



## Notice of Alleged Safety or Health Hazards

Employees or employee representatives may use this form to file a safety or health hazard complaint with the New York State Department of Labor. It is not the only means that a complaint may be registered.

Section 27a (5) (a) of the Public Employees Safety and Health Act of 1980 states:

“Any employee or representative of employees who believes that a violation of a safety or health standard exists, or that an imminent danger exists, may request an inspection by giving notice to the commissioner (of Labor) of such violation or danger.

Such notice and request shall be in writing, shall set forth with reasonable particularity the grounds for the notice, shall be signed by such employee or representative of employees, and a copy shall be provided by the commissioner to the employer or the person in charge no later than the time of inspection, except that on request of the person giving such notice, his name and the names of individual employees or representatives of employees shall be withheld. Such inspections shall be made forthwith.”

If the Commissioner of Labor determines there are no reasonable grounds to believe a violation or danger exists, you will be notified in writing.

**Note:** Section 27a (10) (a) of the Act provides explicit protection for employees exercising their rights, including making safety and health complaints.

For more information go to: [https://labor.ny.gov/workerprotection/safetyhealth/DOSH\\_PESH.shtm](https://labor.ny.gov/workerprotection/safetyhealth/DOSH_PESH.shtm).

### Instructions:

- Complete the form as accurately and completely as possible. Describe in detail each hazard you think exists.
- If there is any evidence that supports your suspicion that a hazard exists, include it in your description (for instance, a recent accident or physical symptoms of employees at your site).
- Use additional sheets of paper as needed.
- Email the completed and signed form to [ask.shnypesh@labor.ny.gov](mailto:ask.shnypesh@labor.ny.gov), or fax or mail it to the nearest Division of Safety and Health (DOSH) District Office listed below. Address it to the attention of the:

### Public Employee Safety and Health Bureau (PESH)

**Albany District Office**  
State Office Campus  
Building 12, Room 158  
Albany, New York 12240  
Phone: (518) 457-5508  
Fax: (518) 485-1150

**Binghamton District Office**  
44 Hawley Street, Room 901  
Binghamton, New York 13901  
Phone: (607) 721-8211  
Fax: (607) 721-8207

**Buffalo District Office**  
65 Court Street, Room 401  
Buffalo, New York 14202  
Phone: (716) 847-7133  
Fax: (716) 847-7108

**Garden City District Office**  
400 Oak Street, Suite 102  
Garden City, New York 11530-6551  
Phone: (516) 228-3970  
Fax: (516) 794-7714

**New York City District Office**  
75 Varick Street, 7<sup>th</sup> floor  
New York, New York 10013  
Phone: (212) 775-3554  
Fax: (212) 775-3542

**Rochester District Office**  
109 South Union Street, Room 402  
Rochester, New York 14607  
Phone: (585) 258-4570  
Fax: (585) 258-4593

**Syracuse District Office**  
450 South Salina Street, Room 202  
Syracuse, New York 13202  
Phone: (315) 479-3212  
Fax: (315) 479-3451

**Utica District Office**  
207 Genesee Street, Room 703A  
Utica, New York 13501  
Phone: (315) 793-2258  
Fax: (315) 793-2303

**White Plains District Office**  
120 Bloomingdale Road, Room 255  
White Plains, New York 10605  
Phone: (914) 997-9514  
Fax: (914) 997-9528

Official Use Only  
Complaint Number:

## Notice of Alleged Safety or Health Hazards

Establishment Name: Mid-State Correctional Facility and Marcy Correctional Facility

Site Address: Street: 9005 Old River Road and 9000 Old River Road

City: Marcy State: NY Zip: 13403

Site Phone: \_\_\_\_\_ Site Fax: \_\_\_\_\_

Mailing Address: Street: See above

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Mail Phone: \_\_\_\_\_ Mail Fax: \_\_\_\_\_

Management Official: Anthony J. Annucci, Acting Commissioner Phone: \_\_\_\_\_

Type of Business: State-operated correctional facilities

Hazard Description and Location: Describe the danger(s) which you believe exist. Be specific and give details. Include the physical location of the alleged danger. Include the street, city, state, zip in the location, the specific area inside or outside of the site, and approximate number of employees exposed to or threatened by each hazard. Use additional sheets if needed.

See attached.

This condition has been brought to the attention of:  the Employer  a Government Agency, other than the Department of Labor. Agency name: \_\_\_\_\_

Complainant's Name (Required): Bryan Hluska

Choose one:  Do NOT reveal complainant's name to the employer.

Complainant's name may be revealed to the employer.

Complainant's Home Address (Required): Street: NYSCOPBA Central Region Office - 32 Roosevelt Drive

City: Whitesboro State: NY Zip: 13492

Phone (Required): (315) 736-5541 Email: bhluska@nyscopba.org

I, the complainant signed below, believe that job safety or health hazard(s) exists at the establishment named in this form. I am:

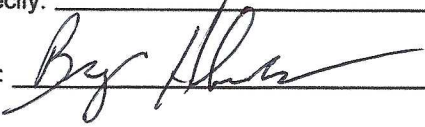
an Employee

an Employees' (Union) Representative. Please enter the name of the union or organization you represent: New York State Correctional Officers & Police Benevolent Association, Inc.

Your title: Vice President for the Central Region

a Safety and Health Committee member

Other, specify: \_\_\_\_\_

Signature (Required): 

Date: 9-24-21

**Attachment to Notice of Alleged Safety or Health Hazards  
By NYSCOPBA Vice President for the Central Region Bryan Hluska  
For Mid-State Correctional Facility and Marcy Correctional Facility**

Ongoing and frequent exposure to fentanyl at Mid-State Correctional Facility, located at 9005 Old River Road, Marcy, New York 13403, and Marcy Correctional Facility, located at 9000 Old River Road, Marcy, New York 13403 (Jointly identified as “the Correctional Facilities”), which are operated by the Department of Corrections and Community Supervision (“DOCCS”). There is inadequate protective equipment available to staff to reduce or prevent risk of harmful fentanyl exposure.

DOCCS operates fifty (50) correctional facilities within the State of New York that are charged with the care, custody, and control of incarcerated individuals. DOCCS employs several civil service titles to meet this goal, including Correction Officers and Correction Sergeants. The New York State Correctional Officers and Police Benevolent Association, Inc. (“NYSCOPBA”) represents both the Correction Officers and Correction Sergeants employed by DOCCS at its Correctional Facilities.

According to the Center for Disease Control and Prevention (“CDC”), fentanyl is a synthetic opioid that is 50-to-100 times more potent than morphine. Fentanyl is often illegally sold on the drug market and used as an additive to other illegal drugs such as cocaine and heroin. Due to fentanyl being an extremely potent opioid, there has been a dramatic increase in overdoses and deaths in the past decade. Per the CDC, there were approximately 12 times more overdose deaths from fentanyl and other synthetic opioids in 2019 than in 2013. The CDC states that harmful and lethal doses of fentanyl can be inadvertently and unwittingly absorbed into the body via inhalation, oral exposure or ingestion, or skin contact. Due to the dangers posed by fentanyl and other synthetic opioids, the Occupational Safety and Health Administration (“OSHA”) has identified “worker exposure to hazardous drugs as a problem of increasing health concern.”

Correction Officers and Correction Sergeants represented by NYSCOPBA are charged with the care, custody, and control of the incarcerated individual population. In this role, these employees are constantly in close proximity, and often direct contact, with the incarcerated population. Additionally, these employees are charged with inspecting for suspected contraband mail, documents, and packages sent to incarcerated individuals. These employees are frequently exposed to fentanyl that is smuggled into the correctional facilities when frisking mail, documents, packages, incarcerated individuals, and their living space. Correction staff are not provided with adequate equipment to protect themselves from inadvertent fentanyl exposure during these frisks.

The policies and procedures that DOCCS employs at the Correctional Facilities creates a dangerous, and potentially fatal, working environment that is devoid of the precautions necessary to protect staff members, both law enforcement and civilian, from exposure to fentanyl. Current policies and procedures lead to staff members being exposed to fentanyl without adequate Personal Protective Equipment (“PPE”). The below provides several examples of the deficiencies and unsafe policies and procedures occurring at the Correctional Facilities.

- (1) Staff members tasked with screening incoming mail are not provided with adequate PPE to protect themselves from fentanyl exposure. Letters, documents, and pieces of fabric are frequently sent via mail to the correctional facilities with liquid fentanyl dried to the material. The staff that review these letters and packages are not equipped with PPE that will protect them from exposure to fentanyl. Accordingly, staff members frequently suffer physical injuries due to fentanyl exposure, which often requires the staff member to be transported from the facility by ambulance and treated at an outside hospital.
- (2) Similarly, staff members responsible for frisking incarcerated individuals and their living spaces are not provided with adequate PPE to protect themselves from fentanyl exposure. As a result, staff come into frequent contact with fentanyl and other harmful substances that put them at risk of suffering serious injury or death.
- (3) Per the policies and procedures currently in place at the Correctional Facilities, staff are not given access to PPE equipped to safely handle fentanyl until it has already been determined that fentanyl is present, or it is suspected that fentanyl is present due to an incarcerated individual displaying symptoms of exposure to an unknown substance. Accordingly, an unprotected staff member or incarcerated individual will almost always be exposed to fentanyl before adequate PPE is utilized. Employees do not often know about the presence of fentanyl until after an exposure has already occurred and the employee has begun to suffer the effects of an overdose.
- (4) Staff are not provided with quality face masks or respirators to protect against inhalation of powdered fentanyl.
- (5) As a result, staff members do not receive hand and arm covering that provides adequate protection from exposure to fentanyl when searching the mail and packages of incarcerated individuals or performing frisks of incarcerated individuals and their living spaces.
- (6) Additionally, staff members are not provided with eyewear that provides adequate protection from exposure to fentanyl when searching the mail and packages of incarcerated individuals or performing frisks of incarcerated individuals and their living spaces.
- (7) Lastly, staff members are not provided with gowns that provide adequate protection from exposure to fentanyl when searching the mail and packages of incarcerated individuals or performing frisks of incarcerated individuals and their living spaces.

The current policies and procedures of the correctional facilities fails to protect staff members from exposure to fentanyl and other dangerous narcotics and could reasonably be expected to cause death or serious physical harm. The correctional facilities' policies and procedures must be

amended to provide staff with adequate protection from fentanyl and other dangerous narcotics whenever there is a possibility of exposure. Specifically, staff members must be provided with PPE that adequately protects the wearer from fentanyl whenever there is a possibility of exposure, including when screening incarcerated individuals' mail and when performing a frisk of an incarcerated individual or their living spaces.