maintain the videos or keep them as part of his duties and never has. He does not possess them. He cannot provide them since he does not have them.

His lawyer possesses them only in the form of the videos being provided on loan from the Department of Correction, who is a separate client and who is not part of this case. That is, the videos are not Byars' videos; they are DOC's.

This matters for two reasons. First, it renders the ACLU's requests and motions not justiciable. Byars can provide no practical relief, rendering the matter moot, and the relief the ACLU seeks is also not redressable. *See Conn. Citizens Def. League, Inc. v. Lamont*, 6 F.4th 439, 444 (2d Cir. 2021); *see also Tweed-New Haven Airport Auth. v. Tong*, 930 F.3d 65, 70 (2d Cir. 2019)(in order to establish Article standing and jurisdiction, plaintiff must demonstrate "redressability, or a non-speculative likelihood that the injury can be remedied by the requested relief"). "If, as a result of changed circumstances, a case that presented an actual redressable

injury at the time it was filed ceases to involve such an injury, it ceases to fall within a federal court's Article III subject matter jurisdiction and must be dismissed for mootness." *Conn. Citizens Def. League, Inc. v. Lamont*, 6 F.4th 439, 444 (2d Cir. 2021)(quotation omitted). "A case becomes moot when it is impossible for a court to grant any effectual relief whatever to the prevailing party." *See id.* at 444.

Second, it reveals problems (including Eleventh Amendment problems) with what the ACLU is doing. They are trying hail agencies of the sovereign State of Connecticut into a federal forum seeking affirmative relief from those immune agencies. The State and its agencies are immune from that as detailed below. The ACLU cannot compel the Connecticut DOC or Office of the Attorney General into federal court. They certainly cannot ask a federal court to order the Connecticut DOC (or any non-party state agencies) to provide a third-party videos, records, documents, or the like outside the context of any actual case or controversy.

c. The Eleventh Amendment bars the relief sought; neither the State itself nor its agencies can be named as parties, nor hailed to federal court and ordered to provide affirmative or other relief.

To the extent plaintiff seeks to hail the State of Connecticut or one of its agencies or officials into federal court, that violates the Eleventh Amendment. The whole point of the Eleventh Amendment is to protect states from being forced into federal courts. This concept is well established. "The very object and purpose of the eleventh amendment were to prevent the indignity of subjecting a state to the coercive process of judicial tribunals at the instance of private parties." *Ex parte*

Ayers, 123 U.S. 443, 505 (1887); *Seminole Tribe of Florida v. Florida*, 517 U.S. 44, 58 (1996); *Puerto Rico Aqueduct & Sewer Auth. v. Metcalf & Eddy, Inc.*, 506 U.S. 139, 146 (1993). Eleventh Amendment immunity is a fundamental constitutional protection. *Puerto Rico Aqueduct & Sewer Auth.*, 506 U.S. at 145 (citation omitted). "The Amendment is rooted in a recognition that the States, although a union, maintain certain attributes of sovereignty, including sovereign immunity." *Id.* at 146 (citing *Hans v. Louisiana,* 134 U.S. 1, 13 (1890)). "It thus accords the States the respect owed them as members of the federation." *Puerto Rico Aqueduct & Sewer Auth.*, 506 U.S. at 146.

Eleventh Amendment protections reach their zenith when a State itself is a named party or is itself being forced into federal *fora* against its will. In fact, the *Ex parte Young* exception to the Eleventh Amendment does not even apply to matters against the State or its agencies named as parties. *See, e.g.*, *Puerto Rico Aqueduct & Sewer Auth.*, 506 U.S. at 145-46 (citing *Ex parte Young*, 209 U.S. 441 (1908)); *Alabama v. Pugh*, 438 U.S. 781, 782 (1978); *see also Will v. Michigan Dep't of State Police*, 491 U.S. 58, 62-71 (1989)(the State of Connecticut—and its agencies, including the Department of Correction—are not "persons" under 42 U.S.C. § 1983). In such cases, (absent waiver) the immunity applies "regardless of the relief sought." *Puerto Rico Aqueduct & Sewer Auth.*, 506 U.S. at 146; *see also Seminole Tribe*, 517 U.S. at 58.

While the movant's papers are careful to avoid explicitly asking this Court to force Connecticut or its agencies into federal court and issue orders against the sovereign State's Department of Correction or its Office of the Attorney General, that is what plaintiff actually seeks in function. He wants for the Court to order the Department of Correction or one of its lawyers within the Office of the Attorney General to provide prospective relief. That is improper and is barred by the Eleventh Amendment.

3. Merits: there are serious safety and security risks implicated by the broad, unsupervised releasing of the videos that the ACLU seeks. The Court should either deny the ACLU's requests outright and seal the videos, or alternatively, the Court should allow only supervised viewing of the videos in light of the safety and security risks.

Most important, people could get hurt if the ACLU has its way. There are serious safety and security concerns with unsupervised disclosure of the videos, and such safety and security concerns justify denying the movant's motions, sustaining the defense's objections, and sealing the video or ordering the parties to adhere to the protective order. Alternatively, the safety and security concerns justify allowing only supervised review of the videos.

a. Safety and security concerns and other concerns justify sealing the videos or alternatively allowing only supervised review.

Based on the defense' assessment of the Connecticut Department of Correction's and the DOC Deputy Commissioner's safety and security concerns with

the videos, the following are just some of the explicit, serious concerns that are implicated by the specific videos recordings in question:[1]

- Blind spots: there are numerous blind spots that are detectable, especially for the stationary cameras in Trial Exhibits 1, 1a, J, and K. *See* (Trial Exh. 1); (Trial Exh. 1a); (Trial Exh. J); (Trial Exh.K).
- Prison layout: all of the videos depict portions of the prison layout. *See generally* (Trial Exh. 1); (Trial Exh. 1a); (Trial Exh. H); (Trial Exh. I); (Trial Exh. J); (Trial Exh.K). This includes the surveillance or stationary cameras showing the F housing unit from different angles, and shows all if not most of the housing unit layout. It also shows how staff operates, tours, feeds, and otherwise functions in the unit, including timing intervals. Further, the handheld camera following the plaintiff and DOC officials walking through various different parts of the Garner prison during his transports to and from an outside hospital. This shows general layout of the relevant areas. But it also shows additional layout information, such as location of metal detectors, superivsors offices, medical locations, holding areas, and other concerning areas.

[1] These issues and concerns advanced in this filing are shared by the Connecticut Department of Correction. If the Court would prefer that they be reduced into affidavit or declaration form, the defense can promptly supplement its filings, upon request from the Court, with an affidavit or declaration from a high-ranking DOC security official confirming and detailing these concerns and the reasons supporting them.

- Restraint processes: The handheld videos show the restraint process, including that used during medical transports to and from outside medical trips, which are high security functions and processes. (Trial Exh. H); (Trial Exh. I). This includes showing the specific restraints along with the mobility and functionality of them in use during highly restrictive transports and also includes related technique and procedures. *Id.*
- Transportation processes: the handheld videos depict the transport process for transportation to or from an outside hospital. *See* (Trial Exh. H); (Trial Exh. I). This includes the restraints used and the specifics of the application and use and also includes related technique and procedures. However, it also shows the setup and other aspects of transports or preparation for transport to outside medical hospitals. Transportations to outside medical hospitals specifically are especially concerning or alarming from a security standpoint for DOC and its officials. There are a variety of protocols and processes to have heighted security measures around these transports, especially since they are to public, unsecure locations, where escape or other serious problems could be planned or attempted.
- The Fox or F Unit is Restrictive Housing Unit at Garner (a Level 4 facility), and it also holds AS levels 2 and 3 inmates. The Court can

take judicial notice of the testimony from trial about what type of inmates are housed in RHU. In sum, the restrictive housing unit holds some of the most problematic inmates in the facility and in the entire department. Also, the unit also houses AS inmates (and AS Level 2 and 3 inmates at that). The "AS" program is the Administrative Segregation program within the Connecticut DOC; it manages inmates that pose a threat to the security of the facility, staff, or other inmates such that they can no longer be safely managed in the general population. *See, e.g.*, *Goode v. Cook*, No. 3:20-CV-0210(VAB), 2023 WL 3570632, 2023 U.S. Dist. LEXIS 87850,*4 (D. Conn. May 19, 2023)(citing CT DOC A.D. 9.4)(assess AS or Administrative Segregation). All of the videos depict the restrictive housing unit at Garner. *See generally* (Trial Exh. 1); (Trial Exh. 1a); (Trial Exh. H); (Trial Exh. I); (Trial Exh. J); (Trial Exh.K). This is especially concerning, as it has obvious heighted security and safety concerns.

- Injury or medical care: the handheld videos depict some level of injury and or medical care. (Trial Exh. H); (Trial Exh. I). Exhibit H specifically includes the plaintiff being provided medical care by a nurse in the medical wing. There is arguably privacy interest here that are separate from the safety and security issues raised above.

Any of these many reasons and concerns justify sealing the videos. All of them together certainly do. The defense respectfully submits that these reasons are sufficient for the Court to make detailed and particularized decisions that justify denying the ACLU's motion and sealing the videos. Alternatively, they are certainly sufficient to allow and justify allowing only supervised viewing of the videos given the safety and security concerns. *See* 18 U.S.C. § 3626()(1)(A)("The court shall give substantial weight to any adverse impact on public safety or the operation of a criminal justice system caused by the relief.").

Courts in this District and Circuit regularly and routinely protect or seal prison videos from unsupervised disclosure, and for good reasons. *See, e.g.*, *Wine v. Chapdelaine*, 3:18-CV-0704(VAB)(Doc. 122); *Lawrence v. Finnucan*, 3:20-CV-1678(VAB)(Docs. 59; 58-2); *see also Harris v. Livingston Cty.*, No. 14-CV-6260-DGL-JWF, 2018 WL 6566613, 2018 U.S. Dist. LEXIS 210509, *8 (W.D.N.Y. Dec. 13, 2018)("allowing the dissemination of the video surveillance footage would put at risk the safety of corrections officers, other inmates, and the public." "[T]he court finds that there is good cause for a protective order preventing plaintiff disseminating the surveillance footage.")(citing *McMillen v. Windham*, No. 3:16-CV-558-CRS, 2018 U.S. Dist. LEXIS 15662, 2018 WL 652829, at *5 (WD Ky. Jan. 31, 2018)); *Edwards v. Middleton*, 2021 U.S. Dist. LEXIS 48189, *14 (S.D.N.Y. Mar. 15, 2021)("The Court is cognizant that surveillance videos from correctional facilities are highly 'sensitive' and must be treated as confidential for discovery purposes,

because they may 'provide information . . . that could be used to exploit potential gaps in surveillance,' such as 'the geographical layout of the jail, the location of the cameras, [and] the view from the cameras.'" "Indeed, courts have found good cause to restrict public access to footage capturing 'the manner in which officers respond[] to . . . incidents [at prisons] and the techniques used to gain control of [inmates],' which 'could be used by inmates to create a disturbance or uprising, or attempt to escape,' or might otherwise compromise the safety of facility staff, inmates and the public.")(collecting cases).

Further, Connecticut's lawmakers have also recognized and codified these security concerns in Connecticut General Statute § 1-210(b)(18). There, that statue renders information to be exempt from public, unsupervised disclosure *via* Freedom of Information laws. *See* Conn. Gen. Stat. § 1-210(b)(18).

Also, federal law—specific to prospective relief in prison cases—mandates not only consideration of such safety and security concerns, but it requires *substantial weight* be given to any adverse impact on public safety when considering prospective relief in prison cases. *See* 18 U.S.C. § 3626(a)(1)(A)("The court shall give substantial weight to any adverse impact on public safety or the operation of a criminal justice system cause by the relief"). In fact, the statute allows only the narrowest form of prospective relief to address a federal right. *See* 18 U.S.C § 3626(a)(1)(A)("Prospective relief in any civil action with respect to prison conditions shall extend no further than necessary to correct the violation of the Federal right of

a particular plaintiff or plaintiffs. The court shall not grant or approve any prospective relief unless the court finds that such relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right, and is the least intrusive means necessary to correct the violation of the Federal right.").

Here, even were the Court to have jurisdiction, and even were the Court to hold that there is some First Amendment right implicated in viewing the videos, the Court also must fashion any prospective relief to be issued as properly, narrowly tailored relief that protects (and in fact is *the least* intrusive upon) the safety and security interests. *See* 18 U.S.C. § 3626(a)(1)(A). The plain text of § 3626(a)(1)(A) appears to prohibit unsupervised video access outright. *See id.*

Further, the Court would have the authority to issue such narrow, tailored relief under its inherent authority. *See Dietz v. Bouldin*, 579 U.S. 40, 45 (2016). "First, the exercise of an inherent power must be a 'reasonable response to the problems and needs' confronting the court's fair administration of justice." *Id.* (quoting *Degen* v. *United States*, 517 U. S. 820, 823-824 (1996)). "Second, the exercise of an inherent power cannot be contrary to any express grant of or limitation on the district court's power contained in a rule or statute."

Here, the Court appears to have the inherent authority to issue a supervisory order that protects the public safety interests. And, given that the Court's inherent authority also heads to specific rule or statute, it bears noting that to the extent the movant relies on Court's inherent authority or the common law, it appears 18

U.S.C. § 3626(a)(1)(A) prohibits the unsupervised access relief that the ALCU seeks. *See Dietz*, 579 U.S. at 45 ("Second, the exercise of an inherent power cannot be contrary to any express grant of or limitation on the district court's power contained in a rule or statute."); 18 U.S.C. § 3626(a)(1)(A).

Further, law enforcement concerns and the impact upon them and upon judicial efficiency is an acceptable and crucial component of the analysis concerning claims for access to sensitive materials. *See United States v. Amodeo*, 71 F.3d 1044, 1050 (2d Cir. 1995). Here, the Court can take judicial notice of the many instances where the Connecticut DOC works cooperatively with the Courts, the Attorney General, other government officials, and also with private counsel when it comes to viewing of sensitive material, including prison videos needed for use in judicial matters. In many if not all instances, DOC often readily provides access so long as there is assurance of protected access, especially protection against mass dissemination or unsupervised disclosure specifically.

If videos of the restrictive housing unit at a Level 4 prison are forcefully disclosed over objection and absent any supervision and restriction, that will undoubtedly chill future cooperation. That is assured; there is no doubt about that. The Court can and should consider this. And such consideration favors sealing the videos outright, or at least allowing only supervised review. *See Amodeo*, 71 F.3d 1044, 1050 (2d Cir. 1995). "Unlimited access, while perhaps aiding the professional and public monitoring of courts, might adversely affect law enforcement interests or

judicial performance." *Id.* "If release is likely to cause persons in the particular or future cases to resist involvement where cooperation is desirable, that effect should be weighed against the presumption of access." *Id.*

* * *

That is, in light of all of that detailed above, it appears quite plain and clear that the Court may fashion its orders in such a manner so as to protect the public and prevent people from being harmed.

b. The ACLU offers no explanation or representation of its intended use of the videos, which favors denying their motion and sealing the videos or at least allowing only supervised or protected access.

The Court can and should consider the purpose for which the movant seeks the videos. *See* (Doc. 144)(quoting *Amodeo*, 71 F.3d at 1051). "The nature and degree of injury must also be weighed. This will entail consideration not only of the sensitivity of the information and the subject *but also of how the person seeking access intends to use the information*." *See Amodeo*, 71 F.3d at 1051 (emphasis added).

Here, the movant does not offer explanation for intended use of the videos. For example, they do not represent that they simply want to view the videos to familiarize themselves with the facts and circumstances that lead to trial and judgment. Nor do they represent what they wish to do with the recordings specifically. Absent such explanation, it cannot be presumed the videos will not be used improperly, recklessly, or for some improper purpose, such as posting them on

the internet. Presumably the officers of the court representing the ACLU would represent otherwise if they have an acceptable explanation and intended use.

The safety and security concerns at issue are numerous and serious. *See* (above). Based on a review of the movant's papers, the ACLU does not seem even acknowledge, let alone care about that. This is disappointing to see from a group that purports to task itself with the self-declared mission of advancing prisoner's safety, or at least that is how they tout themselves when it suits them.

Here, if the ACLU simply wanted to view the video for the actual purpose of informing itself of the facts and circumstances of the case and the trial that lead to judgment, then they presumably would have no objection to viewing the videos in a supervised manner, say for instance at undersigned's office, or in the Clerk's office or even the lawyer's lounge in the Court. Or, at the very least, if they insisted on having a copy for their own review (which the defense vigorously objects to), they should have no objection to being bound by protective orders from this Court prohibiting further unsupervised disclosure, such as posting on the internet. Instead, the ACLU appears to object to all of these more reasonable middle ground options, or they certainly do not embrace them.[2]

This is quite disappointing to see from a group that claims to care about inmate safety. If the videos ended up disclosed unsupervised, and if someone then

[2] The ALCU is unquestionably seeking unsupervised access to the videos, as it is seeking to make copies of the videos as part of its specific relief sought. *See* (Doc. 143 p. 9).

studies the layout of the prison—especially blind spots, the locations of important security components, such as potentially dangerous structures, metal detectors, supervisors offices, the restraint process and protocols for out-of-facility transports to the hospital, or others—*via* repeated viewing, replaying, and studying of the videos at their whim, then someone very well could get hurt: inmates, staff, or both.

At that point, the toothpaste cannot be put back into the tube. The person injured (or worse) cannot be put back together again. In fact, then the ACLU would likely be on their soap box decrying that instance too were an inmate to be harmed.

Simply stated, under no circumstances can the videos be released in an unsupervised fashion. *See, e.g.*, 18 U.S.C. § 3626(a)(1)(A). If they were released unsupervised and someone did get hurt, the responsibility will be at the feet and conscience of the ACLU and their reckless, cavalier attitude toward staff and inmate safety.

As detailed throughout, if the Court ordered some relief over objection, the defense respectfully submits that the reasonable middle ground is to have supervised viewing of the videos. This also comports better with 18 U.S.C. § 3626(a). The ACLU's attorneys could view the videos at undersigned's office or at the Court. But they cannot be provided copies for their own use, especially since they refuse to acknowledge the security and safety risks and because they refuse to commit to adhering to a protective order.

4. The ACLU's motion is an impermissible attempt to circumvent Connecticut Freedom of Information laws.

The ACLU is proceeding in the manner that is all a ruse, in attempt to circumvent Connecticut Freedom of Information law. Notably, their papers are devoid of any representation that they made a freedom of information request for unsupervised request of the videos from the video's keeper: the Connecticut Department of Correction. That would be the obvious, logical place to request them from, since they are DOC's videos.

However, the ACLU likely knows that they would then have to overcome the § (b)(18) provision in the Freedom of Information Act. *See* Conn. Gen. Stat. § 1-210(b)(18). That provision was enacted by the Connecticut Legislature and Governor, and it is regularly applied by the DOC and the Freedom of Information Commission to apply to and prohibit DOC videos being disclosed to the public unsupervised.[3] *See Velasco v. Cook*, No. Docket #FIC 2020-0294, 2021 CT FOI Comm. Decs. LEXIS 47, *7, 2021 CT FOI Comm. Decs. LEXIS 47 (Sept. 8, 2021)("the Commission has deferred to the DOC Commissioner's judgment and experience regarding safety and security risks and consistently found that video recordings of the inside of a correctional institution are exempt from disclosure pursuant to § 1-210(b)(18) . . . .").

[3] Though, it is noteworthy that DOC videos are frequently accessible and viewable in a *supervised* manner at DOC headquarters upon request. It appears the ACLU has made no such requests, or at least does not represent that it has sought access to view the video from DOC directly.

All of those governing bodies agree with the safety and security analysis proffered here by the defense. And that consensus and the vast agreement throughout various branches and departments of Connecticut government about the safety and security justifications (along with the safety and security justifications themselves), warrants sealing the videos after "giv[ing] *substantial* weight to any adverse impact on public safety or the operation of a criminal justice system caused by the relief." 18 U.S.C. § 3626(a)(1)(A)(emphasis added).

The fact that ACLU makes no attempt to obtain videos from DOC directly is telling, especially since the Connecticut DOC is the custodian of the videos in the first place. The movant wishes to circumvent the FOIA process by intervening into a limited, closed controversy between two people that have completely resolved their differences. This should not be permitted.

5. To the extent the ACLU claims that there is any prejudice to its positions from delay, that was caused by its waiting until nearly two months after judgment entered before it filed its motion.

The ACLU's papers regrettably take a rather bizarre and accusatory tone, seeming to suggest some sort of improper delay by the defendant. This is baseless, amounting to mere projection, given that the movant waited *nearly two months after judgment entered* to file its motion. *See* (Doc. 137); (Doc. 117).

The ACLU never sought access to the Court's electronic copies of the videos during the 30 days following the trial before they were destroyed in the normal course. In fact, the ACLU made no request to the Court during that time period.

After that 30 days, the Clerks' office routinely destroyed its electronic copies. And after trial, the parties resolved their disputes in due course. *See* (Docs. 146; 147; 148; 151). To the extent the movant believes it is prejudiced by how the scheduling or timing progressed in this case, it lacks clean hands and has itself to blame.

* * *

The defense objects to the broad, dangerous, unsupervised, and unreasonable relief sought by the ACLU. The Court should sustain the defense's objections. It is telling that the ACLU suggests no middle ground or compromise, while the defense does. This Court should hold that the specific DOC prison videos at issue cannot be released unsupervised because of important, legitimate safety and security reasons.

WHEREFORE, the Court should deny the ACLU's motions and requests and should order the videos sealed.

Alternatively, if the Court orders some sort of relief over objection, it should be limited to the ACLU viewing the videos in a supervised setting, where they are prohibited from copying them, reproducing them, disseminating them on the internet or otherwise, and or any similar actions that could jeopardize serious security and safety interests of inmates and DOC staff.

Respectfully submitted,

DEFENDANT
Christopher Byars

WILLIAM TONG
ATTORNEY GENERAL

BY: /s/ *Stephen R. Finucane*
Stephen R. Finucane
Assistant Attorney General
165 Capitol Avenue
Hartford, CT 06106
Federal Bar #ct30030
E-Mail: stephen.finucane@ct.gov
Tel: (860) 808-5450
Fax: (860) 808-5591

CERTIFICATION

I hereby certify that on January 10, 2025, a copy of the foregoing was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ *Stephen R. Finucane*
Stephen R. Finucane
Assistant Attorney General

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

JUSTIN C. MUSTAFA, *Plaintiff*,	:	CIVIL NO. 3:19-CV-1780(VAB)
v.	:	
C/O BYARS, *Defendant*.	:	JANUARY 20, 2025

RESPONSE *re:* COURT'S INQUIRY CONCERNING MOTIONS AND REQUESTS OF THE ACLU

The defendant provides this response and the attached proposed[1] declaration from the Deputy Commissioner Mulligan, the Deputy Commissioner for Operations and Rehabilitative Services of the Connecticut Department of Correction. *See* (Mulligan Decl. ¶¶ 1 – 23). At the conclusion the recent hearing held on January 13, 2025, (Doc. 155), the Court allowed the defense a week to provide an affidavit or declaration that identified specific safety or security concerns implicated by the video exhibits (Exhs. 1, 1a, H, I, J, and K) in question. *See* (Doc. 155).

1. The defendant incorporates the previous arguments made.

As an initial matter, the defense incorporates its previous arguments from its first objection, second objection, and the arguments made during the hearing. *See* (Doc. 142); (Doc. 152); (Doc. 155). Further, the defense also incorporates that

[1] Given the January 20, 2025, Martin Luther King, Jr. Day holiday, the declarant provides an unsigned copy of the declaration and will supplement with a copy of a hand-signed declaration once back in the office with access to a scanner after the holiday. *See* D. Conn. L. Civ. R. 6; Fed. R. Civ. Pro. 6.

detailed in its motion for protective order (Doc. 128 *et seq*.), and the Court's order granting same (Doc. 129).

2. The ACLU fails to identify sufficient precedent addressing the safety and security risks and issues raised by release of prison videos from the restrictive housing unit of a high-security correctional facility in the modern age and internet era.

The ALCU has not cited to any Second Circuit authority concerning the disclosure of prison videos, especially in light of the newer concerns raised and posed since the emergence of the internet in the modern era. *See* (Docs. 135; 137; 143); *see also Mirlis v. Greer*, 952 F.3d 51, 56 (2d Cir. 2020)("Today, unlike in the era of our decision in *CBS*, videos of all types are routinely and widely shared on the Internet, where (as far as we can predict now) it appears they will be available in perpetuity for unlimited viewing, further dissemination, and easy manipulation; their subjects are unable to escape them."); *cert. denied Greer v. Mirlis*, 141 S. Ct. 1265 (2021). The ACLU certainly has not cited any Second Circuit authority addressing the specific safety and security concerns implicated by the videos in this case, which are from a Level 4 high-security prison, and which all depict the restrictive housing unit of that prison. *See* (Mulligan Decl. ¶¶ 21; 22; 23 8; 1 – 23). The Court stressed and questioned the intervenor about this at the recent hearing (Doc. 155), and the ACLU acknowledged and admitted that it has cited no such authority addressing these specific concerns in the modern internet age.

In *Mirlis*, the Second Circuit acknowledged the impact that the internet in the modern era has had on attempts by intervenors to obtain sensitive video

recordings. This is especially so given that postings to the internet are functionally permanent and cannot be undone. At the hearing in this case (Doc. 155), the Court here also stressed how the role of the internet in the modern day impacts the analysis, especially given the permanent nature of postings, and also given the sensitive nature of prison videos and the long history of some security restrictions on public access or viewing.

"Although the public's right is strong, it is 'not absolute.'" *Mirlis*, 952 F.3d at 59 (quoting *Nixon v. Warner Comm.*, 435 U.S. 589, 598 (1978)). "Countervailing considerations that courts may consider include 'the danger of impairing law enforcement or judicial efficiency' and 'the privacy interests of those resisting disclosure.'" *Mirlis*, 952 F.3d at 59 (quoting *United States v. Amodeo*, 71 F.3d 1044, 1050 (2d Cir. 1995)(*Amodeo II*)). "If, at the end of this process, the balance of the factors tips against permitting public access, then the court may deny disclosure." *Mirlis*, 952 F.3d at 59. Here, the balancing of important law enforcement privacy interests, namely, the safety and security risks and concerns detailed in Deputy Commissioner Mulligan's proposed declaration weigh in favor of denying disclosure; alternatively, at the very least, the balancing favors court-ordered supervised disclosure as opposed unsupervised, unrestricted disclosure. *See* (Mulligan Decl. ¶¶ 21; 22; 23 8; 1 – 23).

"In determining the proper weight to accord an asserted privacy interest, a court should consider both the degree to which the subject matter is traditionally

considered private rather than public, as well as the nature and degree of the injury to which the party resisting disclosure would be subjected were the privacy interest not protected." *Mirlis*, 952 F.3d at 61 (cleaned up; quotation omitted). "The latter inquiry entails consideration not only of the sensitivity of the information and the subject but also of how the person seeking access intends to use the information." *Id.*

Here, the subject-matter is traditionally considered private or protected, not public. Courts in this District regularly and routinely protect and seal DOC prison videos when used in litigation, even at trial, to limit their viewing, and more importantly, to control the access and prevent their being permanently posted on the internet. The security and safety concerns detailed in Deputy Warden Mulligan's declaration support such protective measures here. *See* (Mulligan Decl. ¶¶ 21; 22; 23 8; 1 – 23). Simply stated, neither the insides of high-security prisons nor the videos depicting them are traditionally considered public.

Next, the risk and potential injury are serious. They impact untold number of current and future persons, both staff and inmates. This strongly favors the defenses' position here, especially when compared with *Mirlis*. In *Mirlis*, there was only one person's privacy interest at stake, and sealing was still justified. Here, the privacy or protection interests are of literally unknown and uncountable number of persons, perpetually, and in the future in perpetuity. And, like in *Mirlis*, the

concern of the internet era is that once a video is posted on the internet (which the ACLU does not at all deny it intends to do here), it is permanent.

Finally, the ACLU's motives counsel against their positions and against the Court ordering the relief they seek. The defense notes that the ACLU has had repeated opportunity (including in its papers and at the hearing) to disavow any intent or motive of publishing the videos on the internet or to otherwise disseminate them to the public, rather than simply reviewing the videos itself for its own assessment. The ACLU continues to refuse to disavow such motive, and at the hearing, the ACLU argued and stated it believes that any correctional video played or used as evidence at trial should be disseminated to the public essentially without limit. At this point, the ACLU's motive should be viewed as an impermissible motive. Or, at the very least, the ACLU's motive weighs against granting it the specific relief it seeks: unrestricted and unsupervised access and possession of the videos.

All of this above strongly weighs in favor of sealing the videos or alternatively allowing only supervised viewing.

Also, it is worth noting that here, the transcripts of the trial testimony from the parties and the nonparty witness are more informative about the disputed actions in the case than the videos, as the videos do not depict the details or specifics of the disputed struggle in question. It is also worth noting that the ACLU conceded at the hearing that it has not read the transcripts or made any attempts to

obtain them, though, the transcripts are publicly available. *See* (Docs. 115; 121; 124). Here, this weighs even more in favor of not releasing the videos than was the case even in *Mirlis* itself. "[T]he availability of a transcript . . . does not in our view necessarily eliminate or even diminish a party's privacy interest in the publication or copying of a video of those proceedings." *Mirlis*, 952 F.3d at 65. "To the contrary: That the substance of the desired content is publicly available in some format (*i.e.*, a transcript) tends in the circumstances presented here to cut *against* the public interest in the release of the content in a different form (*i.e.*, video), since the primary public interest—general availability of the relevant information—has already been served." *Id.* (original emphasis).

In *Mirlis*, the transcripts were available, and the video was of deposition testimony that was played at trial. Therefore, the transcripts provided the same information as playing the videos would have, without the risk, embarrassment, and humiliation that would come with allowing the intervenor to put the videos that depicted a witness recounting instances of sexual abuse on the intervenor's internet blog or on the internet permanently.

Here, the transcripts of the trial testimony provide more and better sources of information than the videos; the videos do not show any details of the disputed struggle in question because of the camera angles. The video in Exhibit J simply shows the back of the defendant and also the nonparty officer during the brief, thirty-second struggle at plaintiff's cell. (Exh. J, 1:09:50 – 1:10:20). The video is

from across the room and barely shows anything. (*Id.*) Instead, the videos at trial provided context and showed the surrounding acts, providing circumstantial evidence of the parties' testimony and versions of events. (*Id.*) But the videos did not show the disputed interaction in any detail. (*Id.*); see also (Mulligan Decl. ¶¶ 21; 22; 23 8; 1 – 23). The same is true of the identical or near identical plaintiff's exhibits 1 and 1a, which are the same video, offered by the plaintiff. *See* (Exhs. 1 and 1a). And the other videos do not show the disputed interaction at all. *See* (Exhibits H, I, J, and K); *see also* (Mulligan Decl. ¶¶ 21; 22; 23 8; 1 – 23).

If the ACLU wanted to review the evidence about what the defendant in this case did, the needed evidence would be the trial transcripts, which stand readily and publicly available and easily accessible at the click of the ACLU's mouse. *See* (Docs. 115; 121; 124). The videos would be of no help for that purported purpose, and they certainly provide no added information when compared to the trial transcripts. *See* (Mulligan Decl. ¶¶ 21; 22; 23 8; 1 – 23). This is similar to *Mirlis,* and it favors sealing the videos entirely, or at least allowing only supervised access and viewing if some relief were provided to the intervenor over defense objection.

Ultimately the Second Circuit and the District Court here have both correctly noted and emphasized how the internet in the modern era has impacted and changed analysis concerning public access to videos that have serious privacy or protected interests. "But we must also acknowledge what *has* changed since we decided *CBS* in 1987: The astonishing and pervasive rise of the Internet; the

attendant ease with which videos may be shared worldwide by individuals; and the eternal digital life with which those videos are likely endowed by even a single display online." *Mirlis*, 952 F.3d at 31. "These are all factors that multiply and intensify the privacy costs to the individual of releasing sensitive videos . . . ." *Id.*

Here, when applying the balancing of the interests at stake in this case, as applied to the specifics in this case including especially the safety and security interests implicated by the specific videos in question as detailed in Deputy Warden Mulligan's declaration, the Court should rule against the ACLU and for the defense.

WHEREFORE, the Court should deny the ACLU's motions and requests and should order the videos sealed.

Alternatively, if the Court orders some sort of relief over objection, it should be limited to the ACLU viewing the videos in a supervised setting, where they are prohibited from copying them, reproducing them, disseminating them on the internet or otherwise, and or any similar actions that could jeopardize serious security and safety interests of inmates and DOC staff.

Respectfully submitted,

DEFENDANT
Christopher Byars

WILLIAM TONG
ATTORNEY GENERAL

BY: /s/ *Stephen R. Finucane*
Stephen R. Finucane
Assistant Attorney General
165 Capitol Avenue
Hartford, CT 06106
Federal Bar #ct30030
E-Mail: stephen.finucane@ct.gov
Tel: (860) 808-5450
Fax: (860) 808-5591

CERTIFICATION

I hereby certify that on January 20, 2025, a copy of the foregoing was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ *Stephen R. Finucane*
Stephen R. Finucane
Assistant Attorney General

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

JUSTIN C. MUSTAFA, *Plaintiff*,	:	CIVIL NO. 3:19-CV-1780(VAB)
v.	:	
C/O BYARS, *Defendant*.	:	JANUARY 21, 2025

DECLARATION OF DEPUTY COMMISSIONER WILLIAM MULLIGAN

I, WILLIAM MULLIGAN, DO DECLARE (OR CERTIFY, VERIFY, OR STATE) UNDER PENALTY OF PERJURY THAT THE FOLLOWING IS TRUE AND CORRECT AND IS BASED UPON MY PERSONAL KNOWLEDGE AND EXPERIENCE:

1. I am over the age of eighteen years old and believe in the obligations of an oath.

2. I am the Deputy Commissioner for Operations and Rehabilitative Services for the Connecticut Department of Correction ("DOC").

3. I began my career with the Connecticut Department of Correction in 1993, when I was hired as a Correction Officer. I was promoted to Correctional Lieutenant in approximately 1998, to Correctional Captain in approximately 2001, to Deputy Warden in approximately 2009, to Warden in approximately 2016, to District Administrator in approximately 2019, and to Deputy Commissioner in approximately 2020.

4. Throughout my career, I have worked assigned posts, jobs, functions, or assignments at numerous different Connecticut DOC facilities.

5. In my role as Deputy Commissioner, I have regularly visited, toured, and extensively observed and continue to regularly visit, tour, and extensively observe all of the

correctional facilities throughout Connecticut DOC, including Garner. I am familiar with the Garner facility, and the specifics of its housing units, its management, and its correctional practices and needs.

6. I have been disclosed as an expert in numerous lawsuits in connection with my training, experience, knowledge, and expertise in corrections, correctional management, use of restraints, and the safety and security risks, issues, and concerns within the Connecticut Department of Correction.

7. At the request of officials from the Office of the Attorney General, I have reviewed the video trial Exhibits 1, 1a, H, I, J, and K from the above-captioned case to assess safety, security, correctional, or privacy interests, risks, and concerns and to provide an assessment of whether the video exhibits should be sealed, publicly disclosed without supervision, or, if disclosed, whether it should be in a supervised manner.

8. Based on my review and that detailed herein, the videos in question pose serious safety, security, and correctional risks if they are disclosed publicly; they should be sealed by the Court and protected from public view. Further, if the video exhibits were to be disclosed publicly, it would pose additional, separate, and more serious and compounded security, safety, and correctional risks if they were disclosed without Court-ordered supervision.

9. For example, if the videos were to be uploaded to the internet and or otherwise released so that unknown members of the public could repeatedly view, review, replay, and study the specifics of the videos and the various law-enforcement techniques and correctional operations and layouts of the prison, this would provide additional and more serious risk than if they were viewed in a supervised and limited manner, such as a jury, judge, or

member of the public seeing them at trial supervised by the Court, a limited number of times, and without direct control over the video, or for example, if a party were to have limited access through their attorney in preparation for trial subject to Court-ordered restrictions on the videos' use or dissemination in such contexts.

10. Further, when DOC provides video recordings (that impact safety, security, privacy, or correctional risk) to the Courts, to the attorneys for parties to Court proceedings, or to the Department's own attorneys at the Office of the Attorney General (either for active litigation or when seeking legal advice), it is done under loan and on the reliance that all those involved will take appropriate steps to protect the videos from unsupervised public disclosure, and that the videos will be returned from loan back to DOC or destroyed after the litigation has ended. That reliance and the various officials and attorneys' respect and adherence to the protective measures are crucial to the safety and security of DOC's operations, and they are crucial to the balancing of protecting against safety and security risks on one hand, and the use or need for correctional videos as evidence in court proceedings on the other hand.

11. Garner is a Level 4, High-Security correctional facility and is also the State's designated, premiere adult male mental health facility within the Connecticut DOC. The facility houses inmates to include inmates with serious, violent criminal histories. This includes inmates with convictions and or criminal histories including murder, manslaughter, assault, sexual assault, arson, and others serious criminal offenses or histories. The facility also houses inmates with serious mental health and or behavioral problems and needs. This includes inmates with serious mental health conditions. Given the severity

and or specifics of some of the mental health conditions of some inmates at Garner, some of those inmates are particularly vulnerable to being manipulated or harmed by other inmates.

Also, the Garner facility houses inmates within the "Administrative Segregation" or "AS" program. That AS program is the Administrative Segregation program within the Connecticut DOC; it manages inmates that pose a threat to the safety or security of the facility, staff, or other inmates such that they can no longer be safely managed in the general population. Garner houses AS Phase 2 and AS Phase 3 inmates in the Restrictive Housing Unit (F Unit or Fox Unit) at Garner specifically.

Garner has unique correctional and security concerns and considerations, given its high-level of security and its function as the main mental health facility in the State for the adult male inmate population.

12. Garner currently has one general population unit (A Unit). It has other housing areas that are mental health units (B Unit; C Unit; D Unit; E Unit; G Unit; H Unit; IPM1 Unit; and IPM2 Unit), which use a sliding scale based on the specific mental health needs and level of functioning of the inmates (such as low to mid to high functioning inmates).

13. Further, as addressed further below, Garner has one restrictive housing unit ("RHU") that serves the entire Garner facility, including both the general population units and the mental health units. That RHU unit is referred to as "F Unit" or "Fox Unit."

14. Based on my review of the video exhibits in the above-captioned case, the following are some of the serious safety, security, or correctional concerns that are raised and implicated by the videos and the possible public disclosure of the video exhibits.

15. Blind spots and visibility: there are numerous blind spots that are detectable, especially for the stationary cameras in Exhibits 1, 1a, J, and K. *See* (Exh. 1); (Exh. 1a); (Exh. J); (Exh. K). Regarding the blind spots for the stationary cameras, they are constantly present throughout the video. *See* (Exh. 1); (Exh. 1a); (Exh. J); (Exh. K).

For example, Exhibit J specifically depicts blind spots in the top tier, along with numerous blind spots on the bottom tier, both given the top tier floor position, the stair structures, and the officers' station in comparison or relation to the video camera's location. *See* (Exh. J, 0:00:00 – 2:00:00). Exhibit K similarly depicts blind spots on the left and right sides of the cameras, including underneath the two stairwells on either side of the officers' station. *See* (Exh. K, 0:00:00 – 2:00:01).

Further, in addition to blind spots, viewing of the videos also reveals or demonstrates visibility capabilities (or lack of capabilities) that can then be used improperly or form the basis for safety or security risks. The videos demonstrate what is or is not visible in detail (for instance which movements, interactions, or similar matters) can or cannot be viewed on the camera. If inmates know a particular area of the prison housing unit is not visible on the camera, that poses obvious security and safety risks. Further, if an inmate were to know that specific conduct (such as a hand-to-hand exchange) cannot be picked up *via* the camera in a specific location even if the people are visible on the video, that poses additional safety and security concerns. This knowledge or intelligence can enable inmates to plan to commit violent acts or other unlawful acts such as trading, selling, or trafficking drugs, weapons, intelligence, or other contraband using that information.

This is of specific and more heighted concern in the RHU at Garner (a Level 4, high-security facility) given the inmates housed in that specific unit. Many of the inmates in RHU have histories of violent acts, disobedience of prison rules, manipulation of the prison rules, and behavioral problems. It is also the one area where general population inmates and mental health inmates are most likely (and most predictably) to interact. So, for the mental health inmates that misbehave and are then housed in RHU, if they have vulnerability to abuse, manipulation, or assault by general population, AS, or other dangerous inmates, these security and safety concerns are especially problematic for those vulnerable inmates in a way that is specific to the RHU at Garner.

16. Prison layout: all of the videos depict portions of the prison layout. *See generally* (Exh. 1); (Exh. 1a); (Exh. H, 0:00:01 – 0:21:48); (Exh. I, 0:00:01 – 0:04:20); (Exh. J, 0:00:00 – 2:00:00); (Exh. K, 0:00:00 – 2:00:01). This includes the surveillance or stationary cameras showing the Fox housing unit from different angles, and shows all if not most of the housing unit layout. (Exh. J, 0:00:00 – 2:00:00); (Exh. K, 0:00:00 – 2:00:01). It also shows how staff operates, tours, feeds, provides medical care, and otherwise functions in the unit, including timing intervals, movement through the unit, staffing levels, and other staff functioning. (Exh. J, 0:00:00 – 2:00:00); (Exh. K, 0:00:00 – 2:00:01).

Further, the handheld camera (Exhs. H and I) following the plaintiff and DOC officials walking through various different parts of the Garner prison during his transports to and from an outside hospital. (Exh. H, 0:00:01 – 0:21:48); (Exh. I, 0:00:01 – 0:04:20). This shows general layout of the relevant areas. (Exh. H, 0:00:01 – 0:21:48); (Exh. I, 0:00:01 – 0:04:20). But it also shows additional layout information, such as location of

metal detectors, supervisors offices, medical locations, holding areas, staffing deployments (both within the housing unit and elsewhere within the institution), control stations, and other concerning areas. (Exh. H, 0:00:01 – 0:21:48); (Exh. I, 0:00:01 – 0:04:20).

17. Restraint processes: the handheld videos show the restraint processes, including that used during medical transports to and from outside medical trips, which are high security functions and processes. (Exh. H, 0:00:01 – 0:21:48); (Exh. I, 0:00:01 – 0:04:20). This includes showing the specific restraints along with the mobility and functionality of them in use during highly restrictive transports and also includes related correctional technique and procedures. (Exh. H, 0:00:01 – 0:21:48); (Exh. I, 0:00:01 – 0:04:20). The handheld videos also depict the specific equipment or armory items used, including handcuffs, black box, leg irons, belly chain, and tether chain; they depict how these items are used and also how an inmate has restricted mobility and the specifics of that restricted mobility when the items are applied. *See* (Exh H, 0:17:07 – 0:21:48; 0:00:01 – 0:21:48); (Exh. I, 0:00:01 – 0:04:20).

18. Transportation process and escort processes: the handheld videos depict the transport process for transportation to and from an outside hospital. *See* (Exh H, 0:17:07 – 0:21:48; 0:00:01 – 0:21:48); (Exh. I, 0:00:01 – 0:04:20). This includes the restraints used and the specifics of the application and use and also includes related technique, procedures, and equipment used. (Exh H, 0:17:07 – 0:21:48; 0:00:01 – 0:21:48); (Exh. I, 0:00:01 – 0:04:20).

However, it also shows the setup and other aspects of transports or preparation for transport to outside medical hospitals. (Exh H, 0:17:07 – 0:21:48; 0:00:01 – 0:21:48); (Exh. I, 0:00:01 – 0:04:20). Throughout my career in the Connecticut Department of Correction, transportation to outside medical hospitals specifically have raised especially heightened concerns from a security and safety standpoint for myself, DOC, and its officials. There are a variety of protocols and processes to have heighted security measures around these transports, especially since they are to public, unsecure locations, where escape or other serious problems could be planned or attempted.

Here, Exhibit H and Exhibit I depict plaintiff before and after his transport to an outside medical hospital. *See* (Exh. H, 0:17:07 – 0:21:48; 0:00:01 – 0:21:48); (Exh. I, 0:00:01 – 0:04:20). This includes depicting the processes for preparing the inmate to leave on the transport, and also his return. The specifics for this including but are not limited to how he is moved through the facility, through which parts of the facility, and how the specific routes through the prison and the techniques (including the custody holds, restraints, maneuvers, including staff positioning and techniques for navigating doors, hallways, cuffing procedures, use of cell trap doors, clothing including specific clothing and color of clothing for the transport, and strip search procedure). (Exh. H, 0:17:07 – 0:21:48; 0:00:01 – 0:21:48); (Exh. I, 0:00:01 – 0:04:20).

19. Garner RHU, Fox Unit: The Fox Unit or F Unit is Restrictive Housing Unit ("RHU") at Garner (a Level 4 high-security facility), and it also holds AS Phase 2 and 3 inmates. The restrictive housing unit holds some of the most problematic inmates in the facility and in the entire department. This includes inmates that have committed disciplinary

infractions; those who pose a heightened security risk to the prison, its staff, or its inmate population; those who are under active investigation; those who are in pending a protective custody review; those in interval-one chronic disciplinary review; and those who are under BOS (behavioral observation status) due to behavioral or mental health needs. The RHU in F Unit is one of the few places where an inmate who is a General Population inmate will also be housed in or near inmates from the mental health units, as both general population and mental health inmates can be sent to RHU. Further, the RHU is one of the few places or housing units that an inmate can force or likely cause a transfer to, *via* disobedience or manipulation of rules. That is, if an inmate at Garner wants to be sent to the RHU and is willing to misbehave in order to do so, he likely can, and can therefore plan around that.

Also, the unit also houses AS inmates (and AS Phase 2 and 3 inmates at that). The "AS" program is the Administrative Segregation program within the Connecticut DOC; it manages inmates that pose a threat to the security of the facility, staff, or other inmates such that they can no longer be safely managed in the general population. All of the videos depict the restrictive housing unit at Garner, including its internal layout, blind-spot locations, locations of dangerous structures, and other problematic information that DOC does not want publicly disclosed for security and safety reasons. *See generally* (Exh. 1); (Exh. 1a); (Exh. H); (Exh. I); (Exh. J); (Exh.K).

Given the specifics detailed herein ¶¶ #19, the safety, security, and correction concerns and related risks with videos being released (and especially released

unsupervised) are heightened in this specific instance because the videos depict Fox Unit or the RHU at Garner.

20. Injury, medical care, or privacy interests: the handheld videos depict some level of injury and or medical care or images that may implicate privacy interests. *See* (Exh. H); (Exh. I). Exhibit H specifically includes the plaintiff being provided medical care by a nurse in the medical unit. (Exh. H, 0:05:43 – 0:09:30). Also, Exhibit H shows the plaintiff nude or naked during a strip search; this includes showing the plaintiff complying with staff orders during the strip search, and it includes showing the plaintiff's private areas, such as his buttocks, scrotum, and fully naked body. *See* (Exh. H, 0:14:40 – 0:16:40).

Also, the surveillance cameras depict medical or mental health care as well. For example, in Exhibit J, the stationary surveillance video shows a nurse or medical provider touring part of the top tier of the unit with a medical device and providing care or attention to inmates at their cells. *See* (Exh. J 1:00:00 – 1:12:50).

21. Also, the videos do not depict the details of actual use of force at issue in the trial in the above-captioned case. *See generally* (Exhs. 1, 1a, H, I, J, K). One of the surveillance camera recordings (Exhibit J) depicts the disputed interaction at Mr. Mustafa's cell in the RHU at Garner. (Exh. J, 1:09:50 – 1:10:20). But because of the angle of the camera, it only shows (from a distance) the back of the defendant officer while he is at the cell; it does not depict the struggle over the food trap door or the specific actions of the plaintiff and defendant during that struggle. (Exh. J, 1:09:50 – 1:10:20). This includes that the video does not show or depict the hand strike delivered by the defendant during the

struggle. (Exh. J, 1:09:50 – 1:10:20). None of the other videos show or depict the hand strike delivered by the defendant during the struggle. *See generally* (Exhs. 1, 1a, H, I, K).

22. Based on all of that detailed herein, I believe public disclosure of the videos (Exhibits 1, 1a, H, I, J, and K) would pose serious safety, security, and correctional risks to the inmates and staff at Garner and the operations of the Garner facility.

23. Further, based on all of that detailed herein, I believe that unsupervised public disclosure—such as the unrestricted providing of copies of the videos (Exhibits 1, 1a, H, I, J, and K) to the intervenor or other groups, entities, or persons, who could then study them or post them online resulting in even further unsupervised viewing and studying of the videos—would further compound and increase the risks to DOC inmates and staff.

DECLARATION UNDER PENALTY OF PERJURY PURSUANT TO 28 U.S.C. § 1746

I, William Mulligan, declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. Executed electronically on January 21, 2025.

William Mulligan
Deputy Commissioner
Connecticut Department of Correction

United States District Court
District of Connecticut

Justin Mustafa,
Plaintiff

v.

Christopher Byars,
Defendant

No. 19-cv-1780

January 27, 2025

Response to Defendant's Post-Hearing Submission

Pursuant to the Court's oral order at the close of the January 13th hearing permitting it a response to the defendant's post-hearing submission and an opportunity to supplement the record with the rules referenced at the hearing, the intervenor now does so. Those rules, existing criminal prohibitions, and the weight of case law requires that Mr. Byars's sealing request be denied.

1. Restricting access by the public to prevent a small number of incarcerated people from misusing the trial exhibits fails narrow tailoring, because less-restrictive means to prevent misuse exist, and because such a restriction would be overinclusive.

Mr. Byars's filing places exclusive weight upon the common law right of access to judicial documents, but to have the trial exhibits sealed, he must also satisfy the First Amendment. *Mirlis v. Greer* was purely a common law access dispute, with no party "rely[ing] on a constitutional analysis in support of its position" and the Court of Appeals therefore applying only the common law. 952 F.3d 51, 59 n.5 (2d Cir. 2020). The public's right to access judicial documents, though, has "a strong form rooted in the First Amendment, and a slightly weaker form based in federal common law." *United States v. Am. Univ. of Beirut*, 718 F. App'x 80, 81 (2d Cir. 2018) (summary order). The

common law version permits "balanc[ing]" the public's rights "against countervailing interests favoring secrecy," *Newsday LLC v. County of Nassau*, 730 F.3d 156, 165 (2d Cir. 2013), while the First Amendment one does not, forbidding sealing unless strict scrutiny is met, that is, sealing being proven "essential . . . and . . . narrowly tailored" to "preserve higher values," *In re Demetriades*, 58 F.4th 37, 46 (2d Cir. 2023) (internal quotation omitted), without resting on "[b]road," "general," or "conclusory" concerns. *In re N.Y. Times Co.*, 828 F.2d 110, 116 (2d Cir. 1987). "Because of these differences between the common law right and the First Amendment right, it is necessary to keep the two standards conceptually distinct when analyzing a particular proceeding or document." *Newsday*, 730 F.3d at 165.[1]

Mr. Byars's sealing request fails to overcome strict scrutiny because it is not narrowly tailored. Narrow tailoring invalidates any measure (like sealing) restricting First Amendment activity (like regular public access to judicial documents) unless the proponent of the restriction "show[s] that measures less restrictive of the . . . activity could not address its interest." *Tandon v. Newsom*, 593 U.S. 61, 63 (2021) (per curiam). The existence of a less-restrictive alternative conclusively establishes that a First Amendment diminution is not narrowly tailored. *E.g.*, *Reno v. Am. Civil Liberties Union*, 521 U.S. 844, 874 (1997). Mr. Byars's request to seal fails narrow tailoring

[1] Further, the defendant's materials read as if this dispute concerns an *incarcerated person's* First Amendment claim to possess the trial exhibits *in prison*, which would be analyzed under a rational basis-like inquiry. *See generally*, *e.g.*, *Reynolds v. Quiros*, 25 F.4th 72, 85 (2d Cir. 2022). The ACLU labors under no such modulated standard. Messrs. Byars and Mulligan also devote much attention to an incarcerated litigant's handling of discovery material, as if this dispute concerns a protective order. Def.'s Filing [ECF # 157] at 4. A litigant's federal due process right to see discovery information overcomes state-law prohibitions against possessing the material inside of a prison, so this Court may both satisfy due process by permitting access and craft limits on the litigant's ability to retain or republish those items, largely without First Amendment constraints. *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 33 (1984). Control of incarcerated people's handling of discovery, though, is irrelevant to *non*-incarcerated people's ability to access *judicial documents*, because they have a (1) First Amendment right to access and possess such documents that is (2) undiminished by incarceration.

because (1) less-restrictive means of preventing incarcerated people from seeing the trial exhibits exist, and, (2) restricting the public's access to the exhibits is a wildly overinclusive way of preventing incarcerated people from seeing them.

1.1. Because less-restrictive means exist in the form of the Department of Correction's rules, and Connecticut's criminal code, restricting the public's First Amendment right to the materials is not a narrowly tailored measure.

Two categories of less-restrictive measures exist to prevent incarcerated people from obtaining the *Mustafa* trial exhibit videos. Each independently forecloses a conclusion that restricting the public's access to the videos is the most narrowly tailored answer to the DOC's asserted problem.

1.1.1. The DOC's existing rules thoroughly advance its interest of keeping the *Mustafa* exhibits out of incarcerated people's hands.

First, the Department's own rules comprehensively forbid incarcerated people from obtaining or possessing the *Mustafa* trial exhibits, no matter the method or medium. Compared with reducing the public's access to the exhibits, generally, as Byars proposes, the DOC's existing rules are the less-First-Amendment-restrictive means of preventing incarcerated people from obtaining them. DOC's existing policies:

- bar incarcerated people from possessing any item whatsoever that has not been "authorized for retention upon admission to the facility, issued while in custody, purchased in the facility commissary, or approved at the [prison]." DOC Administrative Directive ("AD") § 6.10(1) (filed here as Exhibit 1).

- enumerate the precise items that each person is permitted to possess, which does not include computers, VHS/DVD/Blu-ray players, or similar. DOC A.D. § 6.10 attachment A (filed here as Exhibit 2).
- forbid incarcerated people to "loan, trade, sell, give or transfer property to another in[carcerated person]." DOC A.D. § 6.10(7).
- establish "contraband" subject to seizure, destruction, and/or prosecution as any item "[n]ot authorized to be in . . . an inmate's possession." DOC A.D. 6.9 § 3(c)(1) (filed here as Exhibit 3).
- command that "[a]ll incoming publications shall be reviewed," DOC A.D. 10.7 § 14(b) (filed here as Exhibit 4), and rejected if they "depict[], encourage[], or describe[] methods of escape from correctional facilities, or contains blueprints, drawings, or other descriptions of Department of Correction facilities," or "encourage[] or instruct[] in the commission of criminal activity." *Id.* §§ 14(a)(1),(6).
- bar the possession of "tapes and CDs from outside the Department of Correction" if such media is not "new, factory sealed and shipped directly from a commercial distribut[o]r," or, if it "depicts . . . or describes methods of escape from correctional facilities, or contains blueprints, drawings or similar descriptions of DOC facilities," or "encourages or instructs in the commission of criminal activity." DOC A.D. 6.10 § 36(a).
- mandate that "[a]ll incoming outside tapes and CDs shall be forwarded to the facility Tape/CD Reviewer for review" prior to being approved for distribution to an incarcerated person. DOC A.D. 6.10 § 36(c).

- require the "open[ing] and inspect[ion]" of all incoming mail, rejecting it from ever reaching an incarcerated person "if such review discloses correspondence or material(s) which would reasonably jeopardize legitimate penological interests, including, but not limited to, material(s) which contain or are believed to contain or concern . . . "the transport of contraband in or out of the facility," "plans to escape," "plans for activities in violation of facility or Department rules," "perceived plans for criminal activity," or "threats to the safety or security of staff, other inmates, or the public, facility order, discipline, or rehabilitation[.]" DOC A.D. 10.7 § 7(a).
- direct that all "outgoing general correspondence" is "subject to being read" and filtered for the same reasons, and, provides that any such correspondence may be used to punish or criminally prosecute the incarcerated person who sent the correspondence. *Id.* § 6(a).
- require the review and pre-approval of any content that incarcerated people can access on their digital tablets (where such devices are made available), dictating that "[a]ll available content has been established by the department," it is all "subject to departmental approval," and that "[c]ontent determined to jeopardize safety and security will not be approved." DOC A.D. 10.10 § 6 (filed here as Exhibit 5).
- compel prison guards to "tour general population housing units . . . at a minimum of every 30 minutes," and their supervisors to do so "at least twice per shift" in

order to "reinforce the rules . . . of the facility/unit." DOC A.D. 6.1 §§ 5(a)(5), 4(a) (filed here as Exhibit 6).[2]

- forbid incarcerated people to cover their cell windows, and treat covering as a disciplinary violation. *E.g.*, Ruling on Defs.' Mot. for Summ. J., *Paschal-Barros v. Balatka*, No. 18-cv-2021, 2020 WL 5230994, at *1 (D. Conn. Sep. 1, 2020); Findings of Fact and Conclusions of Law, *Wright v. Cunningham*, No. 16-cv-2115, 2019 WL 4686573, at *1 (D. Conn. Sep. 23, 2019).
- prescribe the top-to-bottom search "of an in[carcerated person]'s cell" whenever "directed by a supervisor or as required by facility policy." DOC A.D. 10.7 § 14(c).
- mandate the strip search of an incarcerated person "[u]pon initial placement in a specialized housing unit," including "[r]estrictive [h]ousing." DOC A.D. 6.7 § 5(b)(5)(7) (filed here as Exhibit 7).
- force the pat-search *and* strip-search of all incarcerated people "[a]t the conclusion of any contact visit," or after entering any public visiting area." DOC A.D. 6.7 §§ 4(b)(2), 5(b).
- compel all visitors to pass through a metal detector. DOC A.D. 6.7 § 12(a).
- prohibit all "personal belongings of a social visitor or inmate . . . in the visiting room unless authorized by the Unit Administrator or designee." DOC A.D. 10.6 § 8(e)(iii)(1) (filed here as Exhibit 8).
- forbid all visitors to "deliver or receive any item, to include written correspondence . . . to or from an inmate." DOC A.D. 10.6 § 8(g).

[2] In Mr. Byars's narration, a 'tour' "is when staff go cell-to-cell, depending upon the unit, every 15 minutes or every half hour to ensure the safety of an inmate and make sure there [are] no cell violations at the time." Oct. 1, 2024 Trial Tr. 55:8-10.

- command a search by metal detector or "other authorized scanner/detecting systems" "[w]henever an in[carcerated person] is suspected of ingesting or inserting metallic contraband in a body cavity." DOC A.D. 6.7 § 10(b).

DOC's comprehensive countermeasures make it very difficult to imagine a person being given the exhibits by a visitor who cannot bring them into the prison, secreting them on his person through strip searches, and studying them extensively on a laptop he does not have, in a cell that is checked at least every half-hour with a window he cannot cover. Only if DOC had presented this Court with a record showing that its enforcement of those rules failed to prevent the harm it conjures would their existence be anything less than fatal.

At oral argument, though, Mr. Byars waved his hands at the necessity of less-restrictive measures, positing that the DOC's employees should not have to enforce existing rules. But the point is crucial. The narrow tailoring inquiry "does not begin with the status quo of existing regulations, then ask whether the challenged restriction has some additional ability to achieve" the asserted compelling interest, because every constriction would pass that test. *Ashcroft v. ACLU*, 542 U.S. 656, 666 (2004). "Instead, the court should ask whether the challenged regulation is the least restrictive means among available, effective alternatives." *Id.* The United States lost *Ashcroft* because "the Government failed to introduce specific evidence proving that existing technologies"—parental use of filters and blockers—"are less effective than the restrictions in" the challenged statute, which required all commercial website operators to restrict minors' access to certain information. *Id.* at 668. Byars's motion to seal the trial exhibits against the world in the interest of hypothetically making DOC's existing prohibitions slightly more effective loses for the same reasons.

1.1.2. Existing criminal prohibitions against the exact harms Byars cites are a separate, less-restrictive means that DOC must employ.

Second, Mr. Byars's sealing motion independently fails the least-restrictive-means inquiry because Connecticut's extant criminal prohibitions cover the waterfront of the fears presented in Mr. Mulligan's declaration. The diminution of First Amendment rights is impermissible where the government may instead enforce criminal measures that do not tread on the Amendment.

In Connecticut, it is a criminal offense for someone to "escape[] from a correctional institution," Conn. Gen. Stat. § 53a-169(a), "incite[], . . . organize[], . . . or take[] part in any disorder . . . , riot or other organized disobedience to the rules and regulations of" a prison, *id.* § 53a-179b(a), to "instigate[], . . . or take[]] part in any meeting of inmates . . . , the purpose of which is to foment unrest," *id.* § 53a-179c(a), or to "convey[] into any [prison] any letter or other missive which is intended for any person confined therein" or "convey[]" the same "from within the [prison] to the outside." Conn. Gen. Stat. § 53a-174(b).

Anyone—inside the walls or out—who "intentionally does or omits to do anything . . . constituting a substantial step . . . planned to culminate in" commission of one of those offenses is guilty of attempting the substantive offense. Conn. Gen. Stat. § 53a-49a(a)(2). The same goes for an agreement "to engage in or cause the performance of" one of those offenses so long as any member of the conspiracy "commits an overt act in pursuance of" the offenses. *Id.* § 53a-48(a). These prohibitions are the "less restrictive alternative would serve the [DOC's] purpose," and so it "must use that alternative" rather than shrink the public's First Amendment rights. *United States v. Playboy Ent. Group*, 529 U.S. 803, 813 (2000). *See also*, *e.g.*, *IMDb.com Inc. v. Becerra*, 962 F.3d

1111, 1125 (9th Cir. 2020) ("[W]e will not permit speech-restrictive measures when the state may remedy the problem by implementing or enforcing laws that do not infringe on speech.").

Further, a First Amendment restriction levied upon one person (the ACLU) to deter the lawbreaking of a third party (the hypothetical incarcerated person planning an escape) fails narrow tailoring review because it is aimed at the wrong target. "The normal method of deterring unlawful conduct is to impose an appropriate punishment on the person who engages in it," so restricting First Amendment activity of a law-abiding person "in order to deter conduct by a non-law-abiding third party" is "quite remarkable" and presumptively unconstitutional. *Bartnicki v. Vopper*, 532 U.S. 514, 529-30 (2001) (barring application of criminal wiretap prohibition against person who lawfully obtained recording from the wiretapper). Sealing the trial exhibits would run afoul of this rule. "There are obvious methods of preventing [prison breaks]. Amongst these is the punishment of those who actually [attempt prison breaks]." *Schneider v. New Jersey*, 308 U.S. 147, 162 (1939). Sealing must be denied.

1.2. Restricting the public's access to the trial exhibits because of what a small number of incarcerated people might do would be broadly overinclusive and therefore not narrowly tailored.

Further, sealing the trial exhibits would fail narrow tailoring because of its overinclusiveness. A First Amendment-restrictive measure affecting "a broad class beyond those who are likely to engage in the conduct the government seeks to deter" is "significantly overinclusive rather than narrowly tailored," and therefore unconstitutional. *Cornelio v. Connecticut*, 32 F.4th 160, 175 (2d Cir. 2022) (striking sex offender registration provision for its application to "all persons subject to the

. . . registration law, including registrants who have never engaged in the sort of illicit online activity that the government seeks to deter."). *See also Hartford Courant Co. v. Carroll*, 986 F.3d 211, 222 (2d Cir. 2021) (striking application of juvenile court closure statute to trial of man aged "forty when he was charged," and explaining that "[t]he need to protect the confidentiality of juveniles is not implicated by [his] case, and yet the statute's broad scope reaches him"); *State Emp. Bargaining Agent Coal. v. Rowland*, 718 F.3d 126, 135 (2d Cir. 2013) (holding that Connecticut's mass firing of union members based on a purported interest in reducing payroll failed narrow tailoring because the state could have "implement[ed] membership-neutral layoffs" rather than "firing only union members."); *Green Party of Conn. v. Garfield*, 616 F.3d 189, 209 (2d Cir. 2010) (striking, on tailoring grounds, campaign contribution statute forbidding "a wide range of activity unrelated to [contribution] bundling," the compelling interest cited by state). Here, Mr. Byars and the DOC ask the Court to restrict the public's access to the trial exhibits for lawful purposes ranging from mundane (curiosity-satisfaction) to vital (scrutiny of the government), all in the hopes of preventing a subset of the 549 people living at the Garner prison[3] from using the information to bad ends. Such a restriction would violate the First Amendment, and must therefore be turned aside.

[3] Conn. Dep't of Correction, *Average Confined Inmate Population and Legal Status* 1 (Jan. 1, 2025), *available at* https://portal.ct.gov/-/media/doc/pdf/monthlystat/stat01012025.pdf?rev=e4491b287fb24e67b9bb0e5f6568fa9f&hash=81ABCA343757DB3ACB558B92B734778F.

2. Sealing is also improper under the common law.

As regards the common law access right, Mr. Byars's motion must also fail. The DOC has no interest in barring the world from seeing on video what incarcerated people can already see daily, it has failed to show that the six year-old information is not stale, and it has not demonstrated that the videos depict occurrences that were private in intensely personal subject matter as distinct from merely having transpired behind the necessarily closed doors of a prison.

2.1. The DOC has no countervailing interest in preventing the public from seeing that which incarcerated people at Garner can with their own eyes.

Much of the DOC declaration attests to the harms that might befall it if people living at Garner were to learn "the prison layout," "how staff operate[]," "tours, feeds, provides medical care," as well as when employees move through the building and how many of them work, when. Decl. of William Mulligan [ECF # 158] ¶ 16. The declaration also frets that the people residing there will watch the videos to learn the location of "metal detectors, supervisor[']s offices, medical locations," and other features of a building in which they spend twenty-four hours a day for years at a time. *Id.*

The DOC's purported harms are greatly blunted by the reality that the people who live at Garner are not blindfolded as they move through the prison every day. The people who are sent to Garner's F Unit eventually return from it to a different housing unit, and are free to tell their fellow prisoners what they saw there. Everyone in Garner has had food served to them, seen or had various kinds of restraints put on and removed, received medical care, and seen how the prison employees operate. Those who lived within Garner's F Unit at the time of the parties' dealings in this case do not

need Mr. Byars to tell them that there were four cameras in the unit, that one of them was "in front of the officers' station above where that pipe chase is," "one [was] directly above the officers' station in the ceiling," and another "to the left, far left on the top tier." Sep. 30, 2024 Trial Tr. 47:24-48:10. They do not need him to tell them that there were twenty-seven cells on the ground floor, twenty-one on the second floor,[4] or that second shift had two correctional officers working during it. *Id.* 28:23-29:6. And they do not need to watch a video to know that "a hand-to-hand exchange," "trading, selling, or trafficking drugs, weapons, intelligence, or other contraband," Mulligan Decl. ¶ 15, is not possible in the restrictive housing unit, because they are know that everyone there was restrained whenever they are outside of their cells.[5]

Second, the population of Garner turns over regularly as its residents are transferred elsewhere in the system to make bed space available for those with higher mental health score needs, finish their sentences, moved to avoid serious conflicts with other prisoners or staff, or sent to other states under the Interstate Compact. Nothing in the law does—or could—prevent people from sharing their observations of life at Garner. Mr. Mustafa himself could write a book about precisely the topics Mr. Mulligan recounts, because the filings in the case indicate that he is a free man.

[4] "[T]he same or similar layout as the other housing units" at Garner, Oct. 1, 2024 Trial Tr. 35:10-12, which at the time numbered ten. *Id.* 23:23-25.

[5] "Any movement outside of the cell, they have to be in restraints. They don't eat in the day room like other units. They eat in their cells. And when they go out for recreation, they are handcuffed through the door from the trap and escorted to the rec yard, outside of the unit, and then restraints are removed." Oct. 1, 2024 Trial Tr. 32:18-23 (testimony of Mr. Byars).

2.2. Byars has failed to show that the six-year-old blind spot information is not stale.

The trial exhibits were recorded about six years ago, in or around May 2019. In the spring of 2016, the Department embarked on a project to replace its camera systems via a contract to "purchase, install[] and . . . integrat[e] . . . correctional video surveillance systems (closed-circuit television) and video management systems" at its prisons, to include "analog and internet protocol cameras" within them. Ex. A at 1, *Contract between the State of Connecticut and Assoc. Electronic Systems, Inc.* (May 19, 2016) ("Contract").[6] In that year, DOC had "a variety of different video systems in use," and had begun to update some facilities "to a Verint system." Decl. of Monica Rinaldi [ECF # 116-3] ¶ 5, *Thomas v. Butkiewicus*, No. 13-cv-747 (Mar. 2, 2016). That is apparently the system that DOC continues to upgrade its prisons to, but the project has been extended into 2026, its tenth year. Amend. 2 at 1, *Contract* (Nov. 1, 2022). Further, Mr. Byars's trial testimony explained that cameras can be moved around. When asked where a particular camera he mentioned pointed on that day in 2019, Mr. Byars testified "we have had protocol to remove it from the station and have them pointed towards" somewhere else, Sep. 30, 2024 Trial Tr. 48:15-24, and no longer knew where it pointed.

"The older the information contained in documents, the more detailed the supporting material should be submitted to support the sealing of the documents," *In re Keurig Green Mountain Single-Serve Coffee Antitrust Litig.*, No. 14-mc-2542, 2023 WL 196134, at *5 (S.D.N.Y. Jan. 17, 2023), yet Mr. Byars has failed to establish that the trial

[6] Attached here as Exhibit X.

exhibits reveal what today's cameras capture and where they are pointed, rather than what prior systems and/or setups did. The latter can form no basis for sealing.

2.3. The non-public setting of the parties' interactions did not render them the intensely private strain of private occurrences that *Mirlis* addressed.

Thirdly, the location of the occurrences in the trial exhibits does not render Mr. Byars's sealing motion identical to Mr. Hack's in *Mirlis*, because that decision dealt with a different subset of privacy than the one in play here. To say that an occurrence was 'private' can mean, among other things, that it was intensely sensitive irrespective of where it transpired (Mr. Hack's sexual abuse), that it was hidden from public view without regard to its being a pedestrian happening (Mr. Byars injuring Mr. Mustafa), or the coincidence of both (a medical procedure taking place in a doctor's office). *Mirlis* focused on the first kind, while Mr. Byars's motion deals with the second.

For example, if a member of the public knocked on the closed doors of the governor's office and asked to sit in on a meeting that was underway, the person would likely be told that the meeting was 'private.' But if the governor entered an audio recording of that meeting into evidence in later litigation, the fact that the meeting had been private in location would not render it private in intensely personal content apt to create fresh wounds for the participants upon each re-airing.

The same is true here. Everything that happens inside a Connecticut prison beyond the place and time of visiting hours is private in location, because the only way to get into a prison if not visiting is to work there or be remanded there by the Superior Court. The privacy of the location, though, adds no sensitive concerns to two men disputing the contents of a Styrofoam meal tray.

3. Scrutiny of the government is the raison d'être of the common law access right, not a disqualifier.

Lastly, the ACLU's scrutiny of the government does not cut against restricting its common law right to the trial exhibits. The ACLU "uses public education and policy advocacy in Connecticut's legislative and executive branches to change the law and restore democratic oversight and control over the state's prison system." Mot. to Intervene [ECF # 137] at 3. It does that in part by using public records, whether in person or online. It may republish the trial exhibits that Mssrs. Byars and Mustafa displayed publicly at trial, or it may display them selectively in conversations with members of the public and lawmakers who have little actual exposure to Connecticut's prison system. None of that disqualifies the ACLU from obtaining the records.

The common law right of records access exists because "professional and public monitoring is an essential feature of democratic control" over the government, and a necessary ingredient for public confidence in the courts. *United States v. Amodeo*, 71 F.3d 1044, 1048 (2d Cir. 1995). "Such monitoring is not possible without access to testimony and documents that are used in the performance of Article III function." *Id.* Seeing and digesting what the government is up to is *the point* of the access right, not a nefarious disqualifier counseling denial of those rights.

Mirlis changed none of that. It only provided a very rare example of an occasion on which a person citing the common law access right would use it to advance parochial "personal motives, such as an individual vendetta or a quest for competitive economic advantage," *Amodeo*, 71 F.3d at 1050, not vindicating the purpose of the right and sufficiently noxious to outweigh the presumption of access. *Mirlis* did not invert the

rationale and transform public scrutiny of a state's corrections system and employee indemnification decisions into an unsavory vendetta.

4. Conclusion

Because restricting the public's access to the trial video would violate both the First Amendment and common law presumptions in favor of it, the Court should deny Mr. Byars's request to seal those videos.

__/s/ Dan Barrett__
Dan Barrett
Jaclyn Blickley
ACLU Foundation of Connecticut
765 Asylum Avenue
Hartford, CT 06105
(860) 471-8471
e-filings@acluct.org

Exhibit 1

Conn. DOC Administrative Directive 6.10

(Inmate Property)

State of Connecticut Department of Correction **ADMINISTRATIVE DIRECTIVE**	Directive Number 6.10	Effective Date 01/20/2025	Page 1 of 14
	Supersedes Inmate Property, dated 6/26/2013		
Approved By Commissioner Angel Quiros	Title Inmate Property		

1. Policy. An inmate may possess only that property authorized for retention upon admission to the facility, issued while in custody, purchased in the facility commissary, or approved at the facility in accordance with this Administrative Directive. An inmate's property shall be managed in a manner, which contributes to a safe, secure and sanitary environment for staff and inmates.
2. Authority and Reference.
    a. Connecticut General Statutes, Sections; 18-69e and 18-81.
    b. Regulations of Connecticut State Agencies, Sections 4-157-1 through 4-157-17.
    c. Administrative Directives 3.5, Correctional General Welfare Fund; 3.7, Inmate Monies, 3.8, Commissary; 3.12, Fees for Medical Services and Laboratory Testing; 5.3, Life and Fire Safety; 6.9, Control of Contraband and Physical Evidence; 6.14, Security Risk Groups; 9.4, Special Management; 9.5, Code of Penal Discipline; 9.6, Inmate Administrative Remedies; 10.7, Inmate Communications; 10.8, Religious Services; 10.10, Inmate Tablet Use and 10.15, Inmate Personal Identification Procurement and Storage.
3. Definitions and Acronyms. For the purposes stated herein, the following definitions and acronyms apply:
    a. Bulk Storage. Civilian clothing and effects not authorized for retention by a pretrial inmate.
    b. Contraband. An item (1) not authorized to be in a facility, the grounds of a facility, a vehicle, a contract program area or in an inmate's possession; (2) that is authorized, but used in an unauthorized or prohibited manner; (3) that is authorized, but altered; or (4) ownership cannot be established.
    c. Durable Medical Equipment (DME). Any issued piece of medical equipment used to aid in a better quality of living for inmates with medical conditions, disabilities and/or injuries.
    d. Facility Incoming Property Review Coordinator (FIPRC). The Unit Administrator at each facility shall designate a Facility Incoming Property Review Coordinator. The Facility Incoming Property Review Coordinator shall be at the rank of Deputy Warden and be responsible for the authorizing or denying of all requests for incoming property items, including but not limited to, outside tapes and compact discs (CDs).
    e. Facility Tape/CD Reviewer. An employee designated by the Unit Administrator to assess the content of incoming outside tapes and compact discs for safety and security concerns in accordance with the provisions of this Directive.
    f. Indigent Inmate. An inmate shall be considered indigent when he or she has less than five dollars ($5.00) on account at admission or when the monetary balance in his or her inmate trust account, or in any other known account, has not equaled or exceeded five dollars ($5.00) at any time during the preceding ninety (90) days.
    g. Inmate Property. Inmate property is property that is (1) issued by the facility; (2) authorized by this directive; (3) purchased through the commissary; or (4) authorized by a physician for health care reasons.
    h. Legal Materials. All documents including an inmate's notes and petitions related to any pending administrative action relative to the inmate's incarceration or any documents related to pending legal action involving the inmate.
    i. Lost or Damaged Property. Property that was found to be lost or damaged due to the fault of a Department of Correction employee.
    j. Lost Property Board. A group of designated Department personnel, which reviews and makes determinations of claims of lost or damaged property.
    k. Media Review Board. A group of designated Department personnel convened to review with uniformity any and all publications and/or outside tapes and CDs that are

received by the facilities and are deemed questionable as to their admissibility by the Unit Administrator or designee.

l. Outside Tapes and Compact Discs (CDs). The term "Outside Tapes and CDs" shall refer to educational or religious cassette tapes and compact discs not available through the commissary.

m. Personal Identification. Forms of personal identification shall include, but are not limited to: a birth certificate; social security card; driver's license; non-driver identification card; state identification card; social services identification card; military identification card; passport; and Form I-551, Permanent Resident Card (i.e., green card). Credit cards and non-official identification papers shall not be considered valid forms of identification.

n. Property Officer. An employee designated by the Unit Administrator to oversee the handling of inmate property in accordance with this Directive.

o. Religious Article. Any inmate property, other than authorized published materials (i.e., written, audio or video), having spiritual significance, which is used in individual or congregate religious activity.

p. Sexually Explicit Material. Any pictorial depiction of sexual activity or nudity or any written depiction of sexual activity. Details can be referenced in Sections 4(N) (1) and 4(N) (2) of AD 10.7.

q. Storage Property. Property owned by an inmate that the facility shall maintain in secure storage. There are three (3) types of storage property: valuable, bulk and personal identification.

r. Temporary Storage Property. Property, which an inmate is not, permitted to possess because of assignment to a temporary restrictive status.

s. Unauthorized Property. Property, which is either not, allowed by the terms of this Directive or is in excess quantity of property permitted by this Directive.

t. Unclaimed Property. Inmate property, excluding valuables, that:

i. is not claimed at discharge or within 30 days after discharge;

ii. is not claimed by the inmate's next of kin within 30 days of notification of an inmate's death;

iii. belongs to an inmate who has escaped/absconded; or,

iv. is contraband property that has not been disposed of pursuant to this Directive.

u. Valuable Storage. Jewelry, wallets, purses, keys, cellular phones, pagers, etc. which an inmate may not retain in the inmate's personal possession.

4. Inmate Property Matrix. The type and quantity of inmate property shall be governed by the security level of the facility or unit, inmate status and the designation of the facility (e.g., pretrial, sentenced, male or female). A Unit Administrator shall adhere to and limit personal property in accordance with Attachment A, Property Matrix. Attachment A Property Matrix shall be posted conspicuously in each housing unit and be accessible to inmates. Each item authorized by Attachment A, Property Matrix as "commissary purchase only" shall be available at each Department commissary, except as noted in the Property Matrix.

5. Admissions. Upon arrival at any facility, each inmate shall be allowed to retain personal property in accordance with Attachment A, Property Matrix and. Each item specified shall be itemized during admission and recorded on CN 61001, Inmate Property Inventory Form.

a. Inventory Details. Any retained item, which requires inventory by Attachment A, Property Matrix, shall be listed using accurate descriptive information including size, color, make or brand, and serial or identification number.

b. Unauthorized Property. Any item not permitted to be retained by an inmate shall be inventoried using CN 61001, Inmate Property Inventory Form. Any such item shall be appropriately disposed of in accordance with Section 31 of this Directive and CN 61002, Inmate Property Status and Receipt shall be completed. No inmate shall be permitted to retain any item which does not conform to Attachment A, Property Matrix or is in excess of the quantities allowed in Section 18 of this Directive.

i. If an inmate has in his/her possession medication and/or medical equipment upon admission, health services staff shall be contacted for disposition.

c. Inmate Signature. Each inmate shall be required to review and sign CN 61001, Inmate Property Inventory Form; CN 61002, Inmate Property Status and Receipt; and CN 61003, Inmate Property, Valuables, Document Storage and Discharge Receipt, unless unable to do so based on facility safety and security. A staff member shall witness

the signature. Each eligible inmate electing to use a tablet must sign a CN 101001, Notification and Acknowledgment for Tablet Use. The original shall be kept in the inmate's central property file.

d. Inventory and Receipt Filing. A central property file for each inmate with a complete record of all property transactions shall be maintained by the property officer. All inmate property inventory forms, property receipts and any other information regarding an inmate's property record shall be maintained in the inmate's central property file.

i. Inmates who are transferred out-of-state and return shall be authorized to keep only those articles that comply with Section 5(B) of this Directive.

6. Markings. Inmate property shall be permanently marked, when required, with the inmate's name and number in accordance with Attachment A, Property Matrix. Markings shall be made unobtrusively with indelible ink, or an engraver as appropriate.

7. Inmate Responsibility. An inmate's property is retained at the inmate's own risk. The Department shall not be responsible for any property personally retained by the inmate which is lost, stolen, damaged, consumed or discarded while in the inmate's possession (e.g., living quarters or on person). An inmate shall not loan, trade, sell, give or transfer property to another inmate.

8. Additions and Deletions. A running inventory of each item, designated as category "B" per Attachment A, Property Matrix, shall be maintained by the facility's designated property officer. CN 61001, Inmate Property Inventory Form shall be updated when an inmate receives, purchases, or sends home any authorized personal property. Any change including additions or deletions, which involve a running inventory item required in accordance with the Attachment A, Property Matrix, shall be appropriately recorded on CN 61001, Inmate Property Inventory Form. Any deletion shall be crossed off the running inventory and recorded in the Addition/Deletion Section. CN 61002, Inmate Property Status and Receipt shall be completed and a copy given to the inmate and a copy retained in the inmate's central property file.

9. Contraband. Any property found in the inmate's possession consistent with Section 3(B) of this Directive shall be considered contraband and disposed of in accordance with Section 32 of this Directive.

10. Bulk Storage.

a. Unless approved by the Unit Administrator on a temporary, case-by-case basis, storage of property meeting the definition of "Bulk" shall not be allowed. Pretrial inmates who are sentenced and granted temporary storage shall have to meet the requirements of this Directive and to dispose of bulk storage property in accordance with Section 31 of this Directive.

b. Each bulk storage item shall be tagged with the inmate's name and number and recorded on CN 61001, Inmate Property Inventory Form as a storage item. CN 61002, Inmate Property Status and Receipt shall also be completed by listing the items being stored. The original CN 61002, Inmate Property Status and Receipt shall be retained in the inmate's central property file; a copy shall be stored with the property; and another copy given to the inmate.

11. Monies. Inmate monies shall be received by the Inmate Trust Office in accordance with procedures issued by the Director of Fiscal Services. At a minimum, the following shall be observed:

a. All monies shall be recorded on Attachment A – AD 3.7, Official Receipt (COR-9), in accordance with Administrative Directive 3.7, Inmate Monies. Monies shall be placed in a sealed envelope. A copy of Attachment A – AD 3.7, Official Receipt (COR-9) shall be kept with the envelope, a copy given to the inmate and a copy retained in a secure area.

b. A drop safe shall be managed by Fiscal Services. All items placed into the drop safe shall be recorded in a logbook. The envelopes shall be removed each business day for deposit in the appropriate accounts. Fiscal Services staff shall compare items and money amounts on the receipt against envelope contents, Attachment B – AD 3.7, Receipt Journal and the logbook, before depositing the monies in the account. If there is any discrepancy between the receipt and envelope contents, the Shift Commander shall be notified immediately and CN 6601, Incident Report completed.

c. Any drops made to the safe shall be signed by two (2) staff members and entered into the log. The log shall be reviewed by the Shift Commander or designee at the

start of each shift.

d. Any discrepancies between the log and the audited amounts shall by reported immediately to the Unit Administrator who shall in turn notify the Director of Fiscal Services and the Office of the Comptroller, as appropriate. Prior to notification by the Unit Administrator to the administrators listed in this subsection, a preliminary investigation should be conducted to determine if reporting or other minor errors are involved. However, no such preliminary investigation should delay a report by the Unit Administrator more than one (1) business day.

12. Documents and Valuables. Upon admission, personal documents and valuables shall be inventoried on CN 61003, Inmate Property, Valuables, Document Storage and Discharge Receipt. Documents and valuables shall be sealed in an envelope not used for any other purpose, marked with the inmate's name and identification number and deposited in a locked container (i.e., cabinet, drawer or safe). A copy of CN 61003, Inmate Property, Valuables, Document Storage and Discharge Receipt shall be kept with the envelope, a copy retained in the inmate's central property file and a copy given to the inmate. If the envelope containing documents and valuables cannot be deposited in the place normally used for such materials, then the procedures of Section 11(B through D) of this Directive shall be followed in tracking such items until they are placed in the designated secure area. Unless approved by the Unit Administrator on a temporary case-by-case basis and the valuables in question still remain at the facility, storage of valuable property shall not be authorized and disposed of in accordance with Section 31 of this Directive.
13. Management of Inmate Personal Identification. Inmate personal identification shall be managed and secured in accordance with Administrative Directive 10.15, Inmate Personal Identification Procurement and Storage.
    a. Non-Inmate Identification. All legal documents classified as valid forms of personal identification listed in Section 3M that do not belong to the inmate. Any personal identification items that do not belong to the inmate and are not documented on the inmates CN 61003, Inmate Property, Valuables, Documents Storage and Discharge Receipt envelope will be sent to the Re-Entry Unit for processing.
14. Clothing. Clothing, other than footwear, which features a logo, trademark, picture or lettering, shall not be allowed. Any clothing article with a hood or that may be utilized, as a hood shall not be allowed. Personal sneakers shall be black, white, gray or any combination of the three colors and shall not exceed an estimated retail price of one hundred and fifty ($150.00) dollars. Footwear shall not contain compartments, steel toes or any metal that can be used as a weapon or escape tool.
    a. In addition, the Unit Administrator may restrict on an individual basis any specific article of clothing otherwise allowed, and dispose of it as provided in Section 31 of this Directive, if the article of clothing is likely to result in its use for bartering or other illicit purposes. The Unit Administrator may require clothing which is considered valuable (i.e., over $100.00) to be disposed of as provided in Section 31 of this Directive and not retained or stored at the facility.
15. Jewelry. Jewelry may be permitted in accordance with Attachment A, Property Matrix. The facility shall dispose of all other jewelry in accordance with Section 31 of this Directive. An item may be disallowed if the size and/or design is deemed a threat to safety and security. No single item of allowable jewelry may have a claimed value greater than fifty dollars ($50.00), except a wedding ring or set. Wedding rings shall be plain, without stones of any kind, and not have a value exceeding two hundred dollars ($200.00). The inmate, upon admission to a facility, must sign the CN 61001, Inmate Property Inventory Form stating that the value of the items in the inmate's possession does not exceed the authorized value.
16. Religious Articles. An inmate may retain a religious article on admission in accordance with the following criteria:
    a. The article conforms to Attachment A, Property Matrix and to the approved commissary list;
    b. The value of the single religious article does not exceed fifty dollars ($50.00), except an inmate may retain multiple religious pendants or medallions, the aggregated value of which does not exceed fifty dollars ($50.00); and,
    c. The size, volume, design or other characteristics are not deemed a threat to safety

and security.

i. Religious articles shall be available for commissary purchase in accordance with Administrative Directive 3.8, Commissary. Inmates requesting to purchase religious articles not available through the commissary may be allowed to purchase these items via mail order with the written authorization of the Director of Programs and Treatment (Division) or designee, in accordance with Administrative Directive 10.8, Religious Services. Religious articles shall be worn or carried under the inmate's clothing, and shall not be openly displayed.

ii. Inmates who are transferred out-of-state and returned to Connecticut may be allowed to maintain in their possession only those religious articles that were authorized and documented on the inmate's property matrix prior to the out-of-state transfer provided the article is authorized at the time of return.

iii. When an inmate is confined to a Restrictive Housing or Mental Health Unit, a review shall be conducted by the unit manager and/or mental health professional, in consultation with the Institutional Religious Facilitator, when possible, regarding the inmate's continued possession of religious articles. Religious articles that may pose a threat to the safety and security of the inmate, staff or other inmates shall either be stored in the inmate's property or sent out of the facility. The decision to remove religious property from an inmate assigned to a Restrictive Housing or Mental Health Unit shall be documented on CN 61002, Inmate Property Status and Receipt. An inmate may grieve the decision in accordance with Administrative Directive 9.6, Inmate Administrative Remedies.

17. Eyeglasses/Contact Lenses.

a. Eyeglasses. Upon admission, new commits shall be allowed to retain their eyeglasses unless a security concern exists. If the eyeglasses are confiscated due to security concerns, they shall be handled in accordance with Section 31 of this Directive. Inmates may request to have a pair of eyeglasses mailed into or out of the facility when any one of the following conditions is met:

i. The eyeglasses are confiscated upon admission due to security concerns;

ii. The inmate does not have his/her eyeglasses upon admission;

iii. A new prescription needs to be filled; or,

iv. An existing pair needs to be repaired or replaced.

1. The inmate's unit counselor shall review and approve the inmate's request before the eyeglasses can be sent into the facility. Each facility shall develop procedures for approving and coordinating the movement of eyeglasses into, or out of, the facility. Upon receiving the eyeglasses, the facility's property officer shall inspect the eyeglasses before the inmate receives them (questions regarding eyeglasses shall be directed to health services staff). If the eyeglasses need to be repaired or replaced, the inmate may send the eyeglasses home or to an authorized repair facility. In such case, the property officer shall inspect the eyeglasses and approve them before the inmate receives them. No eyeglasses may have a claimed value greater than $100.00.

b. Contact Lens. Upon admission, new commits shall be allowed to retain their contact lenses if they have no eyeglasses. Health services staff shall provide contact lens cleaning/soaking solution and a lens container. Inmates may continue to wear their contact lenses until seen by an optometrist. The optometrist shall determine if:

i. eyeglasses can be ordered to replace the contact lenses; or,

ii. the inmate has a medical condition that necessitates the need to wear contact lenses.

18. Limitations on Property. The total amount of property permitted in Sections 19 through 22 of this Directive and the items so indicated on the Property Matrix shall not exceed six (6) cubic feet at Level 2 through Level 4 general population facilities and five (5) cubic feet in Level 5 housing units. Property items shall be stored in the locker or designated area as indicated on Attachment A, Property Matrix and shall not exceed the authorized cubic footage requirements even if the excess is an allowable item within

allowable quantities. Items authorized under Sections 22 and 23 of this Directive shall not comprise more than two (2) cubic feet of the authorized six (6) cubic feet. Any amount in excess of such materials shall be disposed of in accordance with Section 31 of this Directive. Unit Administrators shall establish procedures to monitor and audit inmate's compliance with this Directive and these property limitations.

19. Legal Materials. Each inmate shall be allowed to maintain legal materials in the inmate's living area. The Unit Administrator may allow additional short-term storage outside the cell/living area and the inmate shall be allowed controlled access. An inmate shall be required to demonstrate that any legal material permitted in short-term storage is related to pending litigation. All legal materials retained in a housing unit shall be considered inmate property and shall be subject to search for contraband, but the content of such material shall not be read.
20. Paper Materials. Paper materials, including but not limited to, religious publications, program materials, books, periodicals, and correspondence shall be permitted in accordance with this Directive and Administrative Directives 6.14, Security Risk Groups; 9.5, Code of Penal Discipline; and 10.7, Inmate Communications. Paper materials may be limited in accordance with this Directive and Administrative Directive 5.3, Life and Fire Safety based upon potential fire, sanitation, security and housekeeping hazards presented by an excess of such materials. Paper materials shall be stored in the inmate's locker or a designated area when not in use.
    a. Publications shall be limited to a weight of six (6) pounds each. Any publication that exceeds six (6) pounds shall be reviewed on a case by case basis by the Unit Administrator or designee who shall either approve or deny the publication in question.
21. Hobby Craft Materials. Each Unit Administrator shall develop unit directives to address storage for arts and crafts projects if such programs are permitted at the facility. If the Unit Administrator permits storage of hobby craft items in the cell/living area, the items shall be stored in a secure manner and shall not present a fire, sanitation, security or housekeeping hazard. If the inmate transfers to a facility, which does not authorize hobby craft materials, the inmate shall dispose appropriately of the materials in accordance with Section 31 of this Directive. If, upon transfer, the total volume of the inmate's hobby craft materials exceeds one cubic foot, the material shall not be transferred and shall be disposed of at the inmate's expense in accordance with Section 31 of this Directive.
22. Commissary. Commissary items, other than appliances and clothing, shall not accumulate in the cell/living area in excess of the limitation as outlined in Section 18 of this Directive. Unit Administrators may restrict the quantity of any single commissary item that may be kept in the cell/living area or purchased at one time.
23. Food. Unless authorized by the Unit Administrator on a temporary basis, such as a holiday, food shall not be stored in housing units. Items purchased from the commissary shall be exempted from this provision, but shall be subject to the volume limitation imposed in Sections 18 and 21 of this Directive.
24. Pictures and Wall Decorations. In celled housing units, not more than six (6) square feet of designated wall space per inmate, shall be permitted to display pictures or wall decorations. Nothing attached to a wall shall mar or deface the wall. Neither nudity nor sexually explicit pictures shall be displayed anywhere in the facility (e.g., walls, in lockers), nor will an inmate be permitted to retain any nude or sexually explicit materials. Facilities that are dormitory or cubical style housing units shall allow placement of not more than five (5) photos or decorative items, to include one (1) calendar, at the facilities discretion. Inmates shall not be permitted to display pictures or wall decorations while assigned to a restrictive housing unit.
25. Temporary Storage Property. When an inmate is placed on restricted status, admitted to an inpatient infirmary or transferred/released from court without returning to the facility, an employee shall be assigned to pack all property that can reasonably be determined to belong to the inmate. The employee shall complete and sign CN 61001, Inmate Property Inventory Form for the packed items. Property shall be stored in a designated, secure storage area when it becomes known that the inmate shall not return to the housing unit. Perishable items shall be discarded if the original packaging is opened. If an inmate cannot or refuses to sign the inventory form, the inventorying staff member shall sign and acknowledge the action taken. When property is returned to an inmate after

temporary storage, a new CN 61001, Inmate Property Inventory Form shall be completed and signed by the inmate to indicate that all temporary storage property was returned to the inmate.

26. Confiscation of Property Items. Possession of excessive quantities as defined by this Directive, unauthorized use of an allowable item, or creating a nuisance such as, but not limited to playing a radio, cassette player or television too loudly or during a time when such items may not be used, shall be cause for confiscation. Confiscation shall require that a disciplinary report be issued in accordance with Administrative Directive 9.5, Code of Penal Discipline. A copy of the disciplinary report shall serve as the inmate's receipt. The item may be confiscated pending the outcome of the disciplinary investigation and subsequent disposition of the disciplinary report. If an inmate is found guilty such items may be disposed of in accordance with Section 31 of this Directive. After the conclusion of the investigation, appliances (e.g., televisions, radios, video games, fans, etc) shall be forwarded to the Cheshire property disposal location.

27. State Issued Items. Each inmate shall be provided state-issued clothing, footwear, and linen in accordance with the Attachment A, Property Matrix.
    a. In addition, an indigent inmate as defined in Section 3(F) of this Directive, shall, when needed, be provided the following items:
        i. toothbrush;
        ii. toothpaste or toothpowder;
        iii. soap;
        iv. shampoo;
        v. comb;
        vi. disposable razor;
        vii. two (2) stamped envelopes weekly for social correspondence and five (5) stamped envelopes monthly addressed to the court or attorneys;
        viii. writing instrument; and,
        ix. writing paper (no more than 20 sheets of paper to the courts or attorneys per month. Additional sheets of paper to the courts or attorneys may be authorized by the Unit Administrator based upon the reasonable needs of the inmate).
            1. In the event that an inmate does not have sufficient funds in his/her trust account to pay for the items listed in Section 27(A)(1 through 6) above, but does not meet the definition of indigence, the items shall be provided to the inmate and an obligation to pay established on the inmate's trust fund. Subsequent funds shall be fully credited against the obligation until satisfied.
    b. State issued items shall not be removed as punishment. However, any item may be removed or restricted for legitimate health, safety or security reasons.
    c. All uniforms provided for work assignments by a facility shall be used only for the purposes intended and shall not be counted as part of the totals listed in Attachment A, Property Matrix. However, work uniforms shall be limited to the amount necessary for the work assignment.
        i. Whether property is inmate owned or state issued, the total amount in the inmate's possession shall not exceed the maximum amount allowed in accordance with Section 18 of this Directive and Attachment A, Property Matrix.

28. Durable Medical Equipment. DME and medical supplies shall be distributed by HSU staff based on a medical order issued by a medical prescriber.
    a. When it is determined that an inmate requires the use of DME, HSU staff shall complete and sign a CN 61008, Durable Medical Equipment form. Copies of the signed CN 61008, Durable Medical Equipment form shall be forwarded to the facilities property officer for placement in the inmates property file.
        i. Refusal by the inmate to sign the CN 61008, Durable Medical Equipment, may result in the DME not being issued.
    b. DME issued to an inmate shall be marked with the inmate's number, and shall be recorded on a CN 61001, Inmate Property Inventory form.
    c. All DME is subject to search and inspection for misuse, safety and security concerns and cleanliness.

i. Any DME that is misused or altered may be determined as contraband and subjected to the provision set forth in Section 32 of this directive.

d. Upon admission all DME arriving with an inmate shall be subject to inspection, review, and acceptance by the admission and processing officer, or designee, to evaluate any safety and security concerns. HSU staff will review to determine medical necessity. If staff determines an item of DME poses a safety or security concern, either generally or in the possession of a particular inmate, staff shall immediately consult a medical prescriber.

e. If an inmate transfers from one CTDOC facility to another shall retain possession of DME and/or related medical supplies.

f. When DME is inmate owned property, it shall accompany the inmate upon release or parole. DME that is loaned or issued to the inmate shall accompany the inmate upon community or supervised release or custodial transfer, unless a provider determines at the time of the release or parole that the DME is no longer medically necessary. In addition, medically necessary DME shall accompany the inmate when transferred via interstate compact agreements.

g. When DME is in need of repair or replacement, the inmate shall submit a CN 9601, Inmate Request form to HSU.

29. Inter-Facility Transfers. When an inmate is transferred from one facility to another, the following procedures shall be observed:

a. Inventory and Packing. Each inmate shall be provided with a maximum of five (5) container(s) to pack the inmate's own property. Inmates shall bring it to a designated area for inventory by an assigned employee. Exceptions to this procedure may be authorized by the Shift Commander when:

i. the inmate's behavior or physical condition prevents the inmate from packing;

ii. the inmate has been transferred from court without returning to the facility; or,

iii. an inmate is moved to a restrictive housing or level 4 special management unit where authorized property is limited.

1. When these exceptions occur, an employee shall be assigned to pack all items to be stored and/or transferred. The employee shall complete and sign the CN 61001, Inmate Property Inventory Form for the items. Property shall be packed and stored when it becomes known that the inmate shall not return to the housing unit. If medication and/or medical equipment are found in the inmate's property, health services staff shall be contacted for disposition. Perishable items shall be discarded if the original packaging is opened.

2. All inmate property, whether from storage or from the housing unit, shall be inventoried and secured in boxes. No inmate shall pack or store another inmate's property. The completed inventory shall be compared to the inmate's existing CN 61001, Inmate Property Inventory Form. Any item not recorded on the existing inventory form shall be disposed of in accordance with Section 31 or 32 of this Directive, as appropriate. In such cases the CN 61002, Inmate Property Status and Receipt shall be completed for any unauthorized property. A copy of both inventory forms shall be placed in one (1) of the inmate's property boxes that is being transferred. The original inventory sheets shall be maintained in the inmate's central property file. Each inmate property box shall be sealed with tape and marked with the inmate's last name, number, and total number of boxes being transferred. Property too bulky to be boxed (e.g., television) shall be tagged with a 3" x 5" Property Identification Card and prepared form which shall have the inmate's name and number attached with a string or taped to the property as appropriate.

b. Security Prior to Transport. Property shall remain in a designated storage area until transporting staff are ready to leave. Valuable property shall remain in a designated secure area and be checked and recorded by designated staff before it

is turned over to transporting staff.

c. Transport Staff Responsibility. For each inmate being transferred, the sending facility shall complete and the transporting staff shall sign CN 61004, Inmate Property Transfer Receipt acknowledging receipt of the number of container(s) and bulk items, when accepting custody of the property. Security of property shall be the responsibility of the transporting staff until such items are accepted at the receiving facility. During transport, inmate property shall not be accessible to inmates.

d. Receiving Facility. Assigned staff at the receiving facility shall sign the CN 61004, Inmate Property Transfer Receipt, accepting such property as indicated on the form. The designated employee shall check all property items against the CN 61001, Inmate Property Inventory Form and Attachment A, Property Matrix. The designated employee shall complete a new CN 61001, Inmate Property Inventory Form in accordance with Section 5 of this Directive. If an item is not authorized at the receiving facility in accordance with the Attachment A, Property Matrix, the inmate shall dispose of the item as provided in Section 31 of this Directive. Any discrepancy, from the CN 61002, Inmate Property Status and Receipt or from the CN 61001, Inmate Property Inventory Form shall be noted by completing a CN 6601, Incident Report and notifying the Shift Commander or designee. The Shift Commander or designee shall notify the sending facility and shall forward a copy of the CN 6601, Incident Report and the appropriate property forms to the sending facility Unit Administrator to initiate an investigation. Completed CN 61004, Inmate Property Transfer Receipts shall be placed in the inmate's central property file.

e. Transfer to Halfway House. When an inmate is transferred to a halfway house the inmate's property shall be inventoried by a staff member at the halfway house upon the inmate's arrival. Halfway houses shall develop a system for inventorying inmate property, which shall be approved by the Director of Parole and Community Services. Any discrepancy in the inventory conducted at the sending facility and the halfway house inventory shall be handled through the appropriate parole manager and the sending facility Unit Administrator. Funds in an inmate's account shall be made available in accordance with Administrative Directive 3.7 Inmate Monies. If an inmate escapes from a halfway house, the inmate's funds shall be forfeited and immediately transferred to the Correctional General Welfare Fund.

f. Time Frames. An inmate's property, to include the inmate's files (except funds in the inmate's personal account), shall be transferred with the inmate. In cases of an emergency or if transported by judicial marshals or outside law enforcement agencies, an inmate may be transferred without personal property. In such cases, the property shall be forwarded as soon as possible but not later than four (4) days after transfer and all property forms shall be completed as required.

   i. Facility staff shall have inmate property ready for transport. If the inmate's property is not ready at the time of transfer, the facility shall be responsible for the delivery of the inmate's property to the inmate's new location. The Correctional Transportation Unit (CTU) shall be responsible for delivering the property of inmates the unit transports. If CTU staff cannot fit all inmate property in the transport vehicle, it shall be CTU's responsibility to transport the remaining inmate property the next business day.

30. Discharges.

a. Prior to an inmate's release from custody, all stored property (i.e., valuable, bulk and/or personal identification) shall be brought to a designated location and a verification of the most recent inventory of the inmate's property shall be conducted. A new inventory shall normally be completed in the presence of the inmate. The inmate shall sign the new CN 61001, Inmate Property Inventory Form to verify receipt of the property. The inmate normally shall take all property at the time of departure.

b. All authorized personal property shall be returned to the inmate. All state issue items and any other property belonging to the Department shall be returned to the facility.

c. All stored valuables, bulk property and personal identification shall be claimed at the time an inmate is released from custody. The inmate shall check the items and sign the appropriate inventory form (CN 61002, Inmate Property Status and

Receipt or CN 61003, Inmate Property, Valuables, Document Storage and Discharge Receipt) to acknowledge receipt of all personal items prior to discharge. An inmate's failure to claim personal property at the time of discharge or within 30 days after discharge shall result in a forfeiture of any claim to the property (the 30-day requirement shall not apply to personal identification, which shall be handled in accordance with Administrative Directive 10.15, Inmate Personal Identification Procurement and Storage).

d. The balance of the inmate's monies shall be given to the inmate or made available by next business day. If the funds are not picked up the next business day, the check is mailed to an address provided by the inmate. Inmate pay, or other funds, once reconciled, shall be made available or forwarded to the address provided by the inmate. Upon notice of release or discharge and receipt of authorizing documentation, a check for the inmate's account balance shall be prepared. The check shall be mailed to an address provided by the inmate. The inmate may receive the check upon discharge at the facility if 30 days notification is provided.

e. Any property discrepancies shall result in CN 6601, Incident Report being completed and an investigation shall be initiated by the Unit Administrator.

f. The time frames listed in Section 29(F) shall also apply to inmates who discharge.

31. Disposal of Unauthorized Property. Unauthorized property shall be subject to the following:

a. The inmate shall be given a receipt for the items if the property is confiscated.

b. If the inmate is the rightful owner, the inmate shall be given written notice via CN 61002, Inmate Property Status and Receipt to:

i. identify an approved visitor to whom the items may be released within 30 days;

ii. provide an address to which the items may be mailed at the inmate's expense utilizing Attachment D – AD 3.7, Special Request Form, unless the inmate is indigent (in such case, the facility shall pay the postage);

iii. identify an approved charity to which the items may be donated; or,

iv. authorize the facility to discard the item. Under no circumstances shall the property be used by or given to a department employee.

c. Failure to elect one of the options as listed in Section 31(B) of this Directive and the failure to dispose of the property within 30 days shall represent a forfeiture of any claim to the property. The property shall be considered unclaimed and shall be disposed of in accordance with Section 33 of this Directive. Identification placed into long-term storage shall be exempt from the 30-day disposal policy.

32. Disposal of Contraband Property.

a. A disciplinary report shall serve as a receipt for confiscated contraband as appropriate.

b. Any property for which the inmate is not the rightful owner shall be returned to the rightful owner (only if the property was stolen from the rightful owner).

c. Illicit drugs and weapons shall be disposed of in accordance with Administrative Directive 6.9, Control of Contraband and Physical Evidence.

d. All other contraband property shall be disposed of in accordance with Section 33 of this Directive.

e. Unauthorized monies shall be confiscated and deposited in the Inmate Welfare Fund via the Fiscal Services Unit.

i. All unauthorized monies shall be placed in a see-through evidence bag. The following documentation shall accompany the funds:

1. A copy of CN 6601, Incident Report (contaminated funds shall be noted in the body of the report);
2. CN 6901, Physical Evidence Tag and Chain of Custody; and,
3. The yellow copy of Attachment A – AD 3.7, Official Receipt (CO-99).

33. Unclaimed Property. Unclaimed property that the Unit Administrator deems of reasonable market value shall be inventoried and transferred to the possession of the Department of Administrative Services by the Cheshire disposal area staff in accordance with the following guidelines as established by the Deputy Commissioner of Operations and Rehabilitive Services:

a. All CN 61003, Inmate Property, Valuables, Document Storage and Discharge Receipt envelopes containing valuables shall be recorded on CN 61005, Inmate Property

Monthly Disposal Report with the inmate's name, number and receipt control number – not contents.

b. Bulk property items considered to be of reasonable market value are to be recorded on CN 61005, Inmate Property Monthly Disposal Report with the inmate's name, number and a brief description in the bulk storage section. Clothing items, commissary and legal/paper materials are deemed to have no reasonable market value and therefore, subject to disposal at the facility level.

c. Contraband property that is deemed to have reasonable market value (e.g., televisions, radios, video games, appliances, etc.) and subject to disposal as outlined in Section 31 of this Directive shall be recorded on CN 61005, Inmate Property Monthly Disposal Report with the inmate's name and number (if known), a brief description of the item(s) and location of origin. When applicable, the CN 6901, Physical Evidence Tag and Chain of Custody shall be closed out upon the signature of the facility property officer and recording of the contraband property on CN 61005, Inmate Property Monthly Disposal Report.

d. Upon completion, the facility property officer and Unit Administrator or designee shall sign and date CN 61005, Inmate Property Monthly Disposal Report to verify accuracy. Copy distribution is as follows – Original to facility and a copy with the unclaimed property.

e. On the date of transfer to the Department's designated disposal area, facility staff shall complete CN 61004, Inmate Property Transfer Receipt, as appropriate. Receiving staff at the disposal area shall acknowledge receipt of the unclaimed items by signature.

f. The assigned disposal area staff shall be responsible for the disposal and/or transfer of unclaimed inmate property to the possession of the Department of Administrative Services in accordance with prescribed procedures.

g. To ensure accountability, unclaimed property shall be disposed of on a quarterly basis.

i. Unclaimed inmate property that the Unit Administrator deems of no reasonable market value shall be discarded in accordance with this section. CN 61005, Inmate Property Monthly Disposal Report shall be utilized to record unclaimed, unauthorized or contraband property that is disposed of at the facility level. Any funds in the inmate's account not claimed within one (1) year from date of discharge shall be forfeited by the inmate. Forfeited funds shall be transferred to the Correctional General Welfare Fund in accordance with Administrative Directive 3.5, Correctional General Welfare Fund. Any funds of inmates on escape or abscond status shall be forfeited and transferred to the Correctional General Welfare Fund immediately following the inmate being placed on such status.

34. Staff Prohibition. No department employee shall use any inmate property or enjoy any benefit for any such property in any way. An employee may not sell, give, loan or otherwise transfer unclaimed inmate property to another inmate or employee unless it is to resolve a legitimate property grievances or claims.

35. Inmate Review. When possible, an inmate should be present during any property inventory. Inmates shall sign all forms indicating receipt of property and/or the results of any inventory. If an inmate cannot sign or refuses to sign, the staff member conducting the inventory or preparation shall sign acknowledging the action taken.

36. Outside Tapes and Compact Discs CDs. An inmate may purchase tapes and CDs from outside the Department of Correction in accordance with the provisions of this section. Outside tapes and CDs must be educational or religious in nature and not be available through the commissary. Outside tapes and CDs shall not include music unless such music is solely educational or religious in nature. All outside tapes and CDs must be purchased from a commercial distributer. Outside tapes and CDs may be ordered by a non-inmate third party provided the ordered items conform to the provisions of this Directive. Tapes and CDs available through the commissary shall not be ordered through this process.

a. Requirements for Accepting Outside Tapes and CDs.

i. All outside tapes and CDs must be new, factory sealed and shipped directly from a commercial distributer. An outside tape or CD may be rejected only if it is determined to be detrimental to the security, good order, or discipline of the facility or if it might facilitate criminal activity. An outside tape or CD shall not be rejected solely because its content is

Directive Number	Effective Date	Page 12 of 14
6.10	01/20/2025	
Title		
Inmate Property		

religious, philosophical, political, social or sexual, or because its content is unpopular or repugnant. The facility may not establish an excluded list of outside tapes and CDs. An outside tape or CD may be rejected when it:

1. depicts or describes procedures for the construction or use of weapons, ammunition, bombs or incendiary devices;
2. depicts, encourages, or describes methods of escape from correctional facilities, or contains blueprints, drawings or similar descriptions of DOC facilities;
3. depicts or describes procedures for the brewing of alcoholic beverages, or the manufacture of drugs;
4. is written (referring to any labeling of the tape or CD as well as the tape or CD case) or is spoken in code;
5. depicts, describes or encourages activities which may lead to the use of physical violence or group disruption;
6. encourages or instructs in the commission of criminal activity; or,
7. is sexually explicit material which is any pictorial depiction of sexual activity or nudity, except those materials which, taken as a whole, are literary, artistic, educational or scientific in nature.

ii. The Facility Incoming Property Review Coordinator shall determine that sexually explicit material of the following types shall be excluded:

1. Sexual activity is defined as conduct, which includes but is not limited to:
   a. sexual intercourse, including genital-genital, oral-genital, or oral-anal contact, whether between persons of the same sex or opposite sex, with any artificial device, or any digital penetration;
   b. bestiality;
   c. masturbation;
   d. sadistic or masochistic abuse;
   e. depiction of bodily functions, including urination, defecation, ejaculation or expectoration;
   f. conduct involving a minor, or someone who appears to be under the age of 18; and,
   g. sexual activity which appears to be non-consensual, forceful, threatening or violent.
   h. Nudity is the pictorial depiction or display of genitalia, pubic region, buttock, or female breast at a point below the top of the areola that is not completely and opaquely covered.
2. The Facility Incoming Property Review Coordinator shall determine whether material is sexually explicit and whether it should be rejected or confiscated.
3. Possession or transferring of sexually explicit materials will result in the issuance of a Class 'A' Discipline in accordance with Administrative Directive 9.5 Code of Penal Discipline.

iii. Tape and CD enclosures not ordered through the procurement process as outlined in this section shall not be allowed. No donated tapes or CDs from any source shall be allowed. No tape or CD shall be authorized from any other source without prior approval of the Facility Incoming Property Review Coordinator or higher authority.

b. Requesting Outside Tapes and CDs. All required documentation shall be reviewed by the Facility Incoming Property Review Coordinator prior to approval. The inmate's request shall include the following documents:
   i. CN 61006, Request for Outside Tapes/CDs (to include a detailed description of the requested tape or CD);
   ii. Attachment D – AD 3.7, Special Request Form; and,
   iii. An order form from the commercial distributer.

c. Review of Outside Tapes and CDs. All outside tapes and CDs shall be reviewed for safety and security concerns as follows:
   i. Facility Tape/CD Reviewer. All incoming outside tapes and CDs shall be forwarded to the facility Tape/CD Reviewer for review. The Tape/CD Reviewer

shall review all incoming tapes and CDs in accordance with the provisions of this Directive. If the Tape/CD Reviewer determines that the tape or CD conforms to the provisions of Section 36(A) of this Directive, the tape or CD shall be forwarded to the inmate. If the Tape/CD Reviewer determines that the tape or CD does not conform to the aforementioned provisions, the Tape/CD Reviewer shall reject the tape or CD in accordance with Section 36(E and F) below. If the Tape/CD Reviewer determines that the material or content of the tape or CD is questionable, the tape or CD shall be forwarded to the FIPRC for further review and action.

ii. Facility Incoming Property Review Coordinator. Any tape or CD forwarded to the Facility Incoming Property Review Coordinator shall be reviewed for safety and security concerns in accordance with the provisions of this Directive. If the FIPRC determines that the tape or CD conforms to the provisions of this Directive, the tape or CD shall be forwarded to the inmate. If the FIPRC determines that the tape or CD does not conform to the aforementioned provisions, the FIPRC shall reject the tape or CD in accordance with Section 36(E and F) below. If the FIPRC determines that the material or content of the tape or CD is questionable, the tape or CD shall be forwarded to the Media Review Board for final review and action.

d. Media Review Board. Any tape or CD forwarded to the Media Review Board shall be reviewed for safety and security concerns in accordance with the review guidelines established for the Media Review Board. The Media Review Board shall review all submitted tapes and CDs deemed questionable by the facility and subsequently notify the Facility Incoming Property Review Coordinator of the decision.

e. Quantity Limitations. An inmate may not have in his/her possession and/or property more than 20 tapes or CDs or any combination thereof totaling more than 20 tapes/CDs unless authorized, in writing, by the Facility Incoming Property Review Coordinator. Such authorization shall be annotated in the inmate's central property file. Multiple copies of the same tape or CD shall not be allowed. Legal tapes and/or CDs related to an inmate's pending court case or an administrative hearing shall not count toward the authorized limit as outlined in this subsection.

f. Notice of Rejection. Any rejection of outside tapes and CDs shall be documented using CN 61007, Outside Tape/CD Rejection Notice. A copy of the rejection notice shall be forwarded to the inmate in lieu of the property. The reason for the denial shall be specifically stated on the rejection notice. The notice must contain reference to the specific material(s) considered objectionable and deemed to pose a threat or detriment to the security, good order or discipline of the facility or to encourage or instruct in criminal activity.

g. Retention of Rejected Tapes and CDs. The Facility Incoming Property Review Coordinator shall retain a rejected tape or CD for a period of 30 days after the date of the CN 61007, Outside Tape/CD Rejection Notice. Rejected tapes and CDs shall be retained in the event of an appeal by the inmate or request for an independent review by the commercial distributer.

h. Notification to Commercial Distributer. The Facility Incoming Property Review Coordinator shall also provide the commercial distributor of an unacceptable outside tape or CD a copy of the CN 61007, Outside Tape/CD Rejection Notice. The FIPRC shall advise the commercial distributor that an independent review of the rejected tape or CD may be obtained by writing to the Commissioner or designee within 15 days of receipt of the CN 61007, Outside Tape/CD Rejection Notice.

i. Appeal. An inmate may appeal the decision to reject outside tapes and CDs in accordance with Administrative Directive 9.6, Inmate Administrative Remedies.

j. Final Disposition. If the appeal (filed by the inmate) or independent review (requested by the commercial distributer) is not upheld, the Facility Incoming Property Review Coordinator shall return the rejected tape or CD to the commercial distributor at the inmate's expense. If the appeal or independent review is upheld, the tape or CD shall be forwarded to the inmate.

37. Inmate Dress Code. Inmate dress shall conform to the following standards:

a. Body shall remain clean and free of odor;

b. Hair shall be clean and appropriately groomed;

c. Trousers shall be fully buttoned and zipped, properly fitted at the waist and not

allowed to hang off the hips;
d. Trouser legs shall not be tucked into socks or footwear;
e. Footwear shall be worn in a clean fashion and laces shall not drag on the floor;
f. All clothing shall be commercially purchased, unaltered and of a cloth fabric;
g. Clothing shall not be tight, short or revealing;
h. Shirts/blouses shall be properly buttoned, not expose the midriff, and tucked in at the waist, except that sweatshirt and shirts with short squared off tails designed for exterior wear may be worn outside the waist;
i. Hats shall be worn in an appropriate manner with the brim in the front. All headwear shall be removed upon demand for inspection, unless otherwise determined by the Director of Religious Services. Doo rags shall not be worn outside the housing unit, and a head covering which could serve as a hood shall be prohibited; and,
j. Inmates shall be:
    i. in the appropriate facility attire when leaving the housing unit;
    ii. appropriately dressed, at a minimum in recreation wear, while in the housing area; and,
    iii. appropriately covered when going to or coming from a shower.

38. Property Claim. Prior to filing a property claim, an inmate shall attempt to resolve the property issue by completing CN 9601, Inmate Request Form, and forwarding the completed form to the appropriate facility staff member. If the property issue is unresolved after submitting CN 9601, Inmate Request Form, and the inmate elects to pursue resolution, the inmate may file a claim for damaged or lost personal property in accordance with Administrative Directive 9.6, Inmate Administrative Remedies.
39. Property Form Maintenance. All original property forms, as required by this Directive, shall be maintained in each inmate's central property file by the facility's designated property officer. All inmate central property files shall be sealed and transported with the inmate's property. Central property files for inmates who are discharged, placed on community release status or transferred to another jurisdiction shall be retained and stored by the last facility housing the inmate.
40. Applicability to inmates under 18 years of age. The provisions of this Administrative Directive may be changed on a facility specific basis to accommodate the management of inmates under 18 years of age as requested by the Unit Administrator of Manson Youth Institution and York Correctional Institution.
41. Forms and Attachments. The following forms and attachments are applicable to this Administrative Directive and shall be utilized for the intended function:
    a. CN 61001, Inmate Property Inventory Form;
    b. CN 61002, Inmate Property Status and Receipt;
    c. CN 61003, Inmate Property, Valuables, Document Storage and Discharge Receipt;
    d. CN 61004, Inmate Property Transfer Receipt;
    e. CN 61005, Inmate Property Monthly Disposal Report;
    f. CN 61006, Request for Outside Tapes/CDs;
    g. CN 61007, Outside Tape/CD Rejection Notice;
    h. CN 61008, Durable Medical Equipment Property; and,
    i. Attachment A, Property Matrix;

42. Exceptions. Any exceptions to the procedures in this Administrative Directive shall require prior written approval from the Commissioner of Correction.

Exhibit 2

Conn. DOC Administrative Directive 6.10 Attachment A

(Property Matrix)

Attachment A
REV 1/20/25
AD 6.10

Connecticut Department of Correction
Property Matrix

CLOTHING ITEMS		Facility Classification Level			
		Level 1-4		AD/PS/TD	
		MAXIMUM ALLOWED	MINIMUM ISSUED	MAXIMUM ALLOWED	MINIMUM ISSUED
ATHLETIC SUPPORTER (male only)	*	1A	-	-	-
BASEBALL CAP	*	2ABC	-	-	-
BATHROBE (white w/ no belt)	*	1ABCD	-	-	-
BRAS		6AB	3BF	3BF	3BF
COAT		1F	-	-	-
DOO RAG		1A	-	-	-
GLOVES (pair)	*	1BCF	-	-	-
GYM SHORTS	*	2ABD	-	-	-
JUMPSUIT	*	-	-	1F	1F
KITCHEN UNIFORM		2BDF	2BDF	-	-
PAJAMAS	*	2ABD	-	-	-
PANTS	*	4BDF	2BDF	-	-
RAINWEAR		1F	-	-	-
SCRUB OUTFIT		-	-	3F	3F
SHIRT	*	6BDF	3BDF	-	-
SHOES/SNEAKERS		2ABDG	1BDFG	1ABDG	1FG
SHOWER THONGS		1AB	-	1AB	-
SLIPPERS		1ABD	-	-	-
SOCKS	*	9ABG	3BFG	3ABG	2BFG
SWEATPANTS (solid gray only)	*	2ABD	-	-	-
SWEATSHIRTS (solid gray only)	*	2ABD	1BDF	1ABD	1BDF
THERMAL UNDERWEAR (top and bottom)	*	2ABD	-	1ABD	-
T-SHIRTS (white only)	*	9ABG	2BFG	3ABG	2BFG
UNDERGARMENTS (boxers or briefs)	*	9ABG	3BFG	3ABG	3BFG

MISCELLANEOUS ITEMS		Facility Classification Level			
		Level 1-4		AD/PS/TD	
		MAXIMUM ALLOWED	MINIMUM ISSUED	MAXIMUM ALLOWED	MINIMUM ISSUED
ADAPTER, MULTI-PURPOSE (clear)		1ABCD	-	-	-
ADAPTER, SONY	^	1ABCD	-	-	-
ADDRESS BOOK		1A	-	-	-
ANTENNA		1ABC	-	-	-
BATTERIES		4AC	-	-	-
CASSETTE PLAYER					
CASSETTE TAPES	+	20AB	-	-	-

The Unit Administrator of any facility that houses inmates on the below listed statuses shall develop and update, as necessary, a facility specific property matrix for inmates on such statuses: Administrative Segregation (all phases); Security Risk Group Member Program (all phases); Chronic Discipline (all intervals); and, Special Needs Management.

Attachment A
REV 1/20/25
AD 6.10

Connecticut Department of Correction
Property Matrix

MISCELLANEOUS ITEMS	Facility Classification Level			
	Level 1-4		AD/PS/TD	
	MAXIMUM ALLOWED	MINIMUM ISSUED	MAXIMUM ALLOWED	MINIMUM ISSUED
CLIP-ON BOOK LAMP	1ABC	-	-	-
CLOCK (battery operated)	1ABCD	-	-	-
COAXIAL CABLE	1ABC	-	-	-
COMBINATION LOCK	1ABC	-	-	-
COMPACT DISCS +	20AB	-	-	-
COMPACT DISC PLAYER	1ABCD	-	-	-
FLAT IRON (female only)	1ABD	-	-	-
DIGITAL CONVERTER BOX	1ABCD	-	-	-
DRINKING CUP	1A	-	1A	-
ELECTRIC BEARD TRIMMER (male only)	1ABCD	-	-	-
ELECTRIC RAZOR	1ABD	-	-	-
EXTENSION CORD	1ABC	-	-	-
EYE GLASSES/CONTACT LENS (prescription)	2B	-	1B	-
FAN	1ABCD	-	-	-
GAMEBOY CONSOLE	1ABCD	-	-	-
GAMEBOY GAME CARTRIDGES	20ABCD	-	-	-
HAIR DRYER	1ABD	-	-	-
HANDKERCHIEFS (white only) *	4A	-	-	-
HEADPHONE EXTENDER	1AC	-	-	-
HEADPHONES	2ABCD	-	-	-
HOT POT	1ABCD	-	-	-
PHOTO ALBUM (non-metal – not to exceed 2")	2AB	-	-	-
PILLOW w/ case	1ABD	-	-	-
POCKET CALCULATOR	1AB	-	-	-
RADIO (headset required)	1ABCD	-	-	-
TABLET (headphones and charger included)	1CF	-	-	-
TELEVISION (headset required)	1ABCD	-	-	-
TOWEL	2ABD	2ABD	1ABD	1BDF
WASH CLOTH	2AB	-	1AB	-
WATCH	1AB	-	-	-
WEDDING RING	1B	-	1B	-

The Unit Administrator of any facility that houses inmates on the below listed statuses shall develop and update, as necessary, a facility specific property matrix for inmates on such statuses: Administrative Segregation (all phases); Security Risk Group Member Program (all phases); Chronic Discipline (all intervals); and, Special Needs Management.

Attachment A
REV 1/20/25
AD 6.10

Connecticut Department of Correction
Property Matrix

RELIGIOUS ITEMS	Facility Classification Level			
	Level 1-4		AD/PS/TD	
	MAXIMUM ALLOWED	MINIMUM ISSUED	MAXIMUM ALLOWED	MINIMUM ISSUED
ABALONE SHELL	1AB	-	1AB	-
CHAIN, RELIGIOUS (ball bar)	1ABG	-	1ABG	-
CRESENT AND STAR	1ABG	-	1ABG	-
CROSS (wooden)	1ABG	-	1ABG	-
CRUCIFIX	1ABG	-	1ABG	-
FEATHER	1AB	-	1AB	-
FOUR-WAY MEDAL	1ABG	-	1ABG	-
HEADBAND (solid brown only) *	2ABG	-	2ABG	-
HIJAB (female only)	2ABG	-	2ABG	-
ISLAMIC MEDAL	1ABG	-	1ABG	-
KUFFI (solid white only, male only)	2ABG	-	1ABG	-
KURTA SHIRT (male only)	2AB	-	1AB	-
MALA BEADS @	1BG	-	1BG	-
MEDICINE BAG	1ABG	-	1ABG	-
ORISHA BEADS (white only, female only)	1BG	-	1BG	-
PRAYER RUG	1ABD	-	1ABD	-
PRAYER SHAWL *	1AB	-	1AB	-
ROSARY BEADS w/ case	1ABG	-	1ABG	-
STAR OF DAVID	1ABG	-	1ABG	-
TAMS (solid brown only, male only) *@	2BG	-	2BG	-
TZITTIT SHIRT (male only) *@	2B	-	1B	-
YARMUILKE (solid white only) *	2ABG	-	1ABG	-
ZIKAR BEADS	1ABG	-	1ABG	-

MATRIX CODES

A	Commissary purchase only
B	Must be individually inventoried as part of the running inventory
C	Only if specifically approved by facility
D	Items which shall be permanently marked
E	Access only, not in inmate's possession
F	State issue only
G	Inmate may retain item upon admission as long as the item meets the requirements of this directive. After admission, item shall be commissary purchase only
*	Item must be stored in inmate locker when not in use and included as part of the cubic foot limitation
+	No more than 20 total – any combination of cassette tapes and/or compact discs
@	Must come from an approved vendor and shall require prior written authorization from the Director of Religious Services
^	Must have purchased Sony CD player in order to possess this item, without which this item shall be considered contraband and confiscated

The Unit Administrator of any facility that houses inmates on the below listed statuses shall develop and update, as necessary, a facility specific property matrix for inmates on such statuses: Administrative Segregation (all phases); Security Risk Group Member Program (all phases); Chronic Discipline (all intervals); and, Special Needs Management.

Exhibit 3

Conn. DOC Administrative Directive 6.9

(Collection and Retention of Contraband and Physical Evidence)

State of Connecticut Department of Correction **ADMINISTRATIVE DIRECTIVE**	Directive Number 6.9	Effective Date 01/03/17	Page 1 of 10
	Supersedes Control of Contraband and Physical Evidence, Supersedes 8/15/14		
Approved By  Commissioner Scott Semple	Title Collection and Retention of Contraband and Physical Evidence		

1. Policy. The Department of Correction shall enhance safety and security by prohibiting the introduction, use and/or movement of contraband in any facility, unit, area, vehicle, or surrounding grounds under the control of or contracted by the Department of Correction. Each aforementioned entity shall collect, retain and dispose of contraband and all forms of physical evidence in accordance with this Directive.

2. Reference and Authority.
   A. Public Law 108-79, Prison Rape Elimination Act of 2003.
   B. 28 C.F.R. 115, Prison Rape Elimination Act National Standards.
   C. Connecticut General Statutes, Sections 18-81, 21a-262 and 53a-174a and 53a-174b.
   D. Goodman v Cybulski, et al, Civil No. H-78-328.
   E. Shabazz v. Warden, No. CV 14-4006573
   F. Thomas v. Butkiewicus, 2016 WL 1718368, Civil Action No. 3:13-CV-747
   G. American Correctional Association, Standards for the Administration of Correctional Agencies, Second Edition, April 1993, Standard 2-CO-3A-01.
   H. American Correctional Association, Standards for Adult Correctional Institutions, Fourth Edition, January 2003, Standards 4-4192 and 4-4282.
   I. American Correctional Association, Performance-Based Standards for Adult Local Detention Facilities, Fourth Edition, June 2004, Standard 4-ALDF-2C-01 and 4-ALDF-2C-06.
   J. Administrative Directives 2.7, Training and Staff Development; 3.5, Correctional General Welfare Fund; 5.4, Hazardous Waste; 6.6, Reporting of Incidents; 6.10, Inmate Property; 6.12 Inmate Sexual Abuse/Sexual Harassment Prevention and Intervention; and 9.5, Code of Penal Discipline.

3. Definitions and Acronyms. For the purposes stated herein, the following definitions and acronyms apply:

   A. Chain of Custody. A process of chronological documentation, showing the seizure, custody, retention, transfer, and disposition of contraband and/or physical evidence; also refers to a form used for documenting this process.
   B. Collection. To acquire, bring together, gather, or to recover control of something.
   C. Contraband. An item that falls under the following criteria:
      1. Not authorized to be in any facility, unit, area, vehicle, or surrounding grounds under the control of or contracted by the Department of Correction or in an inmate's possession;
      2. that is authorized, but used in an unauthorized or prohibited manner;
      3. that is authorized, but altered; or,
      4. for which ownership cannot be established.
   D. Excessive Property. Authorized property that is in excess of limits permitted by Administrative Directive 6.10, Inmate Property.
   E. Physical Evidence. Anything including, but not limited to, a written record, videotape/disc, digital image, photograph, audio recording, any tangible item(s) or substance(s) and biological, or forensic material that may assist to substantiate or refute any criminal, administrative, charge(s) or allegation(s)to include potential litigation.
   F. PREA. Prison Rape Elimination Act.
   G. Retention. The purposeful continued possession, use or control of something.

Directive Number 6.9	Effective Date 01/03/17	Page 2 of 10
Title: Collection and Retention of Contraband and Physical Evidence		

H. Spoliation. Destruction of evidence which there is a legal obligation to preserve; significant alteration of evidence or failure to preserve property for use as evidence in pending or reasonably foreseeable litigation. This includes allowing evidence to be overwritten or discarded in addition to the affirmative destruction of it. It is also a cause of action under state law for money damages for destruction of evidence. Spoliation can also be grounds for a party to obtain sanctions from the court such as a fine or an adverse inference instruction to a jury.

4. Contraband/Physical Evidence Classification. Confiscated contraband/physical evidence shall be classified in one (1) of the following categories:

A. Weapon;
B. Drug/Drug Paraphernalia;
C. Alcohol - commercial or homemade;
D. Appliance (e.g., television, radio, stereo, recorder, etc.);
E. Currency (money or other commodity of exchange);
F. Clothing;
G. Miscellaneous Property; Staff Contraband
H. Cellular/Digital Device;
I. Written Record, video tape/disc, digital image, photograph or audio recording;
J. Other (with description).

5. Inmate Notification of Seizure of Contraband or Excessive Property. When contraband or excessive property is confiscated the involved inmate shall be notified in accordance with Administrative Directive 6.10, Inmate Property, when applicable. When confiscation of excessive property results in a formal charge consistent with Administrative Directive 9.5, Code of Penal Discipline, the disciplinary report shall serve as the receipt.

6. Contraband. Contraband shall be retained as follows:

A. Contraband Storage. Contraband shall be retained in a secure area with access limited to those individuals designated by the Unit Administrator.

B. Tagging. Upon confiscation, a contraband item shall be tagged and classified, in accordance with Section 4 of this Directive, utilizing CN 6901, Contraband/Physical Evidence Tag and Chain of Custody.

C. Logs. A hardbound contraband log shall be maintained to include:
1. description of confiscated contraband;
2. any identifiable marking, including brand name, serial number and/or model number;
3. date and time of confiscation;
4. location where found;
5. person possessing contraband;
6. staff discovering contraband;
7. a record of any photos of contraband;
8. assigned number in accordance with this subsection;
9. disposition of contraband; and,
10. any other relevant data.

Each item of contraband shall be identified by a unit tracking number which shall be prefixed by the facility/unit's initials, followed by a dash (-), the letter "C", followed by a dash(-), the last two numbers of the calendar year, followed by a dash (-) and sequential and uninterrupted numbers for logged contraband items.

Directive Number	Effective Date	Page 3 of 10
6.9	01/03/17	
Title		
Collection and Retention of Contraband and Physical Evidence		

D. Documentation of Discovery. Any employee who discovers contraband and/or physical evidence shall complete CN 6601, Incident Report in accordance with Administrative Directive 6.6, Reporting of Incidents.

E. Chain of Custody. Any time contraband and/or physical evidence is retained, handled, inventoried, removed or returned from a storage area, the activity shall be noted on CN 6901, Contraband/Physical Evidence Tag and Chain of Custody form and in the contraband log to include the following data:

1. employee's printed name and signature;
2. date and time;
3. reason; and,
4. any other relevant information.

7. Physical Evidence. Physical evidence for any potential administrative or criminal proceeding shall be collected and retained to prevent spoliation. Physical evidence shall be categorized as either criminal or administrative in nature and shall be handled as follows:

A. Protection of Crime Scene. In any case in which a crime is suspected, the discovering staff member shall notify a supervisor without leaving the scene, if possible, and secure the suspected crime scene. Care shall be taken not to disturb the suspected crime scene or any physical evidence unless it is necessary to eliminate any further or immediate threat to the safety and security of staff, inmates or facility/unit and/or the possible disappearance (unauthorized movement and/or confiscation) of anything which may be considered evidence. Photos and/or videos shall be collected and retained of the suspected crime scene and any suspected physical evidence. Only authorized personnel shall be allowed to enter the area. The Connecticut State Police shall be promptly notified. The Connecticut State Police shall have authority over any criminal investigation and shall be responsible for securing criminal physical evidence upon responding to the facility/unit.

B. Handling Criminal and/or Administrative Evidence. When it becomes necessary for a Department employee to handle potential criminal and/or administrative physical evidence, it shall be handled only as required and only by those with a need or responsibility to handle it. The following safeguards shall be adhered to:

1. Latex or rubber gloves shall be used to the extent possible, each specific item of evidence shall be placed in a separate bag, envelope or container so as to avoid disturbing or compromising the integrity of the evidence. Evidence containing fingerprints or body fluids shall be placed in a paper bag for processing;
2. The storage container shall be tagged utilizing CN 6901, Contraband/Physical Evidence Tag and Chain of Custody; and,
3. Criminal physical evidence items when removed from the scene shall be placed directly in the criminal physical evidence storage area or turned over to the Connecticut State Police. The chain of custody shall be strictly enforced and documented.

C. Handling Video Evidence. When it becomes necessary for a Department employee to handle potential video evidence, it shall be handled only as required and only by those with a need or responsibility to handle it. The following safeguards shall be adhered to:

1. The video tape/disc shall be logged in a video and photographic evidence log as noted in Section 7(G) of this directive.
2. Each specific video tape/disc of evidence shall be collected in accordance with Section 10 of this directive. It shall then be placed in a separate

Directive Number 6.9	Effective Date 01/03/17	Page 4 of 10
Title Collection and Retention of Contraband and Physical Evidence		

case, sleeve, envelope or container so as to avoid disturbing or compromising the integrity of the video evidence.

3. The case, sleeve, envelope or container shall be tagged utilizing CN 6901, Contraband/Physical Evidence Tag and Chain of Custody; video evidence shall be placed directly in the video evidence storage area. The chain of custody shall be strictly enforced and documented.

D. Handling of photographic evidence. When it becomes necessary for a Department employee to obtain photographic evidence, it shall be handled only as required and only by as few persons as necessary.
   1. Only photos with pertinent content shall be included with the incident report.
   2. All photographs shall be downloaded to a disc in accordance with the procedure listed in Section (7) (C) (1-3) of this Directive.
   3. Photographs may be downloaded to discs that contain hand-held video footage of the incident.

E. Retention. Retention of any potential criminal ; administrative; video or photographic evidence shall be as follows:
   1. Criminal Physical Evidence. Potential criminal physical evidence, not immediately released to the Connecticut State Police, shall be retained along with the criminal physical evidence log in a secure area designated by the Unit Administrator. The criminal physical evidence storage area shall be separate from the contraband storage area, and shall be accessed only by the person(s) designated by the Unit Administrator.
   2. Administrative Evidence. Administrative evidence shall be retained in an area designated by the Unit Administrator. Administrative evidence shall be released to the appropriate authority (e.g., Security Division, Affirmative Action Unit, etc.). Only personnel designated by the Unit Administrator or higher authority shall have access to the administrative evidence storage area.
   3. Video Evidence. Video evidence shall be retained in an area designated by the Unit Administrator. All video evidence shall be retained along with the original CN6901 and a Video and Photographic Evidence Log. Only personnel designated by the Unit Administrator or higher authority shall have access to the video storage area.
   4. Photographic Evidence. All photographic evidence shall be retained in an area designated by the Unit Administrator. All photographic evidence shall be retained along with a Video and Photographic Evidence Log. Copies of all photographs shall be printed on with pertinent a CN6904, Photographic Evidence form and be attached to the incident report.

F. Criminal Physical Evidence Log. A permanent, hardbound, criminal physical evidence log for potential criminal evidence shall be maintained inside the evidence storage locker. In addition to logging the chain of custody information required in Section 6(E) of this Directive, the following information regarding the criminal physical evidence shall be included in the log:
   1. a description of the criminal physical evidence;
   2. date and time discovered or when classified as criminal physical evidence;
   3. individual discovering criminal physical evidence;
   4. individual placing criminal physical evidence in criminal physical evidence locker;
   5. date and time placed in criminal physical evidence locker; and,
   6. date and time, by whom and reason for removal from criminal physical evidence locker.

Directive Number 6.9	Effective Date 01/03/17	Page 5 of 10
Title: Collection and Retention of Contraband and Physical Evidence		

Each item of potential criminal physical evidence shall be identified by a unique number which shall be prefixed by the facility/unit's initials, followed by a dash (-), the letters "CPE", followed by a dash (-), the last two numbers of the calendar year, followed by a dash (-) and sequential and uninterrupted numbers for logged criminal physical evidence.

G. Video and Photographic Evidence Log. A permanent, hardbound, video and Photographic Evidence Log shall be maintained for videos and photographs. In addition to logging the chain of custody information required in Section 6(E) of this Directive, the following information regarding the video and photographic evidence shall be included in the log:
   1. video and/or photograph tracking number
   2. date and time of incident;
   3. camera operator (video and/or photographs);
   4. supervisor;
   5. incident description,
   6. incident report number (if applicable);
   7. number of photographs (if applicable);
   8. date and time, by whom and reason for removal from video and photographic evidence locker.

Each video tape/disc and/or photographic evidence shall be identified by a unique unit tracking number which shall be prefixed by the facility/unit's initials, followed by a dash (-), the letter "VP", followed by a dash (-), the last two numbers of the calendar year, followed by a dash (-) and sequential and uninterrupted numbers for logged video and photographic evidence.

H. Chain of Custody. Any time potential criminal physical evidence is retained, handled, inventoried, removed or returned from a storage area, the activity shall be noted on the CN 6901, Contraband/Physical Evidence Tag and Chain of Custody Form and in the physical evidence log to include the following data:
   1. employee's name;
   2. date and time;
   3. reason; and,
   4. any other relevant information.

Prior to transfer of evidence to the Connecticut State Police and/or other outside agency, the original CN 6901, Contraband/Physical Evidence Tag and Chain of Custody Form shall be signed by the receiving official indicating receipt of the evidence. A copy of the CN 6901, Contraband/Physical Evidence Tag and Chain of Custody Form shall be given to the receiving official and the original CN 6901 shall be added to the appropriate incident report package.

8. Employee Electronic Device. Upon determination that a staff member has entered a facility with an unauthorized electronic device, the facility supervisor will note whether the employee was observed using the electronic device, and will conduct the following:
   A. If the employee was not observed using the electronic device, the employee will be instructed to immediately remove the electronic device from the facility and have it placed in their automobile. An incident report will be generated.
   B. If the employee was observed using the electronic device, the item will be confiscated, an incident report generated, the Unit Administrator or Duty Officer contacted.
   C. Confiscated electronic devices shall be photographed, tagged with a CN 6901 Form and secured in a Faraday bag for forwarding to the External Security Unit as evidence in accordance with this Directive.

Directive Number	Effective Date	Page 6 of 10
6.9	01/03/17	
Title: Collection and Retention of Contraband and Physical Evidence		

9. Video Evidence. Video Evidence shall be treated and handled in accordance with Section 7 of this Directive. Each video tape/disc shall have a separate CN 6901, Contraband/Physical Evidence Tag and Chain of Custody Form. A manager/supervisor not directly involved in the incident shall review the video tape/disc and complete CN 6902, Supervisor Video Recording Review Form in accordance with Section 10(A) and 10(B) of this directive.

10. Collection and Review of Video and Photographic Evidence. Video and photographic evidence will be collected and reviewed for possible retention in the following circumstances:

A. Documented Incidents. All incidents that are defined in Administrative Directive 6.6-Reporting of Incidents, Sections (5) (6) (7).

1. Stationary and hand-held video footage shall be collected as evidence if the video is taken or recorded during a documented incident and/or is noted as evidence in an incident report package.
    a. Stationary video footage shall be collected for all cameras in the incident area that may have reasonably captured any portion of the incident, for a minimum of one hour preceding and following the documented incident.
    b. Additional stationary camera and hand-held video footage preceding, during, or following the documented incident shall be collected as evidence if it is determined, by the supervisor documenting the incident or those designated by the Unit Administrator, to be deemed relevant to or provides additional information about the documented incident. This shall include any discrepancies (i.e.: obstructions or breaks in video coverage, event in focus) observed while viewing the hand-held video recording or situations which may necessitate additional video.
2. The scope of collection as defined in Section 10 (A) (1) (a-b) of this directive shall be determined by the supervisor documenting the incident or those designated by the Unit Administrator.
3. The scope of collection as defined in Section 10 (A)(1)(a-b)of this directive may be broadened by the Unit Administrator or his/her designee in light of the following factors:
    a. Issues and/or concerns presented in a written request by an attorney, union representative, staff member, inmate, visitor, etc., about the incident,
    b. the actual location of the incident, and the locations of events preceding and following the incident,
    c. the totality of the circumstances surrounding the incident, and
    d. the responsibility for the collection of the additional video evidence shall be determined by the Unit Administrator or his/her designee.
4. Review of the collected video as defined in Section 10(A)(1)(a-b) and will be conducted as follows:
    a. A manager or supervisor not directly involved in the incident shall conduct a supervisory review of all hand-held video footage/evidence shall be conducted and documented on a CN6902-Supervisor Video Recording Review form.
    b. A manager or supervisor not directly involved in the incident shall conduct a supervisory review of all stationary video footage/evidence that best captures the incident shall be conducted and documented on a CN6902-Supervisor Video Recording Review form.
    c. Supervisory review of additional video footage/evidence shall be ordered by the Unit Administrator or his/her designee.

Directive Number 6.9	Effective Date 01/03/17	Page 7 of 10
Title Collection and Retention of Contraband and Physical Evidence		

d. Best efforts shall be made to conduct supervisory reviews within 15 days of the incident.

B. Preservation requests. Upon any written request by an attorney, union representative, staff member, inmate, visitor, etc., the facility shall collect and retain all original video evidence inclusive to the request. The request shall be acted upon in a timely manner.

1. The requestor shall make his/her request as soon as possible to ensure the request is received by the Unit Administrator or designee within thirty (30) days of the recording date as outlined in A.D. 4.7, Records Retention.
2. The request shall include the date, time, location, description of video and explanation for the requested video.
3. The video evidence shall be collected by those staff designated by the Unit Administrator, or designee.
4. The video evidence shall be retained specific to the timelines requested of the event/incident to include any and all video evidence pertinent to the request.
5. A supervisory review of the requested video evidence shall be conducted at the discretion of the Unit Administrator or his/her designee.
6. Upon supervisory review of the video evidence if it is observed that the event/incident is outside the timeline documented in the request then additional video evidence shall be retained.
7. Upon supervisory review of the video evidence the Unit Administrator or his/her designee shall be notified of any information pertinent to the request or any other reportable event observed during the review. Any further action deemed necessary shall be at the discretion of the Unit Administrator.
8. A CN6902-Supervisor Video Recording Review form shall be completed to document the review.
9. A written response shall be prepared and disseminated to the originator of the request.
10. Copies of the original request, the written response to the requestor, the CN6901-Contraband/Physical Evidence Tag and Chain of Custody and CN6902-Supervisor Video Recording Review form for video evidence shall be retained in a location designated by the Unit Administrator.

C. Disciplinary Proceedings. During defense preparation if the accused inmate, or witness/witnesses, requests video evidence pertaining to the alleged offense or disciplinary process, the facility shall collect, review and retain all original video evidence pertinent to the request if such video is still available.

1. The accused inmate, or witness/witnesses, may request video evidence during the pre-hearing investigation or during the formal disciplinary hearing with the Disciplinary Investigator or Advisor.
2. The Disciplinary Investigator or Advisor shall be responsible to collect, review and retain the pertinent video relevant to the alleged offense. Video requests made during the formal disciplinary hearing shall be considered for use in the hearing at the discretion of the Disciplinary Hearing Officer. Regardless of the use of the video in the formal disciplinary hearing, the Disciplinary Hearing Officer shall instruct the facility Disciplinary Investigators to collect and retain such video for any future administrative proceedings or potential ligation.
3. The review shall be documented in synopsis form by the Disciplinary Investigator on the CN9505/2-Disciplinary Investigation Report facts section. It shall be noted by the Advisor on the CN9508/2-Advisor Report evidence section, then in synopsis form on CN9506, Disciplinary Supplemental Information.

4. A CN6901-Contraband/Physical Evidence Tag and Chain of Custody form along with a copy of any one of the respective forms noted in part 3 above shall be attached to the videotape/disc.

The procedure for collection of surveillance video evidence shall be in accordance with each facility and/or unit's specific video surveillance system.

D. Collection of photographic evidence. The collection of photographic evidence, if applicable, shall be inclusive to any documented incident as described in Administrative Directive 6.6-Reporting of Incidents, Sections (5) (6) (7).
1. All photographs shall be taken in accordance with facility and/or unit procedures.
2. All photographs taken, regardless of their content, shall be included on a disc for retention. (e.g.: If 10 photographs are taken then all 10 photographs shall be included.)
3. Only photos with pertinent content shall be inserted on a CN6904 Photographic Evidence Form, printed and be included with the incident report.
4. Photographs shall be numbered in numerical order and include the total amount photographs taken. (e.g.: Photo #1 of #10)

11. Retention and Copying of Video and Photographic Evidence. The copying of video and photographic evidence shall conducted be as follows:

A. Facility Investigations. Each facility shall be responsible for the retention and copying of video and photographic evidence related to facility-level investigations.

B. Security Division Investigations. The facility shall retain for retrieval, all original video and photographic evidence for Security Division Administrative Investigations (non-criminal). The Security Division shall assume the sole responsibility of copying and distributing video and photographic evidence associated with Security Division Investigations.

C. Criminal Investigations. The facility shall be responsible for providing the original video and photographic evidence to the Connecticut State Police and maintaining one copy for the Security Division of all incidents under criminal investigation by the Connecticut State Police. The copy shall be retained for retrieval by the Security Division.

D. PREA Investigations. The facility shall retain for retrieval, all original video and photographic evidence for PREA Administrative Investigations (non-criminal). The PREA Investigation Unit shall assume the sole responsibility of copying and distributing video and photographic evidence associated with PREA Investigations.

E. Documented Incidents. The facility shall retain for retrieval, all original video and photographic evidence inclusive and/or associated with any incident as described in Section 10(A) of this directive for a period of 10 years from date of recording, or until any pending legal action has been resolved, whichever is later.

F. Preservation requests. The facility shall retain for retrieval, all original video evidence inclusive and/or associated with any preservation request as described in Section 10(B) of this directive for a period of 10 years from date of recording, or until any pending legal action has been resolved, whichever is later.

G. Disciplinary Proceedings. The facility shall retain for retrieval, all original video evidence pertinent to and/or associated with any disciplinary proceeding,

Directive Number	Effective Date	Page 9 of 10
6.9	01/03/17	
Title		
Collection and Retention of Contraband and Physical Evidence		

when requested, as described in Section 10(C) of this directive for a period of 10 years from date of recording, or until any pending legal action has been resolved, whichever is later.

Any video or photographic evidence that is copied and/or distributed to the above listed units/agencies, shall be reflected on the original CN6901. A copy of this updated CN 6901 will be attached to the copy of the evidence and attached to the associated incident report. The original CN6901 shall remain with the evidence while it is still with the initiating facility.

12. Handling of Evidence Obtained through the Facility Intelligence Unit.
Evidence obtained through the Facility Intelligence Unit shall be inventoried and retained for retrieval in the facility telephone monitoring room evidence storage area. Evidence accountability shall be documented and maintained utilizing CN 6903, Intelligence Unit Physical Evidence Tag and Chain of Custody. Access to the facility telephone monitoring room shall be by authorized personnel only.

13. Contraband/Criminal Physical Evidence Inventory.
Contraband and criminal physical evidence shall be inventoried quarterly to ensure proper accountability and consistency with the appropriate log.

14. Disposal of Contraband and Criminal Physical Evidence. When all administrative and/or applicable criminal proceedings requiring the contraband and/or criminal physical evidence have been completed, the Unit Administrator shall authorize the disposal of contraband and/or criminal physical evidence in accordance with the following:

A. Weapons. Confiscated firearms shall be released to the Connecticut State Police or the Department's Director of Security for transfer to the Department of Public Safety. Such removal shall be documented on CN 6901, Contraband/Physical Evidence Tag and Chain of Custody and the Unit Administrator shall be properly notified. Sharp weapons shall be disposed by use of a "sharps container." The Unit Administrator or designee shall dispose of weapons in a safe and secure manner. In every case, proper documentation shall be ensured in accordance with Section 7(E) of this Directive and annotated on CN 6901, Contraband/Physical Evidence Tag and Chain of Custody.

B. Drugs. Confiscated drugs shall be released to the Connecticut State Police or a member of the Department's Security Division for transfer to the Department of Consumer Protection. The Security Division shall remove all retained confiscated drugs from each facility/unit semi-annually or as needed. Each unit shall be notified of removal dates and such removal shall be documented on CN 6901, Contraband/Physical Evidence Tag and Chain of Custody.

C. Alcohol - Commercial or Home Made. Contraband alcohol shall be disposed of at the discretion of the Unit Administrator.

D. Hazardous or Infectious Materials. All hazardous materials shall be disposed in accordance with Administrative Directive 5.4, Hazardous Waste.

E. Appliances. Confiscated appliances shall be disposed of in accordance with Administrative Directive 6.10, Inmate Property.

F. Money. Unauthorized monies shall be confiscated and deposited in the Correctional General Welfare Fund via the Fiscal Services Unit in accordance with Administrative Directives 3.5, Correctional General Welfare Fund and 6.10,

Inmate Property. All unauthorized monies shall be placed in a see-through evidence bag. The following procedure shall be followed:

1. The facility shall complete Attachment A, CO-99, Official Receipt. The white copy of the receipt shall be retained at the facility with the original CN 6601, Incident Report (contaminated funds shall be indicated in the body of the report).
2. The yellow copy of Attachment A, CO-99, Official Receipt, and copy of CN 6901, Contraband/Physical Evidence Tag and Chain of Custody and the funds shall be placed in a see-through evidence bag and labeled "Contraband Funds." Funds shall be hand carried to the Fiscal Services Unit, Accounting Unit where a new Attachment A, CO-99, Official Receipt shall be made out.
3. A copy of the new Attachment A, CO-99, Official Receipt shall be given to the courier as a receipt to be returned to the originating facility where it shall be attached to the original CN 6601, Incident Report.

G. Clothing. Disposal of contraband clothing shall be in accordance with Administrative Directive 6.10, Inmate Property.

H. Other Items. Other items that cannot be returned to the rightful owner shall be disposed of or destroyed in accordance with Administrative Directive 6.10, Inmate Property.

I. Excessive Property. Excessive property shall be processed in accordance with Administrative Directive 6.10, Inmate Property.

15. Emergency Circumstances. A staff member may deviate from the requirements of this Directive in order to preserve the safety and security of the facility/unit.

16. Training. Staff training on the information and procedures contained within this directive shall be in accordance with Administrative Directive 2.7, Training and Staff Development.

17. Forms and Attachments. The following forms and attachments are applicable to this Administrative Directive and shall be utilized for their intended function:

A. CN 6901, Contraband/Physical Evidence Tag and Chain of Custody;
B. CN 6902, Supervisor Video Recording Review;
C. CN 6903, Intelligence Unit Physical Evidence Tag and Chain of Custody;
D. CN 6904, Photographic Evidence
E. Attachment A, CO-99, Official Receipt.

18. Exceptions. Any exceptions to the procedures in this Administrative Directive shall require prior written approval from the Commissioner.

Exhibit 4

Conn. DOC Administrative Directive 10.7

(Inmate Communications)

State of Connecticut Department of Correction **ADMINISTRATIVE DIRECTIVE**	Directive Number 10.7	Effective Date 12/16/2022	Page 1 of 11
	Supersedes Inmate Communications, dated 6/19/2012		
Approved By  Commissioner Angel Quiros	Title Inmate Communications		

1. Policy. The Department of Correction may allow inmates to communicate by mail, by telephone, by electronic messaging, and in person. Communications may be inspected, reviewed, read, listened to, recorded, restricted, prohibited, or confiscated in accordance with the provisions of this Directive.
2. Authority and Reference.
    a. Connecticut General Statutes, Sections 4-8, 18-81, 52-570d, 54-82c, and 54-186.
    b. Regulations of Connecticut State Agencies, Sections 18-81-28 through 18-81-51.
    c. Administrative Directives 3.7, Inmate Monies; 6.1, Tours and Inspections; 6.6, Reporting of Incidents; 6.10, Inmate Property; 6.14, Security Risk Groups; 9.4, Special Management; 9.5, Code of Penal Discipline; 9.6, Inmate Administrative Remedies; 9.9, Protective Management; and 10.10, Inmate Tablet Use.
3. Definitions/ Acronyms. For the purposes stated herein, the following definitions apply:
    a. Attorney Representative. An employee of, or retained by, a legal firm or organization to include; investigator, social worker, paralegal, certified legal intern, or retained expert.
    b. Communication. The exchange or transmission of messages, or information, as by speech, visuals, signals, writing, or behavior.
    c. Contraband. Anything not authorized to be in an inmate's possession or anything used in an unauthorized or prohibited manner.
    d. Facility Inmate Use Telephones. Telephones that are available in areas specified by the Unit Administrator exclusively for inmate use, which allow for conversations with authorized parties.
    e. Facility Intelligence Unit Supervisor. A supervisor designated by the Unit Administrator to oversee the intelligence gathering/ processing function(s) at the facility.
    f. General Communications. All communications not defined as privileged communication in Section 3(i) of this Directive.
    g. Inspection. A physical and visual examination of the actual contents which shall not include the reading of the correspondence.
    h. Media Review Board. A group of designated Department personnel convened to review with uniformity any and all publications and/or outside tapes and CDs that are received by the facilities and are deemed questionable as to their admissibility by the Unit Administrator or designee.
    i. PIN. (Personal Identification Number.) A unique number consisting of an inmate's CJIS number followed by a string of numbers unique to that inmate.
    j. Privileged Communication (i.e., Privileged Correspondence). Any communication addressed to or received from federal, state and local (e.g., municipal, county, or town) elected and appointed officials, including but not limited to the following:
        i. any judge or court, including the clerk of the court;
        ii. the Governor;
        iii. the members of the Legislature;
        iv. the Attorney General;
        v. the inmates attorney or representative;
        vi. the Commissioner of Correction or any Department official appointed by the Commissioner;
        vii. the Board of Pardons and Paroles;
        viii. the Sentence Review Board;
        ix. the Commission on Human Rights and Opportunities;
        x. the State Claims Commissioner; and
        xi. Elected government officials.

xii. The word "attorneys" shall include organizations providing legal services to inmates.

k. Publication. A book (e.g., novel or instructional manual); calendar; single issue of a magazine, newspaper or periodical; or other materials addressed to a specific inmate, such as advertising brochures, flyers, and catalogues.

l. Recording and Listening. The recording of the number(s) called, real time listening, and/or recording of inmate telephonic conversations and subsequent listening to recordings of inmate telephonic conversations.

m. Review. A visual examination of an inmate's general correspondence, which may include, but shall not be limited to, reading the correspondence.

n. Secure Messaging. Electronic, computer-based communication(s) that is sent or received by an inmate or a community member using an application that is managed by the communications service provider.

o. Sexually Explicit Material. Any pictorial depiction of sexual activity or nudity or any written depiction of sexual activity. Details can be referenced in Section 14(a) of this Directive.

p. Tablet. An electronic device that will be loaned to each eligible inmate, which contains applications, access to department-approved content, telephonic and messaging capabilities.

q. Unfranked Privileged Correspondence. Inmate correspondence to the Commissioner of Correction or any Department official appointed by the Commissioner which is processed within the Department without cost to the inmate.

r. Unit. A subdivision of the Department, subordinate to a Division, administered by a Unit Administrator or Director. A unit may be a correctional facility, a parole office, or an entity which provides a specific Department support function.

4. Notification. Upon admission, each inmate shall be given a form (i.e., CN 100701, Notification and Acknowledgement for Inmates) which states, "I have been advised that the Commissioner of Correction has adopted regulations pertaining to mail and telephone use and that these regulations are contained in Sections 18-81-28 through 18-81-51 of the Regulations of Connecticut State Agencies." The inmate shall acknowledge reading the form by signature.

5. Inmate Correspondence. Inmates may write and receive correspondence subject to the following provisions:

a. Frequency. There shall be no limit placed on the number of letters an inmate may write or receive at personal expense, except as a disciplinary penalty in accordance with Administrative Directive 9.5, Code of Penal Discipline, or if otherwise determined by the Commissioner or designee.

b. Timely Handling. Incoming and outgoing correspondence shall be processed without unnecessary delay, regardless of the inmate's custodial status within the facility.

c. Correspondents. An inmate may correspond with anyone except as enumerated below. Failure to follow the provisions set forth in this Directive may result in the issuance of a CN 100703, Inmate Cease Contact Order.

i. a victim of any criminal offense for which the inmate has served or is serving a sentence, or stands convicted of, or for which disposition is pending;

ii. any person under the age of 18 when the person's parent or guardian objects in writing to such correspondence;

iii. another inmate, regardless of facility, unless the inmate in question is an immediate family member AND when such correspondence between the inmate and the immediate family member is authorized by both the inmate's Unit Administrator and the Unit Administrator of the incarcerated family member;

iv. a parolee or inmate on community supervision unless express permission for such correspondence has been given by the writer's Unit Administrator and the addressee's parole supervisor;

v. any person to whom the inmate is restrained from contacting by court order; or

vi. Any other person, when prohibiting such correspondence is generally necessary to further the substantial interests of security, order, or rehabilitation.

Directive Number	Effective Date	Page 3 of 11
10.7	12/16/2022	
Title		
Inmate Communications		

d. Cost of Correspondence. Each inmate shall pay personal mailing expenses, except an indigent inmate. An indigent inmate, as defined in Administrative Directive 6.10, Inmate Property, and Administrative Directive 3.10, Fees, Reimbursements and Donations, shall be permitted the following items free of charge:
   i. two (2) social letters per week;
   ii. Five (5) letters per month addressed to the court or attorneys, including any request for speedy trial under Sections 54-82c and 54-186 of the Connecticut General Statutes. Additional free correspondence to courts and attorneys may be authorized by the Unit Administrator based upon the reasonable needs of the inmate;
   iii. a writing instrument; and
   iv. Writing paper, no more than 20 sheets of paper per month. Additional sheets of paper to the courts or attorneys may be authorized by the Unit Administrator based upon the reasonable needs of the inmate.

e. Addressee Notification. All outgoing correspondence from an inmate, regardless of destination, shall bear the following or similar inscription: "This correspondence originated from an inmate at a Connecticut correctional facility."

f. Secure messaging. All messaging communication shall be considered general correspondence and in compliance with the provisions set forth in this directive and Administrative Directive 10.10, Inmate Tablet Use.

6. Outgoing General Correspondence.

a. Review and Rejection. All outgoing general correspondence shall be subject to being read at the direction of the Unit Administrator, by person(s) designated by such administrator, for either a specific inmate(s) or on a random basis if the Commissioner or Unit Administrator has reason to believe that such reading is generally necessary to further the substantial interests of security, order, or rehabilitation. Outgoing general correspondence may be restricted, confiscated, returned to the inmate, retained for further investigation, referred for disciplinary proceedings, or forwarded to law enforcement officials, if such review discloses correspondence or materials which contain or concern or which a staff member reasonably believes to contain or concern:
   i. the transport of contraband in or out of the facility;
   ii. plans to escape;
   iii. plans for activities in violation of facility or Department rules;
   iv. plans for criminal activity;
   v. violations of Sections 18-81-28 through 18-81-51, inclusive, of the Regulations of Connecticut State Agencies, this Directive, or unit rules;
   vi. information which if communicated would create a clear and present danger of violence and/or physical harm to a person;
   vii. letters or materials written in code;
   viii. mail which attempts to forward unauthorized correspondence for another inmate; or
   ix. Threats to the safety or security of staff, other inmates, or the public.

   The initial decision to take any action provided for in this subsection, except to read, (which shall be made at the discretion of the Unit Administrator), shall be made by the designee of the Unit Administrator. Such designee shall not be the same person who made the initial mailroom review.

b. Notice of Rejection.
   i. In the event that the designee of the Unit Administrator determines that outgoing general correspondence shall not be sent as provided for in Section 6(a) of this Directive, the inmate sender shall be notified in writing of the correspondence rejection and the reason therefor, which shall be documented on a CN 100702, Rejection Notice. The inmate may seek review of the rejection in writing within fifteen (15) calendar days from receiving a CN 100702, Rejection Notice, from the designee, in accordance with the provisions set forth in Administrative Directive 9.6, Inmate Administrative Remedies. The Unit Administrator shall notify the inmate of the disposition of such review and the reason(s) therefor in writing.

ii. In the event such rejection results in referral for disciplinary action for violation of unit or Department rules, or of the criminal law, the notice of rejection may be delayed until the appropriate investigation is completed.

c. Limitations on Restrictions. Any restrictions imposed on outgoing general correspondence shall be unrelated to the suppression of expression and may not be restricted solely based on unwelcome or unflattering opinions or factually inaccurate statements contained within the correspondence.

d. Procedure for Mailing. Outgoing general correspondence shall be inserted into the envelope and sealed by the inmate but shall be subject to inspection, review, and rejection subject to the provisions of Section 6(a) of this Directive. All outgoing general correspondence shall include:

i. a complete, legible name and address of the party to whom the correspondence is being sent;

ii. the inmate's complete legible name, inmate number, and present unit address; and,

iii. The name under which the inmate was committed to the facility or another name approved for official recognition.

iv. Correspondence which fails to include the information required in "ii" through "iii" above shall be returned to the inmate, if reasonably practicable.

7. Incoming General Correspondence.

a. Review and Inspection. All incoming general correspondence must include the sender's return address on the outside of the envelope. In the event the return address is absent or non-legible, the correspondence may be discarded and the inmate shall be notified by the provisions set forth in Section 7(c) of this Directive. All incoming general correspondence shall be opened and inspected for contraband and money and shall be subject to being read by person(s) designated by the Unit Administrator. The reading of incoming general correspondence is at the discretion of the Commissioner or the Unit Administrator and may be imposed on either a specific inmate(s) or on a random basis when the Commissioner or Unit Administrator has reason to believe that such reading is reasonably related to legitimate penological interests. All incoming general correspondence may be rejected if such review discloses correspondence or material(s) which would reasonably jeopardize legitimate penological interests, including, but not limited to, material(s) which contain or are believed to contain or concern:

i. the transport of contraband in or out of the facility;

ii. plans to escape;

iii. plans for activities in violation of facility or Department rules;

iv. perceived plans for criminal activity;

v. violations of Sections 18-81-28 through 18-81-51, inclusive, of the Regulations of Connecticut State Agencies, this Directive, or unit rules;

vi. material which reasonably could cause physical or emotional injury to the inmate recipient as determined by the appropriate mental health staff;

vii. letters or materials written in code;

viii. envelopes with or without postage stamps;

ix. threats to the safety or security of staff, other inmates, or the public, facility order, discipline, or rehabilitation;

x. sexually explicit material(s) which meets the standards and review procedures set forth in Section 14(a) of this Directive;

xi. any other general correspondence, rejection of which is reasonably related to a legitimate penological interest; or

xii. Photographs or copies of photographs that have been manually altered after the original printing of such photographs.

b. Rejection.

i. Incoming general correspondence containing any of the foregoing may be restricted, confiscated, returned to the sender, retained for further investigation, referred for disciplinary proceedings, forwarded to law enforcement officials, or returned in part to sender. The decision to take

any action provided for in this section shall be made by the designee of the Unit Administrator. Such designee shall not be the same person(s) who performed the initial mailroom review.

ii. No incoming newspaper or magazine article, copy of such articles, or clipping shall be rejected unless the designee of the Unit Administrator articulates a reason, based upon individualized review, that the content of the article or clipping, or copy thereof, constitutes a threat to the safe and secure operation of the facility. The designee of the Unit Administrator will notify the inmate in writing of such rejection by issuing a CN 100702, Rejection Notice, in accordance with Section 7(c) of this directive.

c. Notice of Rejection.

i. In the event the designee of the Unit Administrator determines that incoming general correspondence shall not be delivered as provided for in Section 7(a) of this Directive, the sender and the inmate shall be notified in writing of the correspondence rejection and the reason therefor. The sender and inmate who are notified may seek review of the rejection, in writing, within fifteen (15) calendar days of receipt of the CN 100702, Rejection Notice, from the designee of the Unit Administrator.

ii. In the event such rejection results in referral for prosecution or investigation for violation of unit or Department rules or of the criminal law, the notice of rejection may be delayed until the appropriate investigation is completed.

iii. If the ultimate decision is to reject delivery and if there is no further need to retain the rejected correspondence, it shall be returned to the sender if reasonably practicable.

8. Monetary Remittances.

a. Incoming. An inmate may only receive certified, payroll, cashier or government checks, money orders, and electronic deposits from sources approved by the Unit Administrator. All such incoming monetary remittances must be mailed to the Inmate Trust Fund for processing. The amount and source shall be recorded. Cash shall not be accepted through the mail for credit to an inmate's account. The inmate shall receive a receipt for any cash, money orders, and other negotiable instruments collected during inmate admittance or for bonds.

b. Outgoing. An inmate must obtain prior approval in order to send funds out of the facility in accordance with Administrative Directive 3.7, Inmate Monies.

9. Identification of Privileged Correspondence. Only correspondence clearly identified as privileged correspondence on the outside of the envelope shall be treated as privileged correspondence. Correspondence not so identified shall be treated as general correspondence. Such identification shall specify a correspondent as enumerated in Section 3(i) of this Directive.

10. Outgoing Privileged Correspondence. Outgoing privileged correspondence shall be inserted into an envelope clearly identifying a privileged correspondence addressee as enumerated in Section 3(i) of this Directive and sealed by the inmate. Outgoing privileged correspondence shall neither be opened nor read. Staff shall check that the correspondence is addressed to a privileged individual or entity and to that individual or entity's correct business address. Each facility shall provide a special mailbox for unfranked privileged correspondence directed toward Department officials in accordance with Sections 3(p) and 3(i) of this Directive. All correspondence shall be forwarded without unnecessary delay.

11. Incoming Privileged Correspondence. All incoming privileged correspondence shall be opened and inspected in the presence of the inmate addressee.

a. Inspection and Rejection. If, upon opening and inspecting such privileged correspondence, it is found to contain non-written enclosure(s), then such enclosure(s) may be examined to determine whether the delivery of such enclosure(s) would reasonably jeopardize a legitimate penological interest. If the Unit Administrator or designee determines that delivery of the enclosure(s) would reasonably jeopardize a legitimate penological interest, then the Unit Administrator may refuse to deliver such correspondence and its enclosure(s). The Unit Administrator may also refuse to deliver such correspondence and enclosure(s)

if the enclosure(s) is not related to the privileged correspondence. The sender and the inmate shall be notified in writing of the rejection of the privileged correspondence and the enclosure and the reason(s) therefor. In no such case shall the Unit Administrator read the privileged correspondence or any written enclosure(s). If the enclosure(s) does not require referral for criminal prosecution, further investigation for violation of unit or Department rules, or of the criminal law, the unread correspondence and the enclosure(s) shall be returned to the sender with a statement of the reason therefor. If the Unit Administrator reasonably believes that the unread enclosure(s) should be referred for criminal investigation and prosecution or for investigation for violations of unit or Department rules, the unread correspondence shall be sealed and forwarded in a confidential manner with the enclosure(s) to the appropriate law enforcement or other agency for investigation, together with a written statement as to the reason(s) therefor.

b. Notice of Rejection. In the event that the Unit Administrator determines that incoming privileged correspondence and/or enclosure(s) shall not be delivered in accordance with Section 11(a) of this Directive, the inmate and the sender shall be notified in writing of the rejection and the reason(s) therefor. The person(s) so notified may request review of the rejection, in writing, within fifteen (15) calendar days of notification of the rejection. The appropriate District Administrator or designee shall review the rejection and notify in writing the person(s) of the final decision and the reasons therefor. In the event such rejection results in referral for prosecution or investigation for violation(s) of criminal law or unit or Department rules, the notice of rejection may be delayed until the appropriate investigation is completed.

c. Accidental Opening. If privileged correspondence is opened accidentally outside the presence of the inmate, the envelope shall be immediately resealed and the required inspection for unauthorized enclosure(s) accomplished in the presence of the inmate. CN 6604, Incident Report, shall be completed to document the incident and forwarded through the chain-of-command in accordance with Administrative Directive 6.6, Reporting of Incidents.

12. Forwarding of Mail. An inmate shall be responsible for informing a correspondent of a change of address. When an inmate is transferred to another facility, privileged correspondence shall be forwarded to the inmate's new facility. The Department shall attempt to forward general correspondence to the inmate's new facility. If an inmate has escaped or is released, the correspondence shall be marked "Escaped" or "Released" and returned to the sender.

13. Certified Mail. Requests for a speedy trial under Sections 54-82c and 54-186 of the Connecticut General Statutes and correspondence with the Sentence Review Board shall be the only correspondence routinely sent certified. Any other request for mailing by certified mail, for good cause, may be authorized at the discretion of the Unit Administrator.

14. Incoming Publications and Educational Materials. Requests for any orders for books, magazines, newspapers, calendars, educational materials, and periodicals shall be made through the school principal or other person as designated by the Unit Administrator. If the request is approved it shall be confirmed that the appropriate funds are available, if so confirmed, a check or money order for payment shall be withdrawn from the inmate's account and included with the order. An inmate may order books, only in new condition only from a publisher, book club, or book store. Publications in new condition may be ordered from a publisher, book club, or book store by a third party, provided the ordered items conform to the provisions of this directive. An inmate enrolled in an education program authorized by the school principal may order educational publications in used condition if the publications are required to complete the education program. Inmates shall be prohibited from ordering publications for other inmates. Incoming materials which adversely affect a valid penological interest may be rejected in accordance with the following review procedures:

a. Procedures for Review of Publications. The Unit Administrator or designee may reject a publication only if it is determined to be detrimental to the security, good order, or discipline of the facility or which may facilitate criminal

Directive Number	Effective Date	Page 7 of 11
10.7	12/16/2022	
Title	Inmate Communications	

activity. The Unit Administrator or designee may not reject a publication solely because its content is religious, philosophical, political, social, sexual, or because its content is unpopular or repugnant. Publications which may be rejected by a Unit Administrator or designee include but are not limited to publications which meet one of the following criteria:

i. it depicts or describes procedures for the construction or use of weapons, ammunition, bombs or incendiary devices;
ii. it depicts, encourages, or describes methods of escape from correctional facilities, or contains blueprints, drawings, or other descriptions of Department of Correction facilities;
iii. it depicts or describes procedures for the brewing of alcoholic beverages or the manufacture of drugs;
iv. it is written in code;
v. it depicts, describes, or encourages activities which may lead to the use of physical violence or group disruption;
vi. it encourages or instructs in the commission of criminal activity; or
vii. it is sexually explicit material, either pictorial or written, which by its nature or content poses a threat to the security, good order, or discipline of the facility, facilitates criminal activity, or harasses staff.

1. Pictorial sexually explicit material that shall be rejected by a Unit Administrator or designee is any visual depiction of sexual activity or nudity, unless those materials which, taken as a whole, are literary, artistic, educational, or scientific in nature.
    a. Pictorial depiction of sexual activity is defined as the visual representation of conduct which includes but is not limited to:
        i. sexual intercourse, including genital-genital, oral-genital, or oral-anal contact, whether between persons of the same sex or opposite sex, with any artificial device, or any digital penetration;
        ii. bestiality;
        iii. masturbation;
        iv. sadistic or masochistic abuse;
        v. depiction of bodily functions, including:
            1. urination,
            2. defecation, or
            3. ejaculation
        vi. conduct involving a minor, or someone who appears to be under the age of 18; and
        vii. Activity which appears to be nonconsensual, forceful, threatening or violent.
    b. Pictorial depiction of nudity is defined as the visual depiction or display of genitalia, pubic region, anus, or female breast where the areola is visible and not completely and opaquely covered.
2. Written sexually explicit material that shall be rejected by a Unit Administrator or designee includes but is not limited to written material which, by its nature or content, poses a threat to the security, good order, or discipline of the facility, or facilitates criminal activity. Written material of any of the following types shall be rejected.
    a. sado-masochistic,
    b. bestiality;
    c. involving minors; or
    d. Materials depicting sexual activity which involves the use of force or without the consent of one or more parties.
3. A Unit Administrator or designee shall determine whether pictorial or written material is sexually explicit and whether it should be rejected or confiscated.

4. Possession or transferring of pictorial sexually explicit materials will result in the issuance of a Class 'A' Discipline in accordance with Administrative Directive 9.5, Code of Penal Discipline.

b. Individual Review of Publications. Each facility shall establish a review process for all incoming publications that is in accordance with guidelines established by the Media Review Board. All incoming publications shall be reviewed initially by the Unit Administrator or designee. If the Unit Administrator or designee determines that the publication does not meet the criteria for rejection set forth in Section 14(a) of this Directive, the publication shall be forwarded to the inmate. If the Unit Administrator or designee determines that the publication may meet the criteria for rejection set forth in Section 14(a) of this Directive, the Unit Administrator or designee shall forward the publication to the facility's Media Review liaison. If the facility's Media Review liaison determines that it is questionable whether the material or content of the publication meets the criteria for rejection set forth in Section 14(a) of this Directive, the publication shall be forwarded to the Media Review Board. The Media Review Board shall review anything deemed questionable by the facility Media Review liaison and notify the Unit Administrator or designee of its decision. The Unit Administrator or designee may not establish an excluded list of publications. The Media Review Board shall maintain a database of the individual publications that have been subject to prior review in accordance with this Directive. Rejection of one or several issues of a subscription publication is not sufficient reason to reject the subscription publication in its entirety. A publication may be rejected in part if it is a magazine or newspaper that contains less than six (6) pages of objectionable material. Up to five (5) pages of objectionable material may be removed from a magazine or newspaper and the publication will be forwarded to the inmate. The Media Review Board shall make all decisions pertaining to the partial rejection of a newspaper or magazine.

c. Notice of Rejection. When a publication is deemed objectionable, the Unit Administrator or designee shall inform the inmate in writing of the decision and the reasons for it by utilizing CN 100702, Rejection Notice. The notice of rejection must contain reference to the specific article(s) or material(s) deemed objectionable. The inmate shall be allowed to appeal the decision within 15 calendar days of receipt of the rejection notice (i.e., CN 100702, Rejection Notice) in accordance with Administrative Directive 9.6, Inmate Administrative Remedies.

d. Notification to Publisher or Sender. The Unit Administrator or designee shall provide a copy of the, CN 100702, Rejection Notice, to the publisher or sender of an unacceptable publication. The Unit Administrator or designee shall advise the publisher or sender that an independent review of the rejected material may be obtained by writing to the Commissioner or designee within 15 days of receipt of the rejection notice (i.e., CN 100702, Rejection Notice). The Unit Administrator or designee shall return the rejected publication to the publisher or sender of the material after 15 calendar days of the rejection, unless the inmate appeals the rejection, in which case the Unit Administrator or designee shall retain the rejected material at the facility for review. In case of appeal, if the rejection is sustained, the Unit Administrator or designee shall return the rejected publication to the publisher or sender when appeal or legal use is completed. The inmate shall be responsible for the expense of sending the rejected publication to any entity other than the publisher or sender. Refunds for rejected publications shall be the responsibility of the inmate. If the rejection is reversed, the publication shall be delivered to the inmate.

15. Quantity Limitations. Limits on the number or volume of publications an inmate may receive or retain in the inmate's quarters shall be in accordance with Administrative Directives 6.10, Inmate Property, and 9.4, Special Management, for reasons related to fire hazard, housekeeping, security, or discipline. The Unit Administrator or designee may authorize additional storage space for an inmate for the storage of necessary legal materials in accordance with Administrative Directive 6.10, Inmate Property.

Directive Number	Effective Date	Page 9 of 11
10.7	12/16/2022	
Title		
Inmate Communications		

16. Stationery Supplies. Each correctional facility commissary shall sell: (1) stationery, envelopes, postcards, greeting cards, and postage; and if still utilized by the United States Postal Service, (2) aerogramme folding letters (for foreign air mail letters).
17. Telephone Access. Each Unit Administrator shall provide telephones for inmate use which allow for outgoing calls in areas specified by the Unit Administrator. Schedules and terms for telephone use shall be posted in facility telephone areas. Inmate use of telephones shall be deemed a privilege and not an entitlement. Use of any telephone may be prohibited or restricted by the Unit Administrator in accordance with Administrative Directives 6.14, Security Risk Groups, 9.4, Special Management and 9.5, Code of Penal Discipline, or to meet any valid penological interest. If the call is to an attorney, such prohibition shall be based upon a determination relating to the maintenance of security, safety, or orderly operation of the facility. The availability or use of any telephones may be restricted or terminated at the discretion of the Commissioner of Correction or designee. Inmates shall not have access to any facility telephone, other than a telephone designated for inmate use as authorized in this Directive.
    a. General Provisions for Telephone Calls. Telephones designated for inmate use shall operate on a Personal Identification Number (PIN) system. Each inmate shall be required to enter their authorized Personal Identification Number to place a call.
        i. An inmate requesting to use a telephone shall submit a list to the designated staff member, of no more than twelve (12) phone numbers. The facility shall review the submitted phone numbers and block any restricted phone number(s) from the list.
        ii. The inmate's list of authorized numbers shall be entered into the phone system and shall constitute the inmate's allowed call list. And inmate shall be allowed to change the list of phone numbers once every 30 days.
        iii. Restricted phone numbers include but are not limited to any individual meeting the criteria outlined in Section 5(c) of this directive. Failure to follow this Directive may result in issuance of an Inmate Cease Contact Order (CN 100703).
        iv. Each phone call made by an inmate shall be limited to a maximum of 15 minutes. The calls may only be made between the hours set by the Unit Administrator. There shall be no time limit between allowable calls.
        v. Any unauthorized or fraudulent use of the phone system shall subject an inmate to loss of phone privileges in accordance with Administrative Directive 9.5, Code of Penal Discipline.
    b. Any outgoing inmate telephone call placed from a correctional facility that involves 3-way calling or any form of interruption to the original call, including the use, by a call recipient, of the "flash" button or any other similar telecommunications feature that interrupts the continuity of the original call, shall be prohibited.
    c. Special Management Inmate.
        i. An inmate on punitive segregation status, administrative detention status, or transfer detention status in accordance with Administrative Directive 9.4, Special Management, shall not be allowed to use an inmate telephone except for cause and as approved by the Unit Administrator.
        ii. An inmate assigned to administrative segregation, security risk group, or chronic discipline status, shall be allowed phone use in accordance with the provisions set forth in Administrative Directive 9.4, Special Management.
        iii. An inmate on protective custody status in accordance with Administrative Directive 9.9, Protective Management, shall be allowed telephone calls on a comparable basis to inmates in general population, but may be limited to those periods when protective custody inmates are allowed out of their cells.
    d. Emergency Calls. Upon approval by the Shift Commander or designee, an inmate may be allowed to place an emergency call. Such calls shall be at state expense if the inmate is indigent in accordance with Administrative Directive 6.10, Inmate Property, and Administrative Directive 3.10, Fees, Reimbursements and Donations.

Such calls shall be listened to and documented in the facility log book in accordance with Administrative Directive 6.2, Facility Post Orders and Logs.

e. Recording and Listening to Inmate Telephone Calls. Telephone calls from inmate telephones may be recorded and listened to, provided the following provisions are complied with:

i. Notification.

1. A sign in English and Spanish shall be posted at each inmate telephone location which reads: "Any conversation utilizing these telephones shall be subject to recording and listening."

2. Upon admission, each inmate shall be given a form (i.e., CN 100701, Notification and Acknowledgement for Inmates) stating that the inmate's telephone calls are subject to recording and listening. The inmate shall acknowledge reading the form (i.e., CN 100701, Notification and Acknowledgement for Inmates) by a legible printed name and signature of the inmate or by an appropriate assent acknowledged in writing by a staff member. Any inmate not so consenting shall not be allowed use of the inmate telephones and shall be instructed that any such use shall be unauthorized and in violation of institutional rules.

3. Automatic Tone Warning. Inmate telephone calls shall be recorded in accordance with the provisions of Section 52-570d of the Connecticut General Statutes and any other applicable law. No call shall be recorded unless the recording is accompanied by an automatic tone warning device which automatically produces a distinct signal that is repeated at intervals of approximately 15 seconds during the communication while such instrument, device, or equipment is in use.

ii. Listening. Listening shall be authorized only by the Unit Administrator or higher authority when there is reason to believe that such listening is reasonably related to the maintenance of the security, good order, or discipline of the facility or the prevention of criminal activity either within the facility or in the community.

iii. Access to and Retention of Recordings of Telephone Calls. Only personnel authorized in writing by the Unit Administrator or higher authority shall listen to inmate telephone calls or recordings of inmate telephone calls. Such person authorized in writing to listen shall be a person whose duties relate to the purposes as stated in Section 17(e) of this Directive and who has been instructed and trained in these governing standards so as to eliminate the listening to conversations not directly related to these standards. Access to recordings shall be limited to persons designated in writing by the Commissioner or the Unit Administrator or their designees. Recordings shall be maintained for a minimum of 90 days. Any recording containing information leading to administrative, investigative, or legal action shall be maintained for ten (10) years or for the duration of the proceedings, whichever is longer.

f. Privileged Telephone Calls. An inmate shall be provided a reasonable accommodation to make non-recorded telephone calls to any person enumerated in Section 3(i) of this Directive on telephones without the recording and/or listening provided for in Section 17(e) of this Directive, provided the person enumerated in Section 3(i) called agrees to accept the call. Inmates shall be allowed to initiate two privileged calls a month in addition to privileged calls initiated by the inmate's attorney, to include authorized private calls placed through the Facility Inmate Use Telephone System to a registered attorney number. Calls answered by a busy signal shall not be counted as a contact. Calls answered by a person or machine capable of taking a message shall be counted as a contact. An inmate's request for a call to an attorney shall be honored either by the close of the first business day following the day on which the request was received or on the day specified by the inmate, whichever shall occur later. Requests by attorneys, to include paralegals and law students working under an attorney's supervision, for privileged calls to inmates shall be honored by the close of the first business day following

the day on which the request was received from the attorney or at the time specified by the attorney, whichever shall occur later. Requests by attorneys shall be honored without limitation as to number or frequency. Privileged calls shall be placed by staff who shall verify the party's identity prior to placing the inmate on the line. The staff member shall then move out of listening range of the inmate's conversation. The staff member placing the call may maintain visual observation of the inmate. Privileged calls placed by a staff member shall normally be limited to 10 minutes' duration. In the absence of exigent circumstances, this limitation may be increased at the oral or written request of the attorney.

i. All privileged telephone communications placed by a staff member shall be logged on a CN, 100704, Non-Recorded Telephone Call Log

ii. When an inmate's privileged call placed by a staff member is terminated due to exigent circumstances, an incident report shall be completed in accordance with Administrative Directive 6.6, Reporting of Incidents. A copy of the report shall be forwarded to the appropriate District Administrator for review.

g. Listening to Non-Recorded Telephone Calls. Non-privileged telephone calls conducted on non-recorded telephone lines may be listened to (e.g., on an extension line) provided the following provisions are complied with:

i. The telephone call is placed by a Department of Correction staff member whose duties include the placement of telephone calls for inmates.

ii. The inmate for whom the call is made and the person to whom the call is made are informed by such staff member that the call shall be listened to and both parties agree to this arrangement.

iii. Such call and listening is reasonably related to a legitimate penological interest.

iv. The inmate signs a statement (i.e., CN 100701, Notification and Acknowledgement for Inmates) agreeing to have the conversation listened to.

h. Termination. Any call may be terminated for the following reasons:

i. violation of unit rules;

ii. illegal activity;

iii. exceeding applicable time limits;

iv. vandalism or misuse of equipment;

v. threatening or disruptive behavior;

vi. in the event of a unit emergency; or

vii. For any other legitimate penological interest.

i. Community Residential Telephones. Each community residential facility shall provide a written directive for telephone use. Calls placed from such telephones shall not be recorded and/or listened to.

18. Inmate Communication Devices. Each Unit Administrator may provide additional communication devices in areas specified by the Unit Administrator for inmate use. These devices shall adhere to all recording and listening guidelines as outlined in this directive and Administrative Directive 10.10, Inmate Tablet Use.

19. Disclosure of Correspondence and/or Telephone Conversations. Information obtained by correctional staff from non-privileged inmate communication pursuant to the provisions of this Directive shall be disclosed only as reasonably necessary to promote legitimate penological, law enforcement, and/or public safety purposes or interests.

20. Forms and Attachments. The following forms are applicable to this Administrative Directive and shall be utilized for the intended function:

a. CN 100701, Notification and Acknowledgement for Inmates; and,

b. CN 100702, Rejection Notice,

c. CN 100703, Inmate Cease Contact Order; and

d. CN 100704, Non-Recorded Telephone Call Log.

21. Exceptions. Any exceptions to the procedures in this Administrative Directive shall require prior written approval from the Commissioner of Correction.

Exhibit 5

Conn. DOC Administrative Directive 10.10

(Inmate Tablet Use)

State of Connecticut Department of Correction **ADMINISTRATIVE DIRECTIVE**	Directive Number 10.10	Effective Date 6/1/2023	Page 1 of 4
	Supersedes 01/29/2021		
Approved By  Commissioner Angel Quiros	Title Inmate Tablet Use		

1. Purpose. This directive contains and describes the policies and procedures governing the use of tablets available to eligible inmates. The utilization of the tablet assigned to an inmate and use of tablets must be in accordance with these policies and procedures.

2. Policy. The department may provide inmates with access to tablets for the purpose of providing educational and/or program material and for the ability to download music, audiobooks, videos, video games, e-books, other media for a charge, and for any other legitimate penological purpose.

3. Authority and Reference.
   a. Connecticut General Statutes 18-81.
   b. Administrative Directives 1.10 Investigations; 3.7 Inmate Monies; 3.8 Commissary; 4.7 Records Retention, 6.6 Reporting of Incidents 6.10, Inmate Property; 9.4, Special Management Status; 9.5, Code of Penal Discipline; 10.7 Inmate Communications; 10.12 Inmate Orientation

4. Definitions and Acronyms. For the purposes stated herein, the following definitions and acronyms apply:
   a. Content. A selection of applications and materials approved by the department for use on tablets that are provided to an inmate. There are two types of content:
      1. Downloadable: A selection of materials that can be added to a tablet, through the unity platform, at an inmate's discretion and at a cost to the inmate.
      2. Preloaded: A selection of materials that may be included on the tablet upon issuance to the inmate at no cost.
   b. Account password: A unique identifier used to log onto a user account. This includes all passwords associated with a user account or tablet.
   c. Service provider: The company with whom the department has contracted to provide software services. This service provider owns the rights to the service, content, devices and all other equipment associated with the product.
   d. User account: A user account established by the inmate in order to access services.
   e. Media account: A prepaid account established with the service provider for the purpose of funding the downloaded content.
   f. Secure Message: Electronic, computer-based, written communication(s), up to 6,000 characters, that are sent or received by an inmate or a community member using applications managed by the service provider.
   g. Secure Messaging Stamp: An amount of money, set by the Department contract with the service provider, required to send a secure message or attachment.
   h. Tablet: An electronic device that will be loaned to each inmate when eligible, which contains applications and access to department, approved content.
   i. Unity Platform: Comprehensive wireless software that operates on an independent secure network that provides access to preloaded and downloadable applications such as music, video's, video games, e-books, media and other services for the inmate population.

5. General Provisions:
   a. Inmate account

i. All eligible inmates may establish an account. Inmates may use the services once they have agreed to the terms and conditions established by the service provider.

ii. Inmates shall sign and initial a CN 101001, Notification and Acknowledgment for Tablet Use. The original initialed and signed copy of this form shall be kept in the inmate's property file.

iii. Inmates may only use their personal account and may not use another inmate's account. Use of another inmate's account may result in discipline in accordance with Administrative Directive 9.5, Code of Penal Discipline.

iv. Inmates are prohibited from sharing their password with other inmates and are responsible for their password safekeeping.

v. The Department of Correction is not responsible for theft, loss, or the cost related to password theft, sharing, or failure to ensure safekeeping.

b. Inmate Use.

i. Inmates must comply with all department directives and facility policy regarding tablet use. Failure to do so may result in suspension of any or all tablet services and privileges and may result in discipline in accordance with Administrative Directive 9.5, Code of Penal Discipline.

ii. All inmate use of the tablet services is subject to monitoring, recording and retention, and any records or data resulting from the use of the tablet services or associated with the tablet may be provided to law enforcement agencies.

iii. All inmate questions regarding services and troubleshooting must be directed to the service provider through the tools and contact methods found within the tablet.

c. Tablets.

i. Eligible inmates may be provided with access to a tablet during their period of incarceration with the department from the service provider at no cost.

ii. Inmates at any Direct Admission facility as defined in Administrative Directive 10.12, Inmate Orientation, shall be incarcerated for a minimum of thirty (30) business days prior to being issued a tablet. Each tablet will come with a clear protective case, a set of earbuds, and a charger that has been reviewed and approved by the department. Replacement sets of earbuds and a charger may be purchased through commissary.

iii. Inmates shall only possess or use the tablet issued to them and are prohibited from lending or giving their assigned tablet to other inmates, which includes sharing passwords and personal identification numbers (pin).

iv. Tablets must only connect to the approved platform that is provided by the vendor and may not be connected to any other electronic device.

v. Inmates shall only possess their tablets in their assigned housing unit. Tablet usage outside of designated areas is prohibited, unless authorized by the Unit Administrator, or designee.

vi. Tablets may not be issued to inmates that are on Administrative Segregation status, Chronic Discipline and Security Risk Group Members on phases 1 and 2 in accordance with Administrative Directive 9.4, Special Management Status. A tablet issued to an inmate who is subsequently placed on one of these statuses may have their tablet removed at the discretion of the Unit Administrator and stored in accordance with Administrative Directive 6.10, Inmate Property.

vii. Use of a tablet is a privilege and may be suspended for abuse, misuse or other conduct pursuant to Administrative Directive 9.5, Code of Penal Discipline.

1. An inmate who intentionally damages a tablet shall be responsible for the repairs or replacement cost and is subject to discipline in accordance with Administrative Directive 9.5, Code of Penal Discipline. Costs associated with the damage or repair may be taken from an inmates Media or Trust Fund Account.

viii. The service provider, in consultation with the department, reserves the right to deny a tablet to an inmate who has intentionally destroyed or damaged a tablet in the past.

Directive Number	Effective Date	Page 3 of 4
10.10	6/1/2023	
Title		
Inmate Tablet Use		

ix. Tablets that are malfunctioning will be addressed by the service provider via communication through the service provider to determine if the tablet needs to be repaired or replaced.
x. Tablets will transfer with inmate property as outlined in Administrative Directive 6.10 Inmate Property.
xi. Upon release from a correctional facility, or upon transfer out of the department's custody, the tablet shall be returned to the facilities property officer.

6. Content.
   a. All available content has been established by the department and the service provider and is subject to change. Content may include music, movies, games, books, department publications
   b. All available content is subject to departmental approval.
   c. Content determined to jeopardize safety and security will not be approved.

7. Secure Messaging.
   a. Inmates may only send and receive secure messaging to and from those individuals who have established an account with the service provider and have registered that inmate to their account.
   b. Inmates using secure messaging must adhere to all applicable provisions as outlined in Administrative Directive 10.7, Inmate Communication.
   c. Secure messaging is subject to review in accordance with Administrative Directive 10.7, Inmate Communications.
   d. Inmates may not send or receive any attachments, photos, audio, or any other documents.
   e. Any inmate found in violation of these provisions may be subject to discipline in accordance with Administrative Directive 9.5, Code of Penal Discipline.
   f. Any inmate who is found to have multiple violations or abuse of secure messaging may be have their tablet privileges revoked.

8. Exchanging Tablets and Issued Accessories.
   a. If there is a problem with the tablet, inmates must notify the tablet vendor by opening a support ticket. A support representative will respond to the inmate with troubleshooting steps or instructions. If they cannot remedy the issue, the vendor will notify the Tablet Unit of all replacement requests. Upon receiving the notification, the Tablet Unit will then contact facility staff to ensure the broken tablet is replaced.
   b. Individually packaged tablets for return will include any malfunctioning item as determined by the vendor.
   c. Replacement accessories will not be included for replacement devices. The inmate must keep the accessories received with the original tablet.
   d. If an inmate claims that their tablet has been lost or stolen, a shift supervisor or designee will be notified and an Incident Report will be generated in accordance with Administrative Directive 6.6, Reporting of Incidents to determine the whereabouts of the tablet. The inmate will not receive a replacement tablet until the investigation is completed or the original tablet is found.
      i. An inmate may not receive a replacement if the outcome of the investigation proves the inmates neglected to follow the provisions set forth in this directive.

9. Transferred inmates or inmates temporarily absent from the facility.
   a. A tablet or accessory received for an inmate who has transferred from the facility shall be forwarded by the facility property staff to the appropriate receiving facility. These items shall be documented on the CN 61004, Inmate Property Transfer Receipt.
   b. A tablet or accessory received for an inmate temporarily absent from the facility (i.e., court, outside hospital, etc.) will be secured in the facility property room.

Directive Number	Effective Date	Page 4 of 4
10.10	6/1/2023	
Title		
Inmate Tablet Use		

10. Opting out.
    a. An inmate may choose to opt out of tablet use at any time. The inmate must log into their account and select the opt out option. The tablet and any issued accessories must be returned to property to be sent back to the vendor.
        i. A CN 61002, Inmate Property Status and Receipt will be completed and placed in the inmate's property file
        ii. If an inmate elects to receive another tablet, they must write a request to the facility property officer by utilizing a CN 9601, Inmate Request Form. All content previously downloaded will not be on the new tablet once received and activated.
        iii. The Unit Administrator or designee may prohibit an inmate from ordering another tablet if they have opted out previously.
        iv. Inmates, who choose to opt out, may be refunded in accordance with Attachment A, Tablet Refund Instructions.

11. Funding of Media Account.
    a. Inmates are prohibited from adding money to another inmate's Media Account.
    b. Inmates may add money to their Media Accounts utilizing Attachment D, Special Request Form in accordance with Administrative Directive 3.7, Inmate Monies.
    c. Any money deposited in the Media Account may only be spent on tablet services and cannot be transferred to another account.
    d. Inmates must use the tablet to check Media Account balances and receive notice of Media Account deposits. Any questions regarding Media Account balances and transactions must be directed to the service provider.
    e. Inmates who elect to use a tablet and decide to opt out or are discharged may be refunded any monies in their Media Account in accordance with Attachment A, Tablet Refund Instructions.
        i. If an inmate is placed on a special management status their tablet may be removed in accordance with Administrative Directive 9.4, Special Management Status. All funds in the inmates Media Account will remain on that account and be available upon the inmate's completion of their program requirements.
            1. If the inmate discharges from their special management status, they may receive a refund in accordance with Attachment A, Tablet Refund Instructions.

12. Forms and Attachments.
    a. CN 101001, Notification and Acknowledgment for Tablet Use;
    b. Attachment A, Tablet Refund Instructions.

13. Exceptions. Any exceptions to the procedures in this Administrative Directive shall require prior written approval from the Commissioner.

Exhibit 6

Conn. DOC Administrative Directive 6.1

(Tours and Inspections)

State of Connecticut Department of Correction **ADMINISTRATIVE DIRECTIVE**	Directive Number 6.1	Effective Date 4/27/2020	Page 1 of 4
	Supersedes Tours and Inspections, dated 8/15/2014		
Approved By Commissioner Rollin Cook	Title Tours and Inspections		

1. Policy. Tours and inspections shall be conducted by staff throughout each facility and unit in order to enhance safety and security, encourage and facilitate communication among administrators, managers, supervisors, employees, inmates and the public.
2. Authority and Reference.
   a. Public Law 108-79, Prison Rape Elimination Act of 2003.
   b. 28 C.F.R. 115, Prison Rape Elimination Act National Standards.
   c. Connecticut General Statutes, Section 18-81.
   d. Administrative Directives 5.3, Life and Fire Safety; 5.4, Toxic Materials and Hazardous Communication Protocol; 6.2, Facility Post Orders and Logs; 6.12, Inmate Sexual Abuse/ Sexual Harassment Prevention and Intervention and 10.18, Food Services.
3. Definitions. For the purposes stated herein, the following definitions apply:
   a. Inspection. A thorough examination of a specific area of a correctional facility/unit to ensure appropriate levels of safety, security, order and sanitation.
   b. Mainline Observation. The practice of monitoring inmates during mass movement or assemblage (e.g., feeding, recreation, etc.).
   c. PREA. Prison Rape Elimination Act.
   d. Sexual Abuse. For the purposes of this directive, Sexual Abuse shall be defined in accordance with Administrative Directive 6.12, Inmate Sexual Abuse/Sexual Harassment Prevention and Intervention.
   e. Sexual Harassment. For the purposes of this directive, Sexual Harassment shall be defined in accordance with Administrative Directive 6.12 Inmate Sexual Abuse/Sexual Harassment Prevention and Intervention.
   f. Specialized Housing Unit. A housing unit or section of a housing unit used for the purposes of:
      i. restrictive housing,
      ii. medical/mental health,
      iii. orientation/intake, or
      iv. for any other specialized purpose designated by the Unit Administrator or higher authority.
   g. Tour. A random, systematic series of inspections in a correctional facility/unit designed to enhance the overall levels of safety, security, order and sanitation; along with the opportunity to communicate with staff and inmates and to reinforce rules and regulations.
   h. Facility/Unit Department Heads. Staff assigned to manage and/or oversee a specific area of the facility/unit. For the purposes of this Directive, a Facility/Unit Department Head shall be identified as a (n): Deputy Warden, Parole Supervisor, Institutional Religious Facilitator, Health Services Administrator, School Principal or Educational Administrator, Maintenance Supervisor, Food Services Supervisor, Commissary Manager, Warehouse Supervisor and any other designated personnel.
   i. Visit. A walk through of a specific area in a correctional facility/unit to provide staff presence and to observe the overall operation.
4. General Principles. Each facility/unit shall develop and implement unit directives which shall require tours, inspections, visits and contacts to:

Directive Number 6.1	Effective Date 4/27/2020	Page 2 of 4
Title Tours and Inspections		

a. monitor the general conditions and overall climate of the facility/unit;
b. evaluate adherence to policy;
c. inspect for safety, security and sanitation concerns;
d. enhance communication;
e. reinforce the rules, regulations and procedures of the facility/unit;
f. allow inmates to express their concerns to staff; and
g. deter and detect acts of sexual abuse/sexual harassment.

i. Unit Administrators and Deputy Wardens shall be visible and accessible to staff within the facility/unit on a routine basis in order to communicate with line staff and supervisors.
ii. Unit Administrators, Deputy Wardens, and Department Heads shall be visible within the facility/unit and readily available to the inmate population on a regular, informal basis.
iii. Unit Administrators, Deputy Wardens, and Shift Commanders shall attend roll call on a regular basis.
iv. Unit Administrators, Deputy Wardens, and Shift Commanders shall conduct mainline observation at least once per week. Other Department Heads shall conduct mainline observation as designated by the Unit Administrator.

5. Tours, Inspections and Visits. At a minimum, every hazardous duty employee shall conduct scheduled and unscheduled tours, inspections and/or visits. All tours, inspections and visits shall be performed in a random order to informally observe living and working conditions and to facilitate communication with staff and inmates. Each Unit Administrator shall designate those staff members required to conduct tours, inspections and visits. Employees shall verbally announce their presence upon entering a housing area designated for inmates of the opposite sex in accordance with Administrative Directive 6.12, Inmate Sexual Abuse/Sexual Harassment Prevention and Intervention. Such announcement shall be documented in the unit logbook.

a. General Tours, Inspections and Visits. General facility/unit tours, inspections and visits shall be conducted as follows:

i. District Administrators shall visit the facilities in their respective districts monthly and shall tour a different area of the facility/unit on each visit.
ii. Unit Administrators and Deputy Wardens shall formally tour the entire facility/unit weekly except as enumerated in section 5(A) (3) of this Directive. The times and shifts which tours are conducted shall vary. At a minimum, the Unit Administrator shall tour the facility/unit once per month during second or third shift.
iii. The Unit Administrators and Deputy Wardens at Cheshire CI, Corrigan-Radgowski CC, MacDougall-Walker CI, Osborn CI, Willard-Cybulski CI and York CI shall formally tour all housing units and main control centers at least once per week. All other areas of the facility/unit shall be toured at least once every two weeks.
iv. Unit Managers shall tour their respective units daily in accordance with their established work schedule.
v. Each area of a facility/unit shall be toured by a custody supervisor at least twice per shift. Supervisory tours shall be unannounced. Employees shall not alert other employees that supervisory tours are occurring unless such an announcement is related to legitimate operational functions of the facility. The Unit Administrator may designate specific areas of responsibility to individual supervisors.
vi. Correction Officers shall tour general population housing units, to which they are assigned, at a minimum of every 30 minutes.
vii. Counseling/program staff shall tour their assigned housing, work and program areas daily.
viii. Food Service Supervisors shall, at least once per week, tour housing units in which food is served to observe food service and sanitation.

Directive Number 6.1	Effective Date 4/27/2020	Page 3 of 4
Title Tours and Inspections		

ix. School Principals or Educational Administrators shall visit individual classrooms and school areas on a weekly basis. Staff Chaplains shall visit all housing units at least once per week and upon request.
x. Maintenance Supervisors shall tour all areas of the facility/unit at least once per week.
xi. Plant Facility Engineers shall tour two (2) facilities per month.
xii. Warehouse supervisors shall tour their respective warehouses daily.
xiii. Commissary Managers shall tour their respective commissaries daily.

b. Specialized Housing Tours, Inspections and Visits. Tours, inspections and visits of all specialized housing units shall be conducted as follows:
i. District Administrators shall tour, at a minimum, every two months.
ii. Unit Administrators and Deputy Wardens shall, at a minimum, tour twice a week, to include all restrictive housing units, medical/mental health housing units, orientation/intake units and any other specialized housing unit designated by the Unit Administrator or higher authority.
iii. Special management inmates and inmates assigned to the facility's orientation/intake unit shall be personally observed by correctional staff at least every 15 minutes on an irregular schedule and on a more frequent basis for problematic inmates, unless otherwise determined by the Unit Administrator or higher authority.
iv. The respective Unit Manager and/or shift supervisor, shall tour specialized housing units daily.
v. Health Services medical personnel shall tour each specialized housing unit at least once per shift. For facilities without a 24-hour Health Services Unit, tours shall be conducted when Health Services personnel are on duty. The Correctional Hospital Nursing Supervisor or designee shall tour specialized housing units at least once per week.
vi. Behavioral Health Services personnel shall tour specialized housing units at least once weekly.
1. For any facility that provides housing for MH4 inmates, Behavioral Health Services staff shall tour restrictive housing units' once daily when behavioral health services staff are on duty.
2. Behavioral Health Services staff shall tour the identified housing unit for Phase 1 of Administrative Segregation at least once daily when behavioral health personnel are on duty.
vii. The Health Services Administrator or designee shall tour monthly, at a minimum, all Restrictive Housing Units, Medical/Mental Health Units and any other specialized housing units designated by the Unit Administrator or higher authority. All tours by Health Services personnel shall be documented in the appropriate station log in accordance with Section 6 of this Directive.
viii. Program staff assigned to a specialized unit, at a minimum, shall tour their respective specialized housing units daily and upon request.
ix. Chaplains shall visit each specialized housing unit, at a minimum, once per week and upon request.
x. Food Service Supervisors shall, at least once per week, tour specialized housing units in which food is served to observe food service and sanitation.

c. Direct Admission Facilities. The following facilities shall be designated as Direct Admission Facilities and shall maintain an orientation unit(s): Bridgeport CC; Corrigan-Radgowski CC; Hartford CC; Manson YI; New Haven CC; and York CI.
i. Orientation Unit Procedures. The following procedures shall be followed at each Direct Admission Facility:
1. The Orientation Units shall be identified as specialized housing and shall require tours as noted in Section 5(B) of this Directive.

Orientation Unit inmates shall be observed by correctional staff at least every 15 minutes on an irregular basis.

2. Health Services personnel shall tour the Orientation Unit once each shift.
3. Unit tours shall emphasize staff/inmate interaction and observation of inmates assigned to the unit.

d. Security Tours and Inspections. The Unit Administrator shall be responsible for the overall management of the facility/unit's security tours and physical/visual inspections. The facility/unit's Deputy Warden of Operations shall coordinate and ensure appropriate documentation of the tours and inspections. During these tours and inspections, staff shall be alert for changes in equipment or other features of the facility/unit, contraband, and any conditions that would constitute a safety or security hazard. Such tours and inspections shall normally be conducted each shift, unless otherwise stated by Department or facility/unit policy, and shall cover every area of the facility/unit, to include the perimeter and, at a minimum, the following:
   i. Locks and related hardware (i.e., hinges, security screws, etc.);
   ii. Doors and windows;
   iii. Bars and grillwork;
   iv. Gratings, manhole covers and hatch plates;
   v. Fences, fence hardware and fence wire;
   vi. Ventilators and tunnel accesses;
   vii. Perimeter walls; and,
   viii. Alarms, video surveillance equipment and other security equipment and features.

e. Safety Inspections. Safety inspections shall be continuous and shall be conducted in accordance with Administrative Directive 5.3, Life and Fire Safety.

f. Sanitation Tours and Inspections. Each facility/unit shall have a sanitation plan to ensure all areas of the facility/unit are maintained at the highest level of cleanliness. Sanitation tours and inspections shall be conducted in accordance with Administrative Directives 5.3, Life and Fire Safety; 5.4, Toxic Materials and Hazardous Communication Protocol; and 10.18, Food Services.

6. Documentation and Logbooks. Each tour, inspection and visit shall be documented in the appropriate station or facility log in accordance with Administrative Directive 6.2, Facility Post Orders and Logs. Each staff member conducting the tour, inspection or visit shall document the activity in the appropriate log. When documenting tours, inspections or visits, the Unit Administrator, and Deputy Warden shall record the log entry in green ink, managers and supervisors shall use red ink and line staff shall use blue or black ink.
   a. Upon completion of the daily tour, each shift supervisor or designee shall submit a daily written report to the Shift Commander, who shall review the reports for unusual or problem areas and ensure that such issues are addressed and forwarded through the chain of command, if appropriate. The shift supervisor shall also document in the facility log any notice of unusual or problem areas.
7. Communication with Inmates. The Unit Administrator shall ensure that information concerning a new policy, procedure or any other point of interest is communicated to the inmate population as appropriate. The Unit Administrator shall ensure that relevant support staff are available to inmates in program and recreation areas, and where possible, facility counselors are available in housing units. Staff shall maintain direct communications with inmates and make themselves available to answer questions and resolve problems.
8. Exceptions. Any exception to the procedures in this Administrative Directive shall require prior written approval from the Commissioner.

Exhibit 7

Conn. DOC Administrative Directive 6.7

(Searches Conducted in Correctional Facilities)

State of Connecticut Department of Correction **ADMINISTRATIVE DIRECTIVE**	Directive Number 6.7	Effective Date 01/30/2024	Page 1 of 9
	Supersedes Searches Conducted in Correctional Facilities, Dated 06/29/2018		
Approved By  Commissioner Angel Quiros	Title Searches Conducted in Correctional Facilities		

1. Policy. The Department of Correction shall maintain safety and security by conducting searches as provided for in this Directive.

2. Authority and Reference.
   a. Public Law 108-79, Prison Rape Elimination Act of 2003
   b. 28 C.F.R. 115, Prison Rape Elimination Act National Standards
   c. Connecticut General Statutes, Sections 18-81, 18-81v, and 53a-174 through 53a-174b.
   d. Applicable Case Law.
   e. Administrative Directives 6.2 Facility Post Orders and Logs; 6.5, Use of Force; 6.6, Reporting of Incidents; 6.8, Urinalysis; 6.9, Control of Contraband and Physical Evidence; 6.10, Inmate Property;6.12, Inmate Sexual Abuse/Sexual Harassment Prevention and Intervention, 8.17 Gender Diverse and 10.6, Inmate Visits.

3. Definitions and Acronyms. For the purposes stated herein, the following definitions and acronyms apply:
   a. Authorized Detector/Scanning System. Any authorized equipment (e.g., BOSS chair, metal detector, etc.) used to scan for, and detect, concealed contraband.
   b. Body Orifice Scanning System (BOSS Chair). A scanning system designed to detect metal objects concealed in oral, anal, vaginal cavities or other parts of the body.
   c. CI. Correctional Institution.
   d. Contraband. An item that falls under the following criteria:
      i. Not authorized to be in any facility, Unit, area, vehicle, or surrounding grounds under the control of or contracted by the Department of Correction or in an inmate's possession;
      ii. that is authorized, but used in an unauthorized or prohibited manner,
      iii. that is authorized, but altered; or,
      iv. that ownership cannot be established.
   e. Contractor. A person or organization that agrees to furnish materials or to perform services for the Department. Contractors may include organizations which provide services to the Department without cost. Contractors providing services to the Department are subject to all applicable rules and regulations.
   f. Controlled Strip-Search. A strip-search in which Department personnel maintain physical, hands on control of an inmate through the use of restraints or approved restraint techniques for the purposes of safety and security.
   g. Employee. For the purposes of this Directive only, an employee shall be a person employed by the Department of Correction or anyone designated by the Commissioner or designee who is allowed unescorted access in a correctional facility.
   h. General Facility Search. A planned and systematic search of all areas within and around a correctional facility, including the grounds, parking areas, and employee offices and work areas.
   i. Internal Medical Device. For purposes of this directive, the term internal medical device shall include a pacemaker or defibrillator.
   j. Intersex. A person whose sexual or reproductive anatomy or chromosomal pattern does not fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as Disorders of Sex Development.

Directive Number 6.7	Effective Date 01/30/2024	Page 2 of 9
Title Searches Conducted in Correctional Facilities		

k. Manual Body Cavity Search. The manual examination of an inmate's mouth, nose, ears and/or genital/rectal areas as provided by Section 8 of this Directive, this shall not include examinations conducted for medical purposes.
l. Pat Search. A systematic observation and physical inspection, using the hands, of a person while clothed.
m. PREA. Prison Rape Elimination Act.
n. Reasonable Suspicion. Judgment based on specific objective facts and reasonable inferences drawn in light of experience, training and education.
o. Search. Any inspection of a person, area or property.
p. Strip-Search. A strip-search shall mean a visual body cavity search which includes a systematic visual inspection of an unclothed person's hair, body cavities (to include the individual's ears, nose, mouth, under arms, soles of the feet and between the toes, rectum and genitalia. This search shall also include a physical search of the clothing and any personal effects.
q. Temporary Surrender. An inmate admitted to a Department facility under arrest but without a court order, pending arraignment.
r. Transgender. A person whose identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.
s. Visitor. For the purposes of this Directive only, a visitor shall be a person entering a correctional facility who is not an employee, contractor or an inmate.

4. Inmate Pat Searches.
   a. A pat search shall include an inspection of the person's clothing and any item in the person's possession.
   b. A pat search shall be conducted:
      i. On all inmates to be transported outside the facility;
      ii. At the conclusion of all contact visits;
      iii. Preceding a strip-search; or,
      iv. On a random basis to further any correctional purpose.
   c. Reasonable accommodations shall be made to provide for same gender pat searches of female inmates.
      i. When such accommodation cannot be made and a pat search of a female inmate is deemed essential without delay, then a cross gender pat search may be conducted.
      ii. All cross gender pat searches of female inmates shall be documented on CN 6604, Incident Report.

5. Inmate Strip-Searches.
   a. General Guidelines. An inmate strip-search shall normally be conducted in an area out of view of individuals not involved in the search process and shall not normally require physical contact by staff.
      i. All clothing and items in the inmate's possession shall be examined.
      ii. Reasonable accommodations shall be made to provide for same gender strip-searches. When such accommodation cannot be made and the strip-search is deemed to be essential without delay, then a cross gender strip-search shall be conducted.
      iii. All cross gender strip-searches shall be reported on CN 6604, Incident Report, in accordance with Administrative Directive 6.6, Reporting of Incidents.
   b. Strip-Searches When Reasonable Suspicion is not required. A strip-search shall be conducted for the following circumstances:
      i. Upon admission or return of a sentenced inmate, regardless of the offense (to include any inmate incarcerated for a fine), to a Department facility;
      ii. Upon admission or return to a Department facility when an inmate is:
         1. unsentenced, charged with a felony offense; or,

Directive Number 6.7	Effective Date 01/30/2024	Page 3 of 9
Title Searches Conducted in Correctional Facilities		

2. unsentenced, charged with a misdemeanor offense NOT listed on Attachment B, Offenses Requiring Reasonable Suspicion to Conduct a Strip-Search; or,
3. a violation of probation, temporary surrender or an unsentenced youthful offender charged with a felony or for a misdemeanor offense NOT listed on Attachment B; or,
4. a remand from the United States Department of Homeland Security (Immigration and Customs Enforcement); or,
5. a remand from the United States Marshals Service; or,
6. a temporary confinement of extradition in a third state; or,
7. a Governor's Warrant detainee.

iii. Upon readmission to a facility from a halfway house, parole, special parole, transitional supervision or any other community release program.

iv. Upon inter-facility or out-of-state transfer provided that the inmate is sentenced.

v. Upon entering and leaving a level 5 facility or a designated level 5 housing unit.

vi. Upon initial placement in a specialized housing unit, to include the following:
1. Administrative Segregation;
2. Chronic Discipline;
3. Security Risk Group Member;
4. Medical Inpatient;
5. Mental Health;
6. Protective Custody; or,
7. Restrictive Housing.

vii. When the inmate has participated in a significant incident during the inmate's current incarceration.

viii. When submitting a specimen for urinalysis, in accordance with Administrative Directive 6.8, Urinalysis.

ix. At the conclusion of any contact visit, or after entering any public visiting area.

x. During a planned general facility search or any other search conducted within a facility other than intake.

xi. During a facility emergency (i.e., disturbance, hostage situation, etc.).

c. Strip-Searches When Reasonable Suspicion is Required.

i. Reasonable suspicion in accordance with Attachment A, Strip-Search Decision Tree shall be established prior to conducting a strip-search in the following statuses:
1. a misdemeanor offense listed on Attachment B; or,
2. a violation of probation, temporary surrender or a youthful offender charged with a misdemeanor offense listed on Attachment B; or,
3. an accused civil charge.

ii. Reasonable suspicion that the inmate is concealing contraband shall be documented on Form CN 6701, Strip-Search Report and forwarded to the Shift Commander or designee for authorization to conduct a strip-search prior to any such search being performed. If reasonable suspicion that the inmate is concealing contraband is not established in accordance with this Directive, the inmate shall not be strip-searched.
1. Once authorized to conduct a strip search due to reasonable suspicion that the inmate is concealing contraband, a Supervisor shall be present and a video camera continuously operating upon initial contact with the suspected inmate and throughout the strip search process.
2. A strip search shall be video recorded by a trained operator. The camera shall continuously record the incident and ensure, as reasonably as possible, the inmate's entire body remains in the frame of the recording the duration of the incident.

Directive Number	Effective Date	Page 4 of 9
6.7	01/30/2024	
Title		
Searches Conducted in Correctional Facilities		

d. Identification and Tracking of Minor Misdemeanor Inmates. Upon admission or readmission, the Admissions and Processing Officer or other authorized staff shall review all incoming continuance mittimus/admitting documents to determine if a pretrial inmate is being held solely for a misdemeanor offense(s) listed on Attachment B. If the inmate is being held solely for a misdemeanor offense(s) listed on Attachment B, then CN 6702, Minor Misdemeanant Identification Form shall be completed and an appropriate computer entry made to establish a flag identifying the inmate as a minor misdemeanant. CN 6702, Minor Misdemeanant Identification Form shall be maintained in Section 3 of the inmate's master file. In the event there is a status change based on new charges, information or other relevant reasons, Section 3 of CN 6702, Minor Misdemeanant Identification Form shall be completed to initiate the removal of the flag from the computer screen.

e. Controlled Strip-Searches. Controlled strip-searches shall be conducted as follows:

i. Reasons to Conduct Search. Staff may conduct a hands on, controlled strip-search of an inmate:

1. in the event the inmate refuses to comply with a strip-search as defined in Section 3(P) of this Directive;
2. for a valid penological reason; or,
3. when the inmate is confined at any unit designated by the Commissioner to conduct controlled strip-searches.

ii. Authorization, Observation and Video Documentation of Search. A controlled strip-search shall be authorized and observed by a custody supervisor. When practicable, prior to conducting a controlled strip-search, verbal intervention shall be attempted in accordance with the intervention provisions of Administrative Directive 6.5, Use of Force. If the initial verbal intervention is unsuccessful, the custody supervisor shall summon a video camera, which shall document the final verbal intervention with the inmate, as well as the controlled strip-search.

iii. Conduct of Search. In order to facilitate a controlled strip-search, the inmate's clothing may be systematically removed manually or removed via medical shears a portion at a time under the direction of the custody supervisor. If the inmate continues to be uncooperative, staff may manually position parts of the inmate's body in order to view all areas of the inmate's body, making every attempt to avoid physical contact with the genitals and rectum. The controlled strip-search shall only seek to observe all areas of the inmate's body to reasonably ensure the safety and security of the public, staff and inmates. Controlled strip searches may only be conducted by persons of the same gender as the inmate being searched.

iv. Written Documentation of Search.

1. A controlled strip-search shall be documented utilizing the following forms:
   a. CN 6604, Incident Report;
   b. CN 6501, Use of Force Report; and (when required),
2. Completed forms shall be submitted to the Shift Commander for review.
3. The documentation of controlled strip-searches conducted on a routine basis for inmates with an Administrative Segregation or Security Risk Group designation, or upon intake to the Restrictive Housing Unit and the Inpatient Mental Health Unit at Garner CI shall not be required. However, if at these facilities an inmate becomes non-compliant, combative or refuses to follow staff direction during a controlled strip-search, the incident shall be documented in accordance with Administrative Directives 6.5, Use of Force, and Administrative Directive 6.6., Reporting of Incidents.

Directive Number	Effective Date	Page 5 of 9
6.7	01/30/2024	
Title		
Searches Conducted in Correctional Facilities		

6. Reasonable Suspicion.
   a. Determining Reasonable Suspicion. Any of the following factors shall be taken into account when determining reasonable suspicion for an inmate strip-search:
      i. The nature of the crime or offense with which an inmate is charged (i.e., is the inmate's charge a felony or a misdemeanor NOT listed on Attachment B);
      ii. The circumstances of the individual's arrest or detention, if known;
      iii. The particular characteristics of the inmate (e.g., physical appearance, behavior, risk for self-harm, past criminal or correctional history, etc.);
      iv. Positive reading from authorized detector/scanning equipment or canine alert;
      v. Informant information in accordance with Section 6(B) of this Directive; or,
      vi. Other facts contributing to suspicion or lack thereof.
   b. Determining Reasonable Suspicion Based on Informant Information. If the information used to determine reasonable suspicion derives from an informant, the following factors should be considered and documented on CN 6604, Incident Report:
      i. The nature of the tip or information;
      ii. The reliability of the informant;
      iii. The degree of corroboration;
      iv. The motivation of the informant to be truthful; and,
      v. Other facts contributing to suspicion or lack thereof.
   c. Posting of Reasonable Suspicion Criteria. A copy of Attachment A and Attachment B shall be laminated and posted at each point of admission and other appropriate areas.

7. Transgender inmates and/or inmates with an Intersexed Related Condition.
   a. Transgender and/or Inmates with an Intersexed Related Condition shall be subject to pat searches and strip searches while under the custody of the Department of Correction.
      i. Supervisors shall select custodial staff members who complete a pat search or strip search on a transgendered inmate and Inmates with an intersex condition in accordance with Administrative 8.17, Gender Diverse.

8. Inmate Manual Body Cavity Search.
   a. An inmate manual body cavity search shall be performed only by a medical professional under the supervision of a licensed physician. An examination conducted for medical purposes shall not be considered a search as it applies to this Directive. In conducting manual body cavity searches, the following guidelines shall be followed:
      i. A manual body cavity search shall be conducted when there is reasonable suspicion that the inmate may be carrying contraband.
      ii. A manual body cavity search of an inmate may only be considered after reasonable, less intrusive measures of recovery of the suspected contraband have been considered or employed as appropriate (e.g., persuasion, self-retrieval, x-ray, expulsion, etc.).
         1. This may include placement in a dry cell or room under direct observation for a minimum of 72 hours if required.
         2. A manual body cavity search shall only be conducted upon approval by the Deputy Commissioner of Operations and Rehabilitative Services.
         3. The Chief Medical Officer or designee shall assign an appropriate health service employee in consultation with the Deputy Commissioner of Operations and Rehabilitative Services to conduct the search.

Directive Number 6.7	Effective Date 01/30/2024	Page 6 of 9
Title Searches Conducted in Correctional Facilities		

4. A manual body cavity search shall be conducted in a clinical setting (i.e., Health Services Unit or outside hospital).
5. When custody staff are required to be present, staff members of the same gender shall be utilized unless the inmate has an approved gender diverse management plan. If the inmate has an approved gender diverse management plan, then the supervisor overseeing the search shall make arrangements according to the inmate's preference for gender of custody staff who will be present.

iii. Upon completion of a manual body cavity search, CN 6604, Incident Report shall be completed in accordance with Administrative Directive 6.6, Reporting of Incidents, shall be completed by the custody designee and submitted to the Deputy Commissioner of Operations and Rehabilitative Services stating the reasons for the search, other options which were considered or employed, the individuals present when the search was conducted, and the findings of the search.
   1. In addition, a medical incident report shall be completed by the health service employee conducting the examination and submitted with the original incident report.

9. Visual inspection during medication administration. A visual inspection of the oral (mouth) cavity by a custody and/or medical staff member shall be conducted when an employee dispenses medication. Oral cavity inspection shall be required prior to and after the inmate ingests any medication.
   a. The inmate shall be required to open the mouth, lift the tongue and move the tongue from side to side.

10. Search by Means of Metal Detectors and Other Authorized Scanning/Detecting Systems. Search by means of metal detectors and other authorized scanner/detecting systems shall be conducted as follows:
   a. During admission, transfer or routine transport of an inmate;
   b. Whenever an inmate is suspected of ingesting or inserting metallic contraband in a body cavity; and,
   c. On a random basis to further any correctional purpose.
      i. If a positive reading is indicated, CN 6701, Strip-Search Report shall be completed and a strip-search conducted in accordance with Section 5 of this Directive.

11. Canine Searches. Canine searches shall be utilized to provide a safe and secure environment for the public, employee and inmates by controlling the introduction, movement and use of contraband. Canine searches shall be utilized as authorized by the Unit Administrator.

12. Non-Inmate Searches. Non-inmates and their property may be subject to searches upon entering the perimeter or grounds of a correctional facility or any other site operated by the Department of Correction, as follows:
   a. Visitors/Contractors. A visitor/contractor shall be required to pass through a metal detector when initially entering the secure area of a correctional facility. In accordance with Section 18-81v of the Connecticut General Statutes, a visitor who activates a walk-through metal detector shall be given the opportunity to submit to a search with a portable or hand-held metal detector in order to gain entrance into the correctional facility. If the visitor consents to a search, such consent shall be documented on CN 100603, Visitor Search Consent Form in accordance with Administrative Directive 10.6, Inmate Visits. When the visitor consents to a search with a portable or hand-held metal detector, the visitor shall be escorted by a correction officer of the same sex to a separate room, restroom or other private location within the correctional facility, where the visitor shall first remove any object or article of clothing that activated the walk-through metal detector and then submit to a portable or

Directive Number 6.7	Effective Date 01/30/2024	Page 7 of 9
Title Searches Conducted in Correctional Facilities		

hand-held metal detector search. If the portable or hand-held metal detector is not activated during such search, the visitor shall be allowed to re-apply the object or article of clothing that activated the walk-through metal detector before exiting the separate room, restroom or other private location where the portable or hand-held metal detector search is conducted and shall be allowed to enter the correctional facility. If the portable or hand-held metal detector is activated during such search or if the visitor refuses to give consent to be searched, the visitor shall be denied access to the facility. Visitors who have an internal medical device and who either activate or cannot pass through a walk-through metal detector, shall NOT be searched with a portable or hand-held metal detector. The visitor may be screened by a pat search if he or she consents. If consent is provided and the pat search completed, a visit may be authorized under the terms and conditions deemed appropriate in the discretion of the Unit Administrator or designee. At all times, the Unit Administrator or designee shall maintain the right to permit, limit or deny a visit in furtherance of the safety and security of the facility. A custody supervisor shall be present, when available, during the pat search of a visitor. Should the visitor refuse to consent to a pat search, the supervisor shall contact the Duty Officer. The Duty Officer shall make the decision as to the status of the visit and the conditions there of.

b. Employees. An employee, at a minimum, may be required to pass through a metal detector, submit to visual check/inspection of personal belongings brought into the facility to include but not limited to food containers/bags/purses/jackets or submit to a pat search when entering a facility. In addition, an employee may be subject to a strip-search based on reasonable suspicion that the employee is carrying contraband. Such search shall only be authorized by the Unit Administrator or higher authority. An employee and a supervisor of the same gender shall conduct such searches in a private area. Refusal to submit to a search may subject the employee to disciplinary action, up to and including dismissal from state service.

c. Unauthorized Items. Each facility shall post a list of items that staff may not bring into the secured area of the facility or to any post in accordance with Attachment D, List of Unauthorized Items. A copy of Attachment D, List of Unauthorized Items shall be laminated and posted at each public entrance and staff access point. It shall be the employee's responsibility to seek clarification from a supervisor regarding the introduction of any questionable items into the facility.

13. Vehicle Searches. All vehicles entering facility property are subject to random or routine search with consent. Failure to give consent shall result in denial of access.

a. Posting and Notification. A sign shall be posted at each facility entrance stating: "You are entering a correctional facility. All visitors and vehicles are subject to search by Department of Correction personnel. It is a crime to convey, pass or causing to be conveyed or passed into this facility any item that is prohibited by Sections 53a-174, 53a-174a and 53a-174b of the Connecticut General Statutes. Violators shall be prosecuted. A list of prohibited items is posted inside."

b. List of Prohibited Items. A list of prohibited items shall be prominently posted in the lobby area utilizing Attachment C, List of Prohibited Items.

c. Vehicle Search procedures. Each unit shall develop vehicle search procedures specific to that individual facility and incorporate them into relevant Post Orders, General Post Order Attachments and/or Unit Directives in accordance with Administrative Directive 1.3, Development Revision and Revision of Policies and Procedures, specific to searches conducted on vehicles entering and leaving the secured area of the compound. The facility procedure shall include, but is not limited to, search procedures for Department of Correction vehicles, outside Law Enforcement and contracted service/vendor vehicles.

Directive Number 6.7	Effective Date 01/30/2024	Page 8 of 9
Title Searches Conducted in Correctional Facilities		

14. Facility Searches. Each unit shall develop Unit Directives and a search plan to meet the requirements of this Directive.
    a. General Facility Searches. A general facility search shall be authorized by the Unit Administrator. General facility searches shall be conducted at least annually at Level 2 and 3 security classification facilities and not less than twice each year at Level 4 and not less than three (3) times each calendar year at Level 5 security classification facilities. When a facility search is conducted the entire facility shall be searched prior to returning to normal operations. A copy of the search plan consistent with Attachment E, Reporting Requirements shall be submitted for approval to the District Administrator prior to commencing a general facility search.
    b. Housing Unit/Area Searches. Housing unit and area (e.g., kitchen, industry plants, gymnasium, etc.) searches shall be conducted routinely and periodically as authorized by the Shift Commander.
    c. Cell, Room, Cubicle and Other Housing Area Searches. A search of an inmate's cell, room, cubicle or other housing area shall be conducted by the assigned correction officer as directed by a supervisor or as required by facility policy. If the inmate is present in the cell, room, cubicle or other housing area, the inmate shall be removed and pat searched prior to the cell, room, cubicle or other housing area being searched. Cell, room, cubicle or other housing area searches shall be recorded in the station log and facility log in accordance with Administrative Directive 6.2, Facility Post Orders and Logs. Any time medication, medical equipment and/or medical supplies are confiscated from an inmate or the inmate's living area, said medication, medical equipment and/or medical supplies must be bagged and delivered to the Health Services Unit for review and disposition (i.e., disposal or redistribution).
    d. Employee Work Areas. Areas utilized by employees (e.g., employee offices and rooms, locker rooms, employee lounges, etc.) shall be searched during a general facility search.
    e. Community Contract Agency Searches. The Director of Parole and Community Services or designee shall develop and maintain procedures to conduct a search of each halfway house consistent with this Directive. Such searches shall be conducted annually, at a minimum.

15. Treatment of Religious Articles and Items. All religious articles and religious items, including but not limited to the Holy Bible, the Qur'an, and the Torah, shall be respected by staff and inmates at all times. Religious articles and religious items shall not be carelessly handled by staff when conducting searches or other authorized operational or security activities. Special care shall be taken to respect religious articles and religious items. Religious articles and religious items may be confiscated for cause in accordance with Administrative Directive 6.10, Inmate Property. Any questions or concerns regarding any religious article or item shall be referred to the appropriate chaplain and/or other subject matter expert, as appropriate. Native American medicine bags shall not normally be handled by staff. In cases where a medicine bag and/or its contents require examination by staff, staff shall instruct the inmate possessing the medicine bag to empty its contents on to a surface for inspection.

16. Handling of Contraband and Physical Evidence. All handling, documentation and disposal of contraband and physical evidence shall be in accordance with Administrative Directive 6.9, Control of Contraband and Physical Evidence.

17. Staff Training. Staff whose job classifications may require them to perform pat searches and/or strip searches shall be trained on how to conduct cross gender pat searches and searches of transgender and intersex inmates in a professional and respectful manner, and in the least intrusive manner possible that is consistent with security needs.

Directive Number	Effective Date	Page 9 of 9
6.7	01/30/2024	
Title		
Searches Conducted in Correctional Facilities		

18. Forms and Attachments. The following forms and attachments are applicable to this Administrative Directive and shall be utilized for the intended function:
    a. CN 6701, Strip-Search Report;
    b. CN 6702, Minor Misdemeanant Identification Form;
    c. Attachment A, Strip-Search Decision Tree;
    d. Attachment B, Offenses Requiring Reasonable Suspicion to Conduct a Strip-Search;
    e. Attachment C, List of Prohibited Items;
    f. Attachment D, List of Unauthorized Items; and
    g. Attachment E, Reporting Requirements.

19. Exceptions. Any exceptions to the procedures in this Administrative Directive shall require prior written approval from the Commissioner.

Exhibit 8

Conn. DOC Administrative Directive 10.6

(Inmate Visits)

State of Connecticut Department of Correction **ADMINISTRATIVE DIRECTIVE**	Directive Number 10.6	Effective Date 11/06/2020	Page 1 of 14
	Supersedes Inmate Visits, dated 10/01/2018		
Approved By  Commissioner Angel Quiros	Title Inmate Visits		

1. Policy. The Department of Correction shall make reasonable efforts to encourage and facilitate family and social visiting. Non-traditional visitation programs may be considered when such practice is consistent with the safety and security of the individual correctional facility or unit. The Department of Correction recognizes the beneficial role that visitation can have in an inmate's rehabilitated and reentry process, family reunification and possible reduction in the rates of recidivism.

2. Authority and Reference.
   a. Connecticut General Statutes, Sections 1-1m, 18-81, 18-81v, 46b-20, 46b-28a, 46b-28b, 46b-38rr, 46b-38ss and 53a-174 through 53a-174b, , Public Act 19-20, 19-23, West v. Manson
   b. Administrative Directives 1.10, Investigations; 2.17, Employee Conduct; 3.7, 4.1, Inmate Records; Inmate Monies; 6.6, Reporting of Incidents; 6.7, Searches Conducted in Correctional Facilities; 6.10, Inmate Property; 6.14, Security Risk Groups; 9.4, Special Management; 9.5, Code of Penal Discipline; 10.4, Volunteer and Recreation Services; and 10.7 Inmate Communications.

3. Definitions. For the purposes stated herein, the following definitions apply:
   a. Adult. A person age 18 or above.
   b. Attorney Representative. An employee of, or retained by, a legal firm or organization to include: investigator, social worker, paralegal, certified legal intern, or retained expert.
   c. Breast Feeding. The method of feeding a baby with milk directly from the mother's breast.
   d. Child. A person under the age of 18.
   e. Child Visit. A visit when the child is:
      i. accompanied by an immediate family member who is on the inmate's approved visiting list;
      ii. accompanied by a member of the inmate's expanded family who is on the inmate's approved visiting list and who has obtained written permission to visit the inmate by the child's parent or legal guardian on CN 100601, Visiting Application; or
      iii. accompanied by an authorized adult (i.e., an adult immediate family member who is on the approved visiting list, a legal guardian, an adult properly authorized by the Department of Children and Families, or an adult approved by the Unit Administrator).
   f. Contact Visit. A meeting between an inmate and an approved person which is not separated by a full screen or full solid glass partition.
   g. Courtesy Visit. A visit granted to an immediate family member prior to the visitor application being processed and approved.
   h. Expanded Family. An inmate's cohabitant, aunt, uncle, niece, nephew, mother-in-law, father-in-law, brother-in-law, and sister-in-law.
   i. Immediate Family Member. An inmate's legal spouse, parent, child, sibling or half sibling, grandparent or grandchild; to include a step/foster relationship.
   j. Internal Medical Device. For purpose of this directive, the term internal medical device shall include a pacemaker or defibrillator.
   k. Marriage. The legal union of two persons.
   l. Non-Contact Visit. A meeting between an inmate and an approved person which is separated by a screen, solid glass partition, or other partition which physically separates visitor from inmate.

m. Photo Identification. A valid identification bearing the individual's photo including, but not limited to a:
   i. driver's license;
   ii. non-driver identification card;
   iii. state identification card;
   iv. military identification card;
   v. passport;
      1. The only acceptable non-domestic form of identification is a passport issued from the visitor's country of origin.
   vi. a Form I-551, and;
   vii. Permanent Resident Card (i.e., green card).

n. Privileged Visit. A special meeting between an inmate and a judge, the Governor, Legislator, Attorney General, Probation Officer, Sentence Review Board member, Commission on Human Rights and Opportunities member, State Claims Commissioner, Board of Pardons and Paroles member or employee, elected government official or the inmate's attorney or attorney representative for an authorized purpose other than social visitation.

o. Professional Visit. A special meeting between an inmate and a credentialed individual from the community (e.g., law enforcement official, social worker, member of the clergy, etc.) for an authorized purpose other than social visitation. Professional visitors may be subject to security screenings.

p. Reasonable Belief. Judgment based on information or observation deemed to be credible.

q. Recording and Listening. The recording of the inmate's Personal Identification Number (PIN), non-contact visiting phone conversations, video visit and contemporaneous or subsequent listening to recordings of non-contact visiting phone conversations.

r. Regular Social Visit. A meeting, conducted during routine visiting hours, between an inmate and a person listed on the inmate's visiting list.

s. Security Screening. Authorized security checks (i.e., background checks) that social visitors must pass in order to be permitted to visit.

t. Special Visit. A special meeting approved by the Unit Administrator or designee that allows exceptions to be made to the inmate's authorized: (1) visiting list; (2) number of visitors; (3) schedule of visits; and/or, (4) length of visit.

u. Victim. An individual who has suffered as a result of any criminal offense for which the inmate has served or is serving a sentence, or stands convicted of, or disposition is pending, including, but not limited to:
   i. an individual who has suffered direct or threatened physical, emotional or financial harm as a result of a crime for which another individual is or has been incarcerated;
   ii. a member of the deceased victim's immediate family; or,
   iii. a legal representative of the victim.

v. Video Visit. A visit conducted utilizing a laptop, tablet or mobile device with video capabilities.

4. Access to visitation.
   a. Any inmate who is incarcerated under the authority of the Connecticut Department of Correction may have the privilege of social visitation so long as the inmate abides by departmental rules, regulations and policies
   b. Except as required by law, visitation shall be considered a privilege and no inmate shall have entitlement to a social visit.

5. Regular Visits.
   a. Criteria and Authorization.
      i. An inmate who anticipates regular visits shall complete the following:
         1. Submit a CN 9601, Inmate Request form to the visiting coordinator or assigned counselor identifying who the inmate's prospective visitors are; and,
         2. Request the appropriate number of CN 100601, Inmate Visiting Application's for each prospective visitor.

ii. The visiting coordinator, counselor or designated staff member shall forward the appropriate number of copies of the CN 100601, Visiting Application, and Attachment A, Inmate Visiting Rules, to the inmate and retain the original CN 9601, Inmate Request form for verification of visiting applications upon their return.

iii. The inmate shall utilize the US Postal Service in mailing the CN 100601, Visiting Applications to their prospective visitors.

iv. The prospective visitors that the inmate identified in the original CN 9601, Inmate Request form may complete and sign the application and either hand deliver or mail the original visiting application to any Department of Correction facility for processing.

v. Processing of visiting applications shall only occur during the following instances:

1. when the visiting coordinator or counselor receives all of the identified visiting applications from the original CN 9601, Inmate Request forms; or,
2. when the inmate provides a written request on a CN 9601, Inmate Request form to process the visiting applications that have entered into the institution at that point.
    a. Once the visitor applications are processed, the timeframes for modifications shall be in accordance with subsection C of this section.

vi. Any prospective visitors under the age of 18 shall have their respective parent or guardian sign CN 100601, Visiting Application. The parent or guardian shall also submit his or her own completed CN 100601, Visiting Application.

b. Review. The Unit Administrator shall require verification of the visiting application information or any other information deemed significant. A criminal history and warrant query shall be conducted to verify criminal history information. A personal interview with the visitor applicant may be required.

c. Modifications.

i. Additions to an inmate's approved visiting list may be requested by the inmate using the procedure contained in this section.

ii. In-activations from the approved visiting list may be made at the written request of the inmate.

iii. Any inmate who habitually abuses modification privileges, may have their visiting modifications limited to every sixty (60) days.

d. Current and Ex-Offenders.

i. A current or ex-offender who has been convicted of a crime shall be precluded from routine placement on an inmate's visiting list. However, a current or ex-offender may request permission to visit, in writing, through the Unit Administrator. The Unit Administrator or designee shall review such request for:

1. severity and nature of the proposed visitor’s offense and sentence;
2. likelihood of the proposed visitor’s ongoing criminal behaviors and ideation; and,
3. the length of time that has elapsed since the proposed visitor’s discharge from supervision and/or oversight by any portion of the criminal justice system and;
4. The relation, if any, to the current or ex-inmate

ii. The Unit Administrator or designee shall document any visitor approval that involves a current or ex-offender in the departmental electronic visiting system and the inmate master file.

e. Limitations.

i. A Department employee shall be prohibited from being placed on an inmate visiting list unless the employee is an immediate or expanded family member AND only when authorized in writing by the employee’s Unit Administrator and the Unit Administrator of the facility where the immediate or expanded family member is incarcerated in accordance with Administrative Directive 2.17, Employee Conduct.

ii. No visitor, except an immediate or expanded family member, shall be on more than one (1) inmate's visiting list at the same facility (i.e., to visit two or more inmates at the same facility, the visitor must be an immediate or expanded family member to each inmate on whose list the visitor is placed).
   1. This requirement may be waived at the discretion of the Unit Administrator.

iii. A visit between an inmate and the inmate's victim shall not be permitted unless approved in writing by the Unit Administrator or Director of Parole and Community Services or designee.
   1. When there is a protective or restraining order that is issued from the court, it must be expired for a minimum of two (2) years before a victim can be reviewed for addition to an inmate's visiting list. The request to be added to the inmate's visiting list shall be originated by the victim, and it shall be reviewed by the Unit Administrator or designee, in conjunction with the Victim Services Unit.
   2. An individual identified as a victim in a police report, and that person is requesting to be placed on an inmate's visiting list, they shall be reviewed for approval or denial by the Unit Administrator or designee, in conjunction with the Victim Services Unit.
   3. The Unit Administrator or designee or the Director of Parole and Community Services or designee shall document any visitor approval where the visitor is a current or previous victim in the departmental electronic information system and the inmate's master file.

iv. A child shall be accompanied by an authorized adult immediate or expanded family member who is on the approved visiting list, a legal guardian, an adult properly authorized by the Department of Children and Families, or an adult approved by the Unit Administrator. Children shall remain under the supervision of the adult visitor at all times while on grounds and during the visit.
   1. An adult visitor who brings a child (ren) on facility grounds shall continuously supervise and attend to the child (ren) at all times while on grounds and during the visit. The Department shall not be responsible for the supervision of children.

v. Any visitor with an active warrant or pending criminal cases shall be precluded from routine placement on an inmate's visiting list.

vi. No visitor, except privileged and professional, shall be allowed to enter a correctional facility if they reside in a state that is currently under Connecticut's travel advisory as defined by Executive Order No. 7111.

f. Action.
   i. An application for visitation by a visitor not limited by Section 5 (e) shall usually be approved, unless there is reasonable belief that such authorization may jeopardize safety or security, for reasons including, but not limited to:
      1. issues of contraband,
      2. disruptive behavior, or
      3. failure to comply with facility rules.
   ii. A person may also be removed from a visiting list for the same or similar reasons.
   iii. Any time a person is approved, denied or removed, the action (and reason if denied or removed) shall be provided to the inmate, in writing, within 30 business days.
      1. It shall be the responsibility of the inmate to notify the proposed visitor of their visiting status.

g. Appeal. A proposed visitor may appeal the denial of a request to be placed on a visiting list to the Unit Administrator within 30 calendar days of notification of denial. The appeal shall be answered within 15 business days of receipt by the Unit Administrator whose decision shall be final.

h. Transferred Inmates.

i. Once a visiting list has been established, it shall be considered active wherever an inmate is transferred unless the following occurs:
1. The inmate is transferred to a facility where an approved visitor is visiting an additional inmate at the same location.
a. Unless the visitor is approved by the Unit Administrator or designee to continue visiting both inmates, the visitor shall be removed from both inmates visiting until the visitor notifies the facility which inmate they would like to continue to visit.
2. In accordance with Administrative Directive 9.4, Special Management, an inmate placed on a special management status shall result in the adherence to visiting requirements/provisions associated with the specific special management status to which they are assigned.
ii. The inmate shall not be required to have previously approved visitors on an active visiting list re-apply when the inmate is transferred.

i. Readmission. All inmates who return to Department custody must submit a new visiting list in accordance with this Directive. All inmates' visiting lists shall be inactivated upon discharge.

j. Authorized Number. An inmate shall be authorized to place up to the following number of approved visitors, on the visiting list:
i. Overall Security Level:
1. Five (5)
a. Number of approved visitors: seven (7)
2. Three (3) and Four (4)
a. Number of approved visitors: fifteen (15)
3. Two (2) and under: fifteen (15)
ii. An inmate assigned to security risk group, special needs management, may have up to seven (7) approved visitors, on the visiting list, regardless of his or her overall security level.
iii. A privileged or professional visitor shall not count against the authorized number on an approved visiting list.
iv. An inmate's child or children under 18 years old shall not count against the authorized number of an approved visiting list.

6. Non-Routine Visits.
a. Courtesy Visit.
i. A courtesy visitor shall be authorized for a onetime visit within the first thirty (30) calendar days from the date the inmate enters the custody of the Department of Correction.
1. A courtesy visit may be contact if the facility at which the courtesy visit is approved can accommodate the contact visit and a background check has been completed.
2. In the event of a Public Health Emergency an inmate shall be medically cleared to participate in a visit
ii. Up to two (2) adult visitors from the inmate's immediate family may be allowed a courtesy visit with the inmate prior to the approval of the visitor application.
iii. Once the identified time period for courtesy visits expires, then the inmate shall have all visitors submit to the visiting procedures outlined in this directive.

b. Special Visits. The Unit Administrator may provide opportunities for special visits when conditions require or the visitor is not on the approved visiting list. Approved special visits shall be encouraged to occur during routine visiting hours. Requests for visits during non-routine visiting hours shall normally require at a minimum of two (2) business days' notice. Such visits may include:
i. A person(s) awaiting approval under extraordinary or unusual circumstances;
ii. A person(s) who has traveled from out of state for a one (1) time visit;
iii. A person(s) who may assist the inmate in release planning or provide counseling;

iv. A family member(s) engaged in facility programming and/or an event; or,
v. A person(s) who wish to visit an inmate with a serious health condition who is receiving care at an outside hospital.

c. Privileged Visits Provisions and Standards.
i. General Provisions.
1. Privileged visits shall be reasonably accommodated. When any questionable circumstance arises regarding accommodation of a privileged visitor, the shift supervisor, in consultation with the duty officer, shall personally investigate the situation using face-to-face contact and shall obtain any additional information necessary, to try to accommodate the visit. If a privileged visit is not accommodated, the shift supervisor or higher authority shall complete CN 6601, Incident Report, in accordance with Administrative Directive 6.6, Reporting of Incidents, detailing all actions taken and the reason(s) the visit was not accommodated or was denied. The incident shall be reported as a Class 3 incident. Privileged visitors shall present valid identification containing a photograph and certification of status prior to being allowed to visit as detailed in this section. Privileged visitors shall not be required to submit to the standard security screening but must successfully pass through the metal detector.
2. A privileged visitor may not visit that same inmate in a social capacity. Likewise, a social visitor may not have a privileged visit with the inmate unless he or she is first removed from the social visitor list.
ii. Identification.
1. Acceptable Single Form of Identification. A federal, state or other governmental identification with photograph which establishes the individual's identity and privileged status shall be accepted.
2. Acceptable Multiple Forms of Identification. A valid driver's license shall be accepted when it is accompanied by one of the following additional forms of identification:
a. a legal firm's identification with photograph;
b. Connecticut Bar Association Photo Identification card;
c. A certified professional identification or credential identifying association with a privileged entity (e.g., Connecticut Bar Association card or Juris number, etc.);
d. a current list of attorneys/legal representatives submitted by an established law firm may be used as a corroborating document to establish privileged identification status; or,
e. a letter from the inmate's attorney identifying an individual as the attorney's representative.
i. Privileged Visitor Required Items. Privileged visitors enumerated in Section 3(O) of this directive must have authorization in writing by the Unit Administrator or designee in order to bring in a laptop computer/tablet for the purposes of the inmate's case. Such authorization shall be in writing and arrangements must be made prior to the visit.

d. Professional Visits. Professional visits shall be reasonably accommodated. A valid driver's license and a professional credential shall be required for any professional not on the visiting list. Professional visitors shall successfully pass through the metal detector in accordance with Section 18-81v of the Connecticut General Statutes in order to enter the facility to visit and may be subject to the security screening process. Private visiting rooms/areas may be provided for professional visits, if appropriate. When any questionable circumstance arises regarding accommodation of a professional visitor, the shift supervisor in consultation with the duty officer, shall personally investigate the situation using face-to-face contact and shall obtain any additional information necessary to try to accommodate the visit. If a professional visit is denied, the

shift supervisor or higher authority shall complete an Incident Report, in accordance with Administrative Directive 6.6, Reporting of Incidents, stating the reason(s) for the denial. The incident shall be reported as a Class 3 incident.

i. A professional visitor who provides services to an inmate may not visit that same inmate in a social capacity. Likewise, a social visitor may not visit the same inmate in a professional capacity.

e. Professional Clergy Visits.

i. The single visiting clergy member and the inmate must be of the same religion indicated on the inmate's religious affiliation form. Only the authorized clergy member may be in the visiting room. Nothing may be given to or left for the inmate.

ii. The inmate, not the clergy member must initiate the request to the Institutional Religious Facilitator for a professional clergy visit.

iii. It is the obligation of the Institutional Religious Facilitator to verify the credentials of the proposed clergy member.

iv. Clergy members may not make "Professional Clergy Visits" to incarcerated family members related either by blood or through marriage. Both the inmate and proposed clergy member must state in writing that they are not related. Clergy members related to inmates must be placed on the inmate's social visiting list only.

v. If the clergy member that the inmate requested a Professional Clergy Visit is not the principal clergy member from his/her religious group's institution, including but not limited to a church, synagogue or mosque, the principal clergy member must submit a letter authorizing/delegating the subordinate clergy member to represent the religious group for the purpose of a professional visit.

vi. It is the responsibility of the person designated by the Unit Administrator to complete a security check on the proposed visitor.

vii. It is the responsibility of the Institutional Religious Facilitator to schedule the approved clergy member's visit.

viii. If an inmate transfers to another institution, the procedure outlined in this subsection must be repeated by the receiving facility.

ix. A Professional Clergy Visitor shall not be permitted to be a regular social visitor as defined in this directive.

1. Conversely, if the clergy member is an approved regular social visitor, then that individual would not be permitted to be a Professional Clergy Visitor.

f. Special Management Inmate Visits. Visits to an inmate on a special management status shall be as provided in accordance with Administrative Directive 6.14, Security Risk Group and 9.4, Special Management.

7. Video Visitation.

a. Requirements.

i. Visitors must have access to a smart phone, laptop, or tablet that has video and audio capabilities.

ii. Visitors must be able to access the Department approved application that is being used to facilitate the video visit.

iii. Headphones are required for inmates participating in a Video Visit.

b. Frequency and length of Visit.

i. Inmates who are eligible for regular social visits shall be allowed a minimum of one (1) visit per week as long as facility space and operational needs can accommodate the request.

ii. Video visits will be a minimum of thirty (30) minutes, but not to exceed one (1) hour unless approved by the facility administrator.

iii. Video visits will be scheduled and conducted in accordance with the facility's visiting schedule.

c. Visitors.

i. Visitors must be on the inmates approved visitor list, to include children that are domiciled in the household.

1. Courtesy visits shall be processed in accordance with provisions set forth in this directive.

ii. Visits are not scheduled until the visitor receives a confirmation email with a hyperlink to the video visit.

iii. A maximum of three (3) adult visitors may participate in the video visit and must be included on the Visit Request Form.

1. Children domiciled to the household will not count towards the number of visitors on the Video Visit.
2. A minor may only participate if accompanied by a parent/legal guardian and must not be considered a victim or have an active protective order with the inmate.

iv. Unauthorized visitors who have not received pre-approval shall not be allowed to participate in a video visit.

d. Any inmate or visitor who is found to have a serious violation or repeated violations of visitation rules may have video visiting privileges revoked. A CN 100606, Request for Contact or Video Visit Suspension shall be initiated at the facility where the violation occurred and forwarded, with supporting documents, to the Unit Administrator/designee for review.

8. Visiting General Provisions and Procedures.

a. General Provisions.

i. Each facility shall develop and put in writing a reasonable schedule. The following factors that shall be considered when developing the facility-specific written schedule include but are not limited to:

1. The security level of the facility;
2. The physical space limitations for visit; and/or
3. Available staff resources.

ii. Facilities may have different schedules based on such factors as space, staff, security levels, and other day-to-day operational concerns.

iii. It shall be the visitor's responsibility, including privileged and professional visitors, to review and check with the facility to determine what particular schedule and rules apply to that facility.

b. Number of Visitors. The number of visitors allowed to visit at the same time may be limited based on space, volume of visitor activity or any other reasonable factor. The following numbers of visitors, including children, may be allowed:

i. Contact Visit - three (3)

ii. Non-Contact Visit - two (2).

c. Times. Restrictions may be placed on visiting hours and the duration of a specific visit as required to accommodate security, safety, extraordinary numbers of visitors, and facility needs and order. Reasonable effort shall be made to accommodate the following time and scheduling conditions:

i. At least one (1) evening visit weekly;

ii. Weekend visits; and,

iii. Visits of at least thirty (30) minutes but not to exceed one (1) hour unless authorized by the unit administrator

d. Frequency. Inmates shall not be allowed to have more than one visit by the same visitor on the same day.

i. Except as specifically provided herein, an inmate shall normally be allowed a minimum of two (2) regular visits each week.

ii. A limitation shall not be placed on the frequency of professional or privileged visits without the approval of the Unit Administrator.

e. Visit Conduct.

i. Order.

1. Visits shall be conducted in a quiet, orderly and dignified manner.
2. Staff supervising the visiting area may terminate any visit with approval from a custody supervisor for not complying with this Directive or posted facility rules.

3. If exigent circumstances arise, correctional staff may immediately terminate any visit if the situation jeopardizes the physical safety of staff, inmate or public.
   a. If this occurs, staff shall utilize facility communication devices to provide facility notification of the incident and obtain responding staff assistance.
   b. Once the situation is handled, the employees involved shall document the incident in accordance with Administrative Directive 6.6, Reporting of Incidents.
4. A video visit may be terminated if it is determined unauthorized visitors are present during the visit, or if there is a reasonable security concern that could jeopardize the safety and security of the facility.

ii. Attire.
1. Each visitor shall dress in a proper fashion with reasonable modesty. Attire that may present a safety and/or security risk may result in a visitor being denied access to, being removed from the visiting room, or termination of the visit in accordance with Section 8(N) of this Directive.
2. Visitors, to include professional and privileged visitors, and Inmates shall not be permitted to wear any watches in the visiting room.

iii. Personal belongings.
1. Social Visiting. No personal belongings of a social visitor or inmate shall be permitted in the visiting room unless authorized by the Unit Administrator or designee.
   a. Visitors with an infant may be permitted to bring one (1) clear bottle, prefilled with formula or milk, a small cloth, and a pacifier into the visiting room.
   b. Failure to abide by this rule could result in the visit being terminated or removal of the ability to visit in accordance with this Directive.
2. Privileged Visit.
   a. Privileged visitors shall be allowed to exchange legal papers with an inmate, only upon prior approval from the Unit Administrator or designee.
   b. Any and all legal materials brought to the privileged visit, by either the visitor or inmate, shall be subject to search and inspection only in accordance with this Directive prior to the privilege visit occurring.
   c. Legal papers provided to an inmate by a privileged visitor, shall be inspected, (but not read) by correctional staff at the conclusion of the visit.
3. Privileged Visitor use of a Tablet/Laptop.
   a. Privileged visitors may be permitted to bring in a tablet or laptop for official legal purposes only with prior authorization by the Unit Administrator or designee.
   b. The Privileged visitor shall abide by all provisions identified on the CN 100604, Privileged Visitor Tablet/Laptop Policy and Agreement.
   c. The Privileged Visitor shall sign the CN 100604, Privileged Visitor Tablet/Laptop Policy and Agreement prior to authorization into the institution with the tablet/laptop.
   d. Failure to abide by the regulations on the CN 100604, Privileged Visitor Tablet/Laptop Policy and Agreement may result in consequences to include, but are not limited to:
      i. Removal and cancellation of the current visit;
      ii. Barring from Department of Correction property's;
      iii. Reporting the conduct to the Office of Chief Disciplinary Counsel; and/or

Directive Number	Effective Date	Page 10 of 14
10.6	11/06/2020	
Title	Inmate Visits	

iv. Potential criminal charges being logged against the privileged visitor.

f. Identification. All visitors age 18 or above will be required to provide appropriate photo identification prior to admission to the visit.
   i. Children age 18 or above shall be required to present a photo identification prior to each visit. Adults supervising children under the age of 18 shall be required to present a birth certificate and one other document with the child's name on it (e.g., social security card, report card, etc.) prior to each visit.
      1. If the child (ren) under the age of 18 is being brought to a correctional facility to visit an inmate by an adult who is not their parent or legal guardian, then the adult who is visiting shall have and present to correctional staff a notarized letter from the child's parent or legal guardian granting permission for the child (ren) to be allowed to be brought in for a visit.

g. Contraband. No visitor shall deliver or receive any item, to include written correspondence, except as noted in this section, to or from an inmate. A sign shall be posted at the entry of each facility stating:
   i. *"You are entering a correctional facility. All visitors and vehicles are subject to search by Department of Correction personnel. It is a crime to convey, pass or causing to be conveyed or passed into this facility any item that is prohibited by Sections 53a-174, 53a-174a and 53a-174b of the Connecticut General Statutes. Violators shall be prosecuted. A list of prohibited items is posted inside."*

h. Searches.
   i. Searches of a visitor, visitor's vehicle or personal property may be conducted as specified in Administrative Directive 6.7, Searches Conducted in Correctional Facilities.
   ii. In accordance with Section 18-81v of the Connecticut General Statutes, a visitor who activates a walk-through metal detector shall be given the opportunity to submit to a search with a portable or hand-held metal detector in order to gain entrance into the correctional facility.
      1. If the visitor consents to a search with a portable or handheld metal detector, such consent shall be documented on CN 100603, Visitor Search Consent Form in accordance with this Directive. When the visitor consents to a search with a portable or hand-held metal detector, the visitor shall be escorted by a correction officer of the same sex to a separate room, restroom or other private location within the correctional facility, where the visitor shall first remove any object or article of clothing that activated the walk-through metal detector and then submit to a portable or hand-held metal detector search.
      2. If the portable or hand-held metal detector is not activated during such search, the visitor shall be allowed to reapply the object or article of clothing that activated the walk-through metal detector before exiting the separate room, restroom or other private location where the portable or hand-held metal detector search is conducted and shall be allowed to enter the correctional facility.
      3. If the portable or hand-held metal detector is activated during such search or if the visitor refuses to give consent to be searched with a portable or handheld metal detector, the visitor shall be denied access to the facility.

i. Security Screening. All visitors shall be required to pass through successfully the metal detector or other detection system to gain access to the correctional facility in accordance with CN 100603, Visitor Search Consent Form; Attachment A, Inmate Visiting Rules; Attachment B, Security Requirements to Gain Access to a Correctional Institution; and Attachment C, Visitor Search Procedures. Such notices shall be prominently posted in accordance with Section 8(N) of this Directive.

j. Visitors with an Internal Medical Device.

i. Visitors who have an internal medical device and who either activate or cannot pass through the walk-through metal detector shall NOT be searched with a portable or hand held metal detector.

ii. The visitor may be screened by a pat down search if he or she consents.

1. If consent is provided and the pat down search is completed, a visit may be authorized under the terms and conditions deemed appropriate in the discretion of the Unit Administrator or designee.

2. If a pat down search is conducted, the following shall occur:

a. A Custody Supervisor shall be present, when available, during the pat down search of the visitor.

b. At all times, the Unit Administrator or designee shall maintain the right to permit, limit or deny a visit in furtherance of the safety and security of the facility.

c. Additionally, the visitor shall be instructed to obtain medical documentation of the internal medical device signed by a licensed health care provider which the visitor should present at future visits.

iii. If the visitor refuses to consent to the pat down search by an officer of the same sex as the visitor, the visit may be denied by the Custody Supervisor on scene, who shall then notify the duty officer of the denial.

1. If a visitor with an internal medical device refuses to submit to the pat down search and the visit is denied, then this incident shall be documented in accordance with Administrative Directive 6.6, Reporting of Incidents.

k. Logging of Social Visitors. The Department shall establish and maintain procedures for recording the name of each visitor, the inmate visited and the date and time the visit occurred.

l. Logging of Professional/Privileged Visitors.

i. Inmates may be interviewed by Professional/Privileged Visitors in accordance with this Directive. Each correctional facility shall maintain a log book of all Professional/Privileged visitors which contains the following information:

1. Date and Time of Interview;
2. Name and Title of the interviewer(s);
3. Agency/Organization of interviewer(s);
4. Inmate Name
5. Inmate Number
6. Purpose of the Visit;
7. Staff Initials.

ii. If the professional visitor is a representative of an outside law enforcement agency, to include Immigration and Customs Enforcement (ICE), each interviewer(s) shall be required to produce valid, agency-issued identification which established name, position and organization prior to permitting a visiting.

1. A representative from ICE shall only be allowed to access to conduct an interview when the inmate meets one or all of the following:

a) Prior conviction of a Class A or B felony offense;
b) A positive response from the Terrorist Screening Database or similar database and a positive response from the Terrorist Screening Center; or
c) Subject to a Final Order of Deportation or removal issued by the United States which is accompanied by a judicial warrant.

iii. Furthermore, A CN 11003, Inmate Voluntary Interview Authorization shall be completed prior to the interview of the inmate in accordance with Administrative Directive 1.10, Investigations. If the form is utilized for an ICE interview the inmate shall be offered a legal call to their attorney. Completed authorization form shall be maintained in Section 6 of the inmate's master file. If the form is utilized for an ICE interview it shall be forwarded to the Offender Classification and Population Management (OCPM) as well as placed in section 6 of the inmate's master file.

Directive Number 10.6	Effective Date 11/06/2020	Page 12 of 14
Title Inmate Visits		

m. Notification of Rules. All prospective visitors shall be provided with a copy of Attachment A, Inmate Visiting Rules, along with CN 100601, Visiting Application. Attachment A, Inmate Visiting Rules shall provide general visiting rules for all correctional facilities. These rules, along with any additional local requirements and visiting schedules shall be prominently posted in an area located before the entrance to the visiting room. Attachment A, Inmate Visiting Rules, also shall be made available on the Department's website.

n. Contact/Non-Contact Visit Criteria.

i. Contact Visits.

1. Each level 2, 3 and 4 facilities may provide for contact visits.

a. Level 4 Contact Visits.

i. Inmates classified with an overall security level of four (4) may be allowed contact visits if the facility in which they are housed is able to accommodate contact visits.

ii. Inmates classified with an overall security level of four (4) must be free of a Class A disciplinary report for two years for any of the following offenses; Assault on a DOC employee, Assault, Creating a Disturbance, Impeding Order, Hostage Holding, Hostage Holding of a DOC Employee, and inmates who developed a pattern of Public Indecency, unless waived by the Unit Administrator.

iii. Contact visiting privileges shall be assessed on a case by case review of an inmates High Security placement rational and any information received thereafter.

2. No inmate shall be entitled to a contact visit.

3. Any inmate or visitor who is found to have a serious violation or repeated violations of visitation rules, may have contact visiting privileges revoked. A CN 100606, Request for Contact or Video Visit Suspension shall be initiated at the facility where the violation occurred and forwarded, with supporting documents, to the Unit Administrator for review.

4. Inmates on any type of special management status may not be allowed contact visits in accordance with Administrative Directives 9.4, Special Management, and 6.14, Security Risk Groups.

5. Privileged or professional visits for inmates not allowed social contact visits may be contact or non-contact at the discretion of the Unit Administrator.

ii. Non-Contact Visits.

1. Non-contact visits may be utilized when an inmate presents a reasonable security concern which may include, but not be limited to, the following:

a. escape risk or history;
b. history of introduction of contraband;
c. history of disruptive behavior;
d. Security Risk Group activity;
e. information developed which indicates a reasonable threat of disruption to the safety, security or order of the facility;
f. history of inappropriate sexual behavior; and, or,
g. have a bond amount of $500,000 or greater, and, or CRT/GPS.

2. In the event of a Public Health Emergency, non-contact visits may be authorized for all visit eligible inmates who otherwise would be eligible for contact visits.

3. Non-privileged communications between an inmate and the inmate's approved visitors during non-contact visits are subject to recording and/or monitoring in accordance with Administrative Directive 10.7, Inmate Communications.

o. Receipt of Inmate Property and Funds. No inmate property or funds shall be accepted by facility personnel in connection with an inmate visit. All receipt of property shall be in accordance with Administrative Directive 6.10, Inmate

Property. A Unit Administrator may make provisions to receive items of clothing for pretrial inmates or inmates within 30 days of discharge. Receipt of monies shall be in accordance with the provisions outlined in Administrative Directive 3.7, Inmate Monies.

p. Visit Termination. A single visit, or all visits, may be canceled, denied or terminated, by the ranking custody supervisor or by custodial staff during exigent circumstances only, at any time facility security and order requires or a reasonable belief exists that continuance of the visit could jeopardize safety, security or good order. Violation of the facility's visiting rules shall be grounds for terminating the all visits.

q. Incident Report. When an approved visitor is denied access or a visit is terminated an Incident Report shall be prepared in accordance with Administrative Directive 6.6, Reporting of Incidents, and forwarded to the Shift Commander or designee.

r. Discipline and Prosecution. Any inmate whose visit is terminated, as a result of a wrongful act shall be considered for disciplinary action in accordance with Administrative Directive 9.5, Code of Penal Discipline, or criminal prosecution as appropriate. A visitor shall be referred for criminal prosecution when warranted.

s. Denial of Visitation. An inmate may be denied future visits for a specified period of time in accordance with Administrative Directive 9.5, Code of Penal Discipline. A visitor whose visit is terminated may be denied future visits at the discretion of the Unit Administrator.

9. Visiting Accommodations.

a. Breast Feeding. Each female visitor who makes a request to breast feed during a visit shall be escorted from the visiting area to a designated breast feeding area once there is sufficient staff present in the visiting area. Such location shall not be a restroom and shall be clean, have sufficient lighting, and shall include a chair. Upon completion of breast feeding, the visitor shall be allowed to return to the remaining visit providing time and space are available. In no event shall regular visiting hours be extended to accommodate the visit. In the event the facility become locked down during this period, the female visitor will not be allowed to return to the visiting area.

i. The female visitor will be required to undergo additional security screening procedures prior to reentering the visiting area.

b. Visitors with disabilities.

i. Any prospective visitor who requests disability accommodations shall complete the CN 100601, Visiting Application and submit it to the facility for review and determination.

1. The visitor will be contacted by the Unit Administrator or designee regarding the special accommodation prior to having a visiting application decided upon.

ii. Any approved visitor who requires disability accommodations for the purpose of engaging in inmate visitations shall make contact with the Unit Administrator prior to visiting so that identified issues can be addressed.

1. If the approved visitor with a disability attempts to visit an inmate prior to the Unit Administrator addressing any ADA issues, then the visitor shall assume sole responsibility and understanding that their unique ADA accommodation may not be addressed or permitted during that specific visit.

iii. The Unit Administrator may consult with the departmental ADA coordinator to collaboratively address the identified issues.

1. If the requested ADA accommodation is able to be accommodated and does not jeopardize the safety and security of the institution, then the Unit Administrator or designee shall contact the visitor and schedule the visit.

2. However, if the requested ADA accommodation is unable to be accommodated and/or the requested accommodation may have impact to

the safety and security of the institution, the Unit Administrator or designee shall provide the visitor in writing the determination of this request.

c. Space. Each facility shall provide an area for visits which permits supervision consistent with the facility's security level. If available, space shall be provided for the storage of a visitor's coat, handbag, or any other personal item not permitted in the visiting area. The Department shall assume no responsibility for items stored at, or brought into, the facility. A sign notifying visitors of these conditions shall be posted in the visiting area.

d. Outdoor Visit. A Unit Administrator may, where space allows, provide outdoor visits at facilities with a security level of level 4 and below.

e. Visitor Information. Except as exempted in writing by the Deputy Commissioner of Operations and Rehabilitative Services, each contact visiting room shall provide pamphlets outlining facility programs, visiting rules and public/assisted transportation.

10. Applicability to Inmates under 18 years of age.

a. The provisions of this Administrative Directive may be changed on a facility-specific basis to accommodate the management of inmates under the age of 18 as deemed appropriate by the Unit Administrator.

11. Forms and Attachments. The following forms and attachments are applicable to this Administrative Directive and shall be utilized for the intended function:

a. CN 100601, Visiting Application;
b. CN 100602, Visiting List;
c. CN 100603, Visitor Search Consent Form;
d. CN 100604, Privileged Visitor Tablet/Laptop Policy and Agreement;
e. CN 100606, Request for Contact or Video Visit Suspension;
f. Attachment A, Inmate Visiting Rules;
g. Attachment B, Security Requirements to Gain Access to a Correctional Institution; and,
h. Attachment C, Visitor Search Procedures.

12. Exceptions. Any exceptions to the procedures in this Administrative Directive shall require prior written approval from the Commissioner of Correction.

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

JUSTIN C. MUSTAFA,
Plaintiff,

v.

CHRISTOPHER BYARS,
Defendant.

No. 3:19-cv-1780 (VAB)

RULING AND ORDER ON MOTION FOR DISCLOSURE

Justin Mustafa ("Plaintiff"), an individual formerly incarcerated at Garner Correctional Institution ("Garner") in the custody of the Department of Correction ("DOC") sued Correction Officer Christopher Byars ("Defendant") under 42 U.S.C. § 1983 for excessive force and assault under Connecticut state law.[1]

After a four-day trial, a jury found that Officer Byars violated Mr. Mustafa's Eight Amendment rights through use of excessive force and subjected Mr. Mustafa to assault.

After the conclusion of trial, the ACLU of Connecticut ("ACLU") moved to intervene to obtain copies of video exhibits played in open court during trial. Emergency Motion to Intervene for Immediate Disclosure of Judicial Documents, ECF No. 137 (Dec. 16, 2024) ("Mot.").

For the following reasons, the ACLU's motion for disclosure is **GRANTED** in part and **DENIED** in part.

The parties are ordered to allow the ACLU to view the requested exhibits, Pla-1, Pla-1-a, Def-H, Def-I, Def-J, and Def-K, in a reasonable manner consistent with this Ruling and Order no later than **March 31, 2025**.

[1] Mr. Mustafa also brought a claim under Section 1983 for deliberate indifference to his medical needs. The jury, however, did not find that Officer Byars demonstrated deliberate indifference to Mr. Mustafa's serious medical needs.

I. FACTUAL AND PROCEDURAL BACKGROUND

A. Factual Allegations

On May 25, 2019, Mr. Mustafa alleges that Officer Byars stabbed his hand with a key while Mr. Mustafa held his hand and arm over a food trap door in his cell in the Foxtrot Unit, a restrictive housing unit at Garner.

At trial on September 30, 2024, the Defendant played various video exhibits depicting the Foxtrot Unit, a restrictive housing unit, and other areas of Garner on May 25, 2019.

The videos shown at trial did not depict the use of force that formed the basis of Mr. Mustafa's claims. *See* Sept. 30, 2024 Tr. at 52, ECF No. 124 (Q: . . . The video we just saw as Exhibit 1, did it depict the interaction that you and Justin had at the cell? A. Only from my end. Q. We can't see in the video what actually happened with respect to his hands and your hands and, you know, what happened with the trap; is that fair? A. Correct. Q. Are you aware of any other video that does depict his hand and yours striking him in his hand? A. No.).

All of the videos were admitted through the parties' agreement, and none were submitted under seal.

B. Procedural History

The trial occurred from September 30, 2024, to October 3, 2024. Min. Entry, ECF No. 107 (Sept. 30, 2024); Min. Entry, ECF No. 108 (Oct. 1, 2024); Min. Entry, ECF No. 109 (Oct. 2, 2024); Min. Entry, ECF No. 110 (Oct. 3, 2024).

On October 3, 2024, the jury returned a verdict for the Plaintiff as to Plaintiff's excessive force and state law assault claims, and for the Defendant as to Plaintiff's deliberate indifference claim. Jury Verdict, ECF No. 111.

On October 21, 2024, the Court entered judgment in favor of the Plaintiff. Judgement, ECF No. 117.

On November 14, 2024, the ACLU requested copies of the video exhibits played at trial from the Clerk of Court's office, who informed the ACLU that the exhibits had been returned to the parties. Decl. of Dan Barrett, ECF No. 137-1 (Dec. 16, 2024) at ¶ 2.

On November 18, 2024, the ACLU spoke to a supervisor at the Clerk of Court's Office who informed the ACLU that it would investigate and return their call. *Id.* at ¶ 4–5.

On November 22, 2024, the ACLU again contacted the Clerk of Court's Office and left a voicemail message regarding its request. *Id.* at 6–7.

On December 4, 2024, the ACLU submitted a letter to Chief Judge Micheal P. Shea requesting copies of video exhibits played at trial. *See* Order, ECF No. 135 (Dec. 9, 2024).

On December 9, 2024, the Court ordered the parties to file responses outlining their positions by January 10, 2025. *Id.*

On December 16, 2024, the ACLU filed an emergency motion to intervene and for immediate disclosure of the requested exhibits. Mot.

On December 17, 2024, the Court ordered an expedited briefing schedule for the emergency motion. Order, ECF No. 140 (Dec. 17, 2024).

On December 18, 2024, Mr. Mustafa took no position with respect to the ACLU's request. Resp. re Emergency Mot., ECF No. 141 (Dec. 18, 2024).

On December 20, 2024, the Defendant objected to the ACLU's motion to intervene and request to obtain video exhibits. Obj. re Emergency Mot., ECF No. 142 (Dec. 20, 2024) ("Obj.").

On December 23, 2024, the ACLU submitted a reply. Reply, ECF No. 143 (Dec. 23, 2024) ("Reply").

On December 24, 2024, the Court granted the ACLU's motion to intervene, and took the remainder of the motion for immediate disclosure under advisement until the Defendant supplemented its current response. Order, ECF No. 144 (Dec. 24, 2024).

On January 10, 2025, the Defendant filed a supplemental response to the ACLU's motion. Second Obj. re Emergency Mot., ECF No. 152 (Jan. 10, 2025) ("First Supp. Obj.").

On January 13, 2025, the Court held a hearing on the ACLU's motion for disclosure and ordered supplemental briefing. Min. Entry, ECF No. 155 (Jan. 13, 2025).

On January 20, 2025, the Defendant submitted a supplemental response to the ACLU's motion for disclosure. Response re Motion Hearing, ECF No. 157 (Jan. 20, 2025) ("Second Supp. Obj.").

On January 21, 2025, the Defendant submitted an affidavit from William Mulligan, the Deputy Commissioner for Operations and Rehabilitative Services for DOC. Affidavit, ECF No. 158 (Jan. 21, 2025) ("Mulligan Decl.").

On January 27, 2025, the ACLU submitted a reply to the Defendant's supplemental response. Response, ECF No. 160 (Jan. 27, 2025) ("Supplemental Reply")

II. STANDARD OF REVIEW

A. Common Law Right of Access to Judicial Documents

"The common law right of public access to judicial documents is firmly rooted in our nation's history." *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119 (2d Cir. 2006). "The presumption of access is based on the need for federal courts, although independent—indeed, particularly because they are independent—to have a measure of accountability and for the public to have confidence in the administration of justice. . . . Without monitoring, moreover, the

public could have no confidence in the conscientiousness, reasonableness, or honesty of judicial proceedings." *Id.* (quoting *United States v. Amodeo*, 71 F.3d 1044, 1048 (2d Cir.1995)).

"Adjudicating a claim regarding the common law right of public access is a three-step process." *United States v. Akhavan*, 532 F. Supp. 3d 181, 184 (S.D.N.Y. 2021). First, "a court must first conclude that the documents at issue are indeed 'judicial documents.' . . . In order to be designated a judicial document, the item filed must be relevant to the performance of the judicial function and useful in the judicial process." *Lugosch*, 435 F.3d at 119 (citation and internal quotation marks omitted). "[T]he common law right to inspect and copy judicial records applies to *any* item entered into evidence at a public session of a trial, excluding only those items entered under seal." *Application of CBS, Inc.*, 828 F.2d 958, 959 (2d Cir. 1987) (emphasis in original) (citation and internal quotation marks omitted).

Second, the court "must determine the weight of [the] presumption [of access]." *Lugosch*, 435 F.3d at 119. In so doing, the court should consider "the role of the material at issue in the exercise of Article III judicial power and the resultant value of such information to those monitoring the federal courts. Generally, the information will fall somewhere on a continuum from matters that directly affect an adjudication to matters that come within a court's purview solely to insure their irrelevance." *Id.* (citing *Amodeo*, 71 F.3d at 1049).

Third, "the court must 'balance competing considerations against [the weight of the presumption of access].'" *Id.* (citing *Amodeo*, 71 F.3d at 1050). "Such countervailing factors include but are not limited to 'the danger of impairing law enforcement or judicial efficiency' and 'the privacy interests of those resisting disclosure.'" *Id.* (citing *Amodeo*, 71 F.3d at 1050). For example, the Second Circuit has recognized certain privacy concerns unique to video evidence that may be widely disseminated on the internet. *Mirlis v. Greer*, 952 F.3d 51, 56 (2d

Cir. 2020) ("[T]he District Court undervalued the weight properly accorded the intense intrusion on Hack's privacy interests that the internet publication of the video excerpts would effect. Today, unlike in the era of our decision in *CBS*, videos of all types are routinely and widely shared on the Internet, where (as far as we can predict now) it appears they will be available in perpetuity for unlimited viewing, further dissemination, and easy manipulation; their subjects are unable to escape them.").

B. First Amendment Right of Access to Judicial Documents

"In addition to the common law right of access, it is well established that the public and the press have a 'qualified First Amendment right to attend judicial proceedings and to access certain judicial documents.'" *Lugosch*, 435 F.3d at 120 (quoting *Hartford Courant Co. v. Pellegrino*, 380 F.3d 83, 91 (2d Cir.2004)). The Second Circuit has "concluded that the First Amendment guarantees a qualified right of access not only to criminal but also to civil trials and to their related proceedings and records." *New York C.L. Union v. New York City Transit Auth.*, 684 F.3d 286, 298 (2d Cir. 2012).

The Second Circuit has "applied two different approaches when deciding whether the First Amendment right applies to particular material." *Newsday LLC v. Cnty. of Nassau*, 730 F.3d 156, 164 (2d Cir. 2013). Under the "experience-and-logic" approach, "[which] applies to both judicial proceedings *and* documents," the court must "ask[] 'both whether the documents have historically been open to the press and general public and whether public access plays a significant positive role in the functioning of the particular process in question.'" *Id.* (quoting *Lugosch*, 435 F.3d at 120) (emphasis in original). "The second approach—which [courts] adopt only when analyzing judicial documents related to judicial proceedings covered by the First Amendment right—asks whether the documents at issue 'are derived from or are a necessary

corollary of the capacity to attend the relevant proceedings.'" *Id.* (quoting *Lugosch*, 435 F.3d at 120).

"Documents to which the public has a qualified right of access may be sealed only if 'specific, on the record findings are made demonstrating that closure is essential to preserve higher values and is narrowly tailored to serve that interest.'" *United States v. Aref*, 533 F.3d 72, 82 (2d Cir. 2008) (quoting *Press-Enterprise Co. v. Superior Court of California for Riverside County*, 478 U.S. 1, 13–14 (1986)). "Broad and general findings by the trial court, however, are not sufficient to justify closure." *Lugosch*, 435 F.3d at 120 (quoting *In re New York Times Co.*, 828 F.2d 110, 113 (2d Cir.1987)).

III. DISCUSSION

The ACLU argues that because the exhibits it seeks access to were played in open court and not sealed, they are entitled to access to the videos under both the common law and First Amendment.[2] Mot.

In response, the Defendant argues that the ACLU's request is untimely and that the Court lacks jurisdiction over the ACLU's motion to intervene. Obj. at 3; Supp. Obj. at 2–8. The Defendant further argues that because the videos depict the inside of the restrictive housing unit of Garner, the disclosure of the video to the public would implicate serious safety and security concerns. Obj. at 6; *see also* First Supp. Obj. at 9–11.

The Court will first address the procedural arguments, and then addresses the merits of the motion for disclosure of the video exhibits shown at trial.

[2] The ACLU seeks access to Plaintiff's Exhibits 1 and 1a and Defendant's Exhibits H, I, J, and K.

A. The Procedural Arguments

Rule 24 of the Federal Rules of Civil Procedure states: "[o]n timely motion, the court must permit anyone to intervene who" either:

> (a) . . . (1) is given an unconditional right to intervene by a federal statute; or (2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest. [or]
>
> (b) (1) . . . (A) is given a conditional right to intervene by a federal statute; or (B) has a claim or defense that shares with the main action a common question of law or fact.
>
> Fed. R. Civ. P. 24(a)–(b).

"[T]he determination of the timeliness of a motion to intervene is within the discretion of the district court, 'evaluated against the totality of the circumstances before the court.'" *D'Amato v. Deutsche Bank*, 236 F.3d 78, 84 (2d Cir. 2001) (quoting *Farmland Dairies v. Comm'r of the N.Y. State Dep't of Agric. and Markets*, 847 F.2d 1038, 1043–44 (2d Cir.1988)); *see also Dow Jones & Co. v. U.S. Dep't of Just.*, 161 F.R.D. 247, 251 (S.D.N.Y. 1995) ("Courts have not imposed a hard and fast rule defining timeliness under Rule 24(a), preferring instead, as discussed above, that the ruling be based on all the circumstances of the case.") "Circumstances considered in this determination include: '(1) how long the applicant had notice of the interest before [he] made the motion to intervene; (2) prejudice to existing parties resulting from any delay; (3) prejudice to the applicant if the motion is denied; and (4) any unusual circumstances militating for or against a finding of timeliness.'" *D'Amato*, 236 F.3d at 84 (quoting *United States v. Pitney Bowes, Inc.*, 25 F.3d 66, 70 (2d Cir.1994)) (alterations in original).

The Defendant argues that the Court lacks jurisdiction over the ACLU's motion for disclosure because (1) there is no case or controversy, as the case has proceeded to final judgment, (2) the Defendant does not possess or control the videos, which belong to DOC, and

(3) the Eleventh Amendment bars the relief as the State of Connecticut and its agencies are the real parties in interest. Supp. Obj. at 2–8. The Defendant also argues that the ACLU's request is untimely because it failed to make a request within 30 days of trial, the timeframe in which the Court maintains custody of trial exhibits. Obj. at 3.

The Court disagrees.

First, the Court has jurisdiction over this matter. As the Court stated in its previous Order,

> [T]he ACLU has satisfied the standards set forth for mandatory intervention, having shown through the filing of a "timely motion," Fed.R.Civ.P.24(a), "an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties represent that interest." *Id.*; *Catanzano v. Wing*, 103 F.3d 223, 232 (2d Cir. 1996) ("In order to intervene as of right under Fed.R.Civ.P. 24(a)(2), an applicant must (1) timely file an application, (2) show an interest in the action, (3) demonstrate that the interest may be impaired by the disposition of the action, and (4) show that the interest is not protected adequately by the parties to the action. Failure to satisfy any one of these requirements is a sufficient ground to deny the application." (citation omitted)). In any event, even if mandatory intervention is not appropriate, at a minimum, permissive intervention would be because of the "claim," Fed. R. Civ. P. 24(b), made here, regarding the relevant documents. Accordingly, the ACLU is permitted to intervene in this case.
>
> Order, ECF No. 144.

As to the Defendant's arguments that he does not possess the video exhibits and the real party in interest is the DOC, these arguments lack merit. Under this District's Local Rules, parties are required to retain trial exhibits "until final determination of the action, including the date when the mandate of the final reviewing court has been filed or until the time for appeal has expired." D. Conn. L. Civ. R. 83.6. As discussed above, at the time the ACLU filed its motion, the Defendant's motion for a new trial was pending, and the case had not yet reached a final determination. As a result, the video exhibits remained in the custody and control of the Defendant, irrespective of whether the videos—which the Defendant introduced and relied upon at trial—were "on loan" from the DOC.

The ACLU also timely filed its motion, having filed it while the Defendant's motion for a new trial was still pending, *see* Mot. for a New Trial, ECF No. 120 (Oct. 31, 2024), and before the parties had reached a settlement agreement resolving the case, *see* Minute Entry, ECF No. 147. In addition, the ACLU contacted the Clerk of Court's Office to obtain the video evidence approximately forty-two days after the jury returned a verdict, and less than a month after the Clerk of Court entered judgment in favor of the Plaintiff. Considering the ACLU's prompt request for the video exhibits after the close of trial, and the parties' ongoing motions and settlement discussions at the time the ACLU filed its motion to intervene, there is no legitimate issue with respect to timeliness.

Accordingly, the ACLU timely filed its motion and the Court has jurisdiction over this aspect of the case.

B. Access to Video Exhibits at Trial

The right of access under either the common law or the First Amendment is not absolute. *United States v. Suarez*, 880 F.2d 626, 631 (2d Cir. 1989) ("The right of access, . . . , is a qualified one; it is not absolute."); *United States v. Giordano*, 158 F. Supp. 2d 242, 244 (D. Conn. 2001) ("There is also no question that the public's and the media's right of access is not absolute."). Nor is immediate disclosure mandated once the presumption of access attaches. *See United States v. Park*, 619 F. Supp. 2d 89, 93 (S.D.N.Y. 2009) ("The applicability of the First Amendment, however, is not dispositive. If the right of access applies, the proceedings or documents are not automatically made public."). Rather, under the common law, there must be a "balance [of] competing considerations" such as "'the danger of impairing law enforcement or judicial efficiency'" and "'the privacy interests of those resisting disclosure.'" *Lugosch*, 435 F.3d at 120 (citations omitted). And, under the First Amendment, there must be consideration as to

whether "disclosure is essential to preserve higher values and is narrowly tailored to serve that interest." *Id.* (citation and internal quotation marks omitted).

The ACLU argues that "[t]he exhibits at issue here were played in open court, and are therefore judicial documents to which the public has the strongest right of access." Mot. at 6. The ACLU further argues that because the videos have not been sealed "in whole or part, and no party has so much as *asked* the Court to do so" it is entitled to immediate access. Mot. at 9 (emphasis in original) (quoting *United States v. All Funds on Deposit at Wells Fargo Bank in San Francisco, California, in Acct. No. 7986104185*, 643 F. Supp. 2d 577, 585 (S.D.N.Y. 2009) ("The Court is required to order disclosure absent compelling reasons to deny access and even then must employ the least restrictive possible means of doing so.")).

In response, the Defendant argues that the parties retained the videos subject to a protective order "given the obvious safety and security concerns that come with videos depicting the insides of prisons." Obj. at 4. The Defendant argues that because the videos "show the inside of the Garner prison, [and] its restrictive housing unit" and "include[s] showing where blind spots are located," and "the layout of the prison facility as people walk through different parts of Garner" there are safety and security concerns with the disclosure of the video exhibits to the public. Obj. at 6; *see also* First Supp. Obj. at 9–11 (detailing specific aspects of prison processes and layouts, and individual privacy concerns depicted in video exhibits).

In his second supplemental objection, the Defendant argues that "the risk and potential injury are serious" in this case, given "the concern of the internet era [] that once a video is posted on the internet . . ., it is permanent." Second Supp. Obj. at 4–5 (citing *Mirlis*, 952 F.3d at 65). The Defendant argues that the videos should either be sealed, or the ACLU should only be allowed access to them in a supervised setting. *Id.* at 5.

In reply, the ACLU argues that the Defendant fails to meet his burden in showing that the common law and First Amendment right of public access has been overcome. The ACLU argues that the protective order between the parties does not account for the right of public access to documents actually introduced at trial. Reply at 4. The ACLU also argues that the Defendant "'greatly diminished' any sealing interests by playing the videos for the public at trial." *Id.* at 6 (quoting *Olson v. Major League Baseball*, 29 F.4th 59, 91–92 (2d Cir. 2022)).

In its supplemental response, the ACLU further argues that the Second Circuit's decision in "*Mirlis v. Greer* was purely a common law access dispute, with no party 'rely[ing] on a constitutional analysis in support of its position' and the Court of Appeals therefore applying only the common law." Supp. Reply at 1 (quoting *Mirlis*, 952 F.3d at 59 n.5). The ACLU contends that sealing the videos "fails narrow tailoring because (1) less-restrictive means of preventing incarcerated people from seeing the trial exhibits exist, and, (2) restricting the public's access to the exhibits is a wildly overinclusive way of preventing incarcerated people from seeing them." Supp. Reply at 2–3.

In particular, the ACLU argues that "DOC has no interest in barring the world from seeing on video what incarcerated people can already see daily, it has failed to show that the six year-old information is not stale, and it has not demonstrated that the videos depict occurrences that were private in intensely personal subject matter as distinct from merely having transpired behind the necessarily closed doors of a prison." Supp. Reply at 11.

The Court disagrees, at least in part.

The exhibits at issue here, which were not sealed (nor were efforts made to seal them before trial), and were shown in open court at trial, are judicial documents entitled to a strong presumption of access under both the common law and the First Amendment. *See Amodeo*, 71

F.3d at 1049 ("[T]he public has an 'especially strong' right of access to evidence introduced in trials.").

Here, although the ACLU has a right to view the video exhibits shown at trial, "countervailing factors" weigh against unfettered access to these videos. The videos at issue depict the inside of the restrictive housing unit of "a Level 4, High-Security correctional facility." Mulligan Decl. ¶¶ 11, 15. Deputy Commissioner Mulligan's affidavit claims that "there are numerous blind spots that are detectable, especially for the stationary cameras in Exhibits 1, la, J, and K[,]" and "in addition to blind spots, viewing of the videos also reveals or demonstrates visibility capabilities (or lack of capabilities) that can then be used improperly or form the basis for safety or security risks." *Id.* ¶ 15. He further states that Exhibits H and I "show[] the setup and other aspects of transports or preparation for transport to outside medical hospitals" and claims that "transportation to outside medical hospitals specifically have raised especially heightened concerns from a security and safety standpoint for [himself], DOC, and its officials." *Id.* ¶ 18. He concludes that "unrestricted providing of copies of the videos (Exhibits 1, 1 a, H, I, J, and K) to the [ACLU] or other groups, entities, or persons, who could then study them or post them online resulting in even further unsupervised viewing and studying of the videos-would further compound and increase the risks to DOC inmates and staff." *Id.* ¶ 23.

Courts in this Circuit have found that safety and security concerns warrant sealing videos depicting the layout and security procedures of correctional facilities. *See Boland v. Wilkins*, No. 3:18CV1958 (MPS), 2020 WL 550647, at *2 (D. Conn. Feb. 4, 2020) (granting motion to seal videos depicting the "layout of the Cheshire Correctional Institution and security procedures . . . [where] one of the videos implicates the plaintiff's medical privacy concerns." (citing *Gulley v. Semple*, No. 3:16-CV-425 (MPS), 2017 WL 1025168, at *2 (D. Conn. Mar. 16, 2017) (granting

motion to seal video where "the disclosure of the recordings to the public would reveal security procedures and the interior design of the correctional facility" so "that disclosure of this information to the public could endanger institutional safety and security")); *Virgil v. Finn*, No. 22 CIV. 3169 (CS)(JCM), 2025 WL 694450, at *5 (S.D.N.Y. Mar. 3, 2025) ("Here, the videos depict the internal layout of the prison and show several officers and inmates who are not parties to the action, thus, posing a risk to the safety and security of the prisons.").

Sealing of the videos, however, is not warranted in this case. Regardless of whether sealing might have been justified earlier in the litigation, preventing the ACLU from accessing videos provided to the public during trial—when the parties did not seek to seal the videos—would undermine the "potent and fundamental presumptive right of public access" afforded to exhibits shown at trial. *Mirlis*, 952 F.3d at 58. As a result, the ACLU must be provided the opportunity to view the requested video exhibits in a reasonable setting, and be allowed equal access to the videos as that of a member of public viewing the videos at trial. The ACLU may not, however, retain copies of the video exhibits.

This approach is not simply "sealing by a different name." Reply at 4. But, consistent with Second Circuit precedent, proper consideration of the risk of widespread dissemination of sensitive videos depicting blind spots and security protocols of a correctional facility that can be viewed by anyone, anywhere, at any time. *See Mirlis*, 952 F.3d at 61 ("[T]he Internet's rise over the last 30 years has had tremendous implications for the ease and immediacy of access to videos, as well as the permanence of those videos.").

Given that the videos requested do not depict the act of excessive force and assault that underlie Mr. Mustafa's claims, the potential benefit of the ACLU retaining copies of such videos, as opposed to merely viewing the videos, is minimal compared to the significant safety

and security risks of the "widespread and likely permanent dissemination" of sensitive videos depicting the layout and security procedures of correctional facilities. *See Mirlis*, 952 F.3d at 67 ("Only rarely will voluntary provision of sensitive evidence reasonably be understood to constitute consent to the widespread and likely permanent dissemination of a visual digital record of the formal *encounter* through which that evidence was given, when the encounter itself is not the allegedly critical act." (emphasis in original)).

While the Second Circuit's decision in *Mirlis* did not consider the First Amendment right to access, Supp. Reply at 1, its reasoning is consistent with how courts have evaluated limitations to the right to access under the First Amendment. Certainly "[t]he First Amendment demands broader *disclosure* than the common law." *In re NBC Universal, Inc.*, 426 F. Supp. 2d 49, 56 (E.D.N.Y. 2006) (emphasis in the original). "It is uncontested, however, that the right to inspect and copy judicial records is not absolute. Every court has supervisory power over its own records and files, and access has been denied where court files might have become a vehicle for improper purposes." *Nixon v. Warner Commc'ns*, Inc., 435 U.S. 589, 598 (1978) ("*Warner Communications*"); *see also In re NBC Universal, Inc.*, 426 F. Supp. 2d at 56 (citing *In re Providence J. Co., Inc.*, 293 F.3d 1, 16 (1st Cir. 2002) ("[T]he Court [in *Warner Communications*] rejected the argument that the First Amendment right of access allowed the media to obtain copies of tapes that had been entered into evidence at a criminal trial. . . . By affording interested members of the media ample opportunity to see and hear the tapes as they are played for the jury, the court has fulfilled its pertinent First Amendment obligations."); *United States v. Beckham*, 789 F.2d 401, 409 (6th Cir. 1986) ("This passage [of *Warner Communications*] indicates clearly that there is a difference between an opportunity to hear the tapes and access to the tapes themselves."). Given the security concerns discussed above,

providing the ACLU access to the exhibits equal to that afforded to members of the public in open court is sufficient to vindicate the public's right of access to exhibits shown at trial.[3] *See Warner Commc'ns, Inc.*, 435 U.S. at 610 ("The requirement of a public trial is satisfied by the opportunity of members of the public and the press to attend the trial and to report what they have observed.").[4]

Here, the videos do not show the force found to be excessive by the jury, and transcripts provide another means of obtaining relevant information contained in the videos. *See Doe v. New York Univ.*, No. 1:20-CV-1343 (MKV), 2023 WL 2609315, at *3 (S.D.N.Y. Mar. 22, 2023) ("The use of a transcript allows the public to obtain the relevant information in some form, while avoiding the very real threat to the privacy of Plaintiff, Jane, or both that making the actual videos public could cause."). In addition, the ACLU must be permitted to view the videos in their entirety, thereby allowing any relevant information not otherwise captured in the transcripts to be viewed. As a result, allowing the ACLU to view the videos, but not obtain copies of the videos, is a "narrowly tailored" means to serve the safety and security interests discussed above. *See Press-Enterprise*, 478 U.S. at 9–10 ("The presumption [of right to access] may be overcome

[3] Significantly, the ACLU relies on a number of cases which preceded, and therefore did not consider the technological advancement of the internet and the potential for widespread, permanent dissemination of video evidence containing sensitive information. *Mirlis*, 952 F.3d at 66 ("But we must also acknowledge what has changed since we decided *CBS* in 1987: The astonishing and pervasive rise of the Internet; the attendant ease with which videos may be shared worldwide by individuals; and the eternal digital life with which those videos are likely endowed by even a single display online. These are all factors that multiply and intensify the privacy costs to the individual of releasing sensitive videos; those costs are undeniably greater than what they might have been 30 years ago.")

[4] The ACLU also argues that alternate means exist for "restricting the public's access to the videos," such as the DOC's rules forbidding incarcerated people from obtaining or possessing the exhibits and criminal prohibitions on escape from or disorder within a prison. Supp. Reply at 3–9. Yet, under this standard, the result would be unfettered access to any video footage in any prison facility in nearly every case involving a correctional facility. Given the number of prison-related cases on the District of Connecticut's current docket, *see* Federal Judicial Caseload Statistics, U.S. District Courts—Civil Cases Filed, by Jurisdiction, Nature of Suit, and District (2024) (Table C-3) (reporting approximately 300 cases filed by prisoners regarding prison conditions and civil rights during the 12-month period ending March 31, 2024 in the District of Connecticut), and the various issues raised in them, it is not clear what aspects of a correctional facility, if any, would not be subject to constant public view.

only by an overriding interest based on findings that closure is essential to preserve higher values and is narrowly tailored to serve that interest. The interest is to be articulated along with findings specific enough that a reviewing court can determine whether the closure order was properly entered." (citation omitted)); *New York C.L. Union*, 684 F.3d at 296 ("[T]he First Amendment right of access . . . does not foreclose the possibility of *ever* excluding the public. What offends the First Amendment is the attempt to do so without sufficient justification." (emphasis in original)).

Accordingly, while the First Amendment and common law right to access require that the ACLU be afforded an opportunity to view the video exhibits in a manner equal to that of a member of the public viewing the exhibits at trial, copies of the video exhibits for permanent retention and unfettered use need not be provided due to the safety and security concerns related to the operation of a correctional facility.

IV. CONCLUSION

For the foregoing reasons, the ACLU's motion for disclosure is **GRANTED** in part and **DENIED** in part.

The parties are ordered to allow the ACLU to view the requested exhibits, Pla-1, Pla-1-a, Def-H, Def-I, Def-J, and Def-K, in a reasonable manner consistent with this Ruling and Order no later than **March 31, 2025**.[5]

SO ORDERED at New Haven, Connecticut, this 21st day of March, 2024.

/s/ Victor A. Bolden
VICTOR A. BOLDEN
UNITED STATES DISTRICT JUDGE

[5] Although not expressly addressed in this Ruling and Order, there is no reason that the relief afforded the ACLU herein—the viewing of exhibits Pla-1, Pla-1a, Def-H, Def-I, Def-J, and Def-K—should not also be provided to any member of the public upon timely request. *See Amodeo*, 71 F.3d at 1049 (Courts in this Circuit have "consistently held that the public has an 'especially strong' right of access to evidence introduced in trials.").

Full docket text for document 169:

ORDER denying [121] Motion to Seal ECF No. 120-5 and 120-6. Defendants' motion requests that the court seal Exhibits B and C of Defendants' Motion for Summary Judgment. (Dkt. #120-5, 120-6). However, as the defendants acknowledged during the oral argument, the videos that Defendants have filed under seal as Exhibits B and C of Defendants' Motion for Summary Judgment are largely identical to Exhibits 28-34 to Plaintiff's Motion for Summary Judgment. (Dkt. #117-28). Exhibits 28-34, which are not sealed, have been on the court docket and in the public domain since they were filed on August 18, 2023 (dkt. #117). The Defendants have never taken any action to seal Exhibits 28-34. Therefore, Defendants' motion to seal Exhibits B and C of Defendants' Motion for Summary Judgment, which are nearly identical to the videos that have been in the public domain for several months, is denied. Signed by Judge Robert A. Richardson on 3/28/2024. (Coleman, G)

JA-267

United States District Court
District of Connecticut

Justin Mustafa,
Plaintiff

No. 19-cv-1780

v.

Christopher Byars,
Defendant

Notice of Appeal

Please take notice that intervenor American Civil Liberties Union of Connecticut appeals to the United States Court of Appeals for the Second Circuit from this Court's March 21, 2025 order [ECF # 162].

/s/ Dan Barrett
Dan Barrett
Jaclyn Blickley
ACLU Foundation of Connecticut
765 Asylum Avenue
Hartford, CT 06105
(860) 471-8471
e-filings@acluct.org