



NEW YORK CITY DEPARTMENT OF CORRECTION
Cynthia Brann, Commissioner

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Jacqueline Sherman, Interim Chair
NYC Board of Correction
1 Centre Street, Room 2213
New York, NY 10007

RE: Limited Six (6) Month Variance Renewal Request to BOC Minimum Standards Section 1-16(c)(1)(ii) Regarding the Use of Enhanced Supervision Housing (ESH) for Young Adults (18 to 21 years old)

Dear Interim Chair Sherman,

Pursuant to §1-15(f) of the New York City Board of Correction's ("Board") Minimum Standards, the New York City Department of Correction ("Department") requests a six (6) month limited variance renewal from Board Minimum Standards §1-16(c)(1)(ii), which requires that young adults (ages 18-21) be excluded from placement in Enhanced Supervision Housing ("ESH"). The Department requests this renewal to take effect February 18, 2020, the date upon which the current variance is set to expire.

The Department appreciates the Board's ongoing partnership in developing a safer and more humane correctional system, which strives to reduce the negative impact of incarceration and supports positive outcomes for those leaving DOC custody. The elimination of punitive segregation for young adults and the creation of young adult ESH housing are two significant products of that partnership, and the Department's ongoing commitment to finding innovative solutions that support the individuals in our care.

Between 2012 and 2014, there were approximately 200 young adults (15% of the young adult population) in punitive segregation on any given day. Initial reforms implemented in 2015 reduced the use of punitive segregation for young adults by more than half, with only approximately 80 young adults (7% of the young adult population) in punitive segregation on any given day. In 2016, punitive segregation was eliminated for all young adults in department custody. ESH was identified as a necessary housing option in order to safely house a limited number of young adults who have engaged in violent behavior in both a structured and secure setting that managed their contact with others, but also provided for the delivery of enhanced programming, education, and services.

ESH involves a structured management approach that is informed by best practices and comprised of three levels with gradually increasing provision of services, thereby allowing for productive transitions back into general population. A young adult can only be placed in Level 1, the most restrictive level, if they have recently participated in an actual or attempted stabbing or slashing, or engaged in activity that caused serious injury to an officer, another person in custody or any other person. The Chief of the Department carefully reviews each request to house a young adult in Level 1, in order to ensure that the stringent placement criteria are met and that no other suitable housing exists for each young adult.

Level 1 affords each young adult a minimum of seven (7) hours of daily out-of-cell time and three (3) additional hours if the young adult elects to attend school, during which time a restraint desk is utilized to ensure safety. Restraint desks in Level 1 allow for the safe provision of school, programming, and socialization opportunities with peers. They further ensure young adults in Level 1 feel comfortable with their surroundings in a manner that allows them to focus on their rehabilitation and engage actively in their programming and learning. Those who have not recently engaged in violent activities are not eligible for ESH Level 1 and therefore, may be considered for direct placement into ESH Level 2, based on the criteria set forth in the Minimum Standards under 1-16(b). Levels 2 and 3 do not utilize the restraint desk during lock-out time. The desks are retained for use with the young adult population exclusively in the immediacy following a young adult's participation in an egregiously violent act, and only until it can be verified that the recent threat posed by the individual's behavior has subsided.

On a regular basis, each individual's progress through the level system is reviewed by a multidisciplinary review team comprised of uniformed staff, social service providers, and program staff. The young adult himself is also engaged in meaningful discussion regarding his behavior and the underlying causes of his behavior during the review process. Based on the team's assessment of the young adult's behavior during the review period and engagement during the review process, the young adult may be recommended to advance, to regress, or to stay at the same level until the next review. Reviews in Level 1 are conducted every fifteen (15) days, while reviews for individuals in Level 2 and 3 are conducted every twenty-one (21) days. The review determination periods are responsive to the unique needs of individuals in each level and informed by behavioral research and best practices. Each review conducted by the multidisciplinary review team is shared with the individual in custody and includes justification for advancement, regression, or no advancement.

The average daily population in ESH has steadily declined during the Department's operation of the unit structure.¹ In 2019, there were approximately nineteen (19) young adults in ESH on any given day, with three (3) young adults in ESH Level 1. As of January 21, 2020, there were fourteen (14) young adults housed in ESH and no young adults in ESH Level 1. In 2019, there were one hundred-twenty-six (126) new young adult placements in ESH. Of those one hundred-twenty six (126) young adult placements, thirty-seven (37) were placements in Level 1 based on a recent qualifying event: thirty-one (31) based primarily on a slashing or stabbing and six (6) based primarily on an assault on a staff member or another person in DOC custody. Eighty-nine (89) young adult placements were made in ESH Level 2 based on a qualifying event occurring within the last year, such as a slashing or stabbing, possession of a dangerous article, or an assault on a staff member or another person in DOC custody. The Department's declining young adult ESH population demonstrates the Department's commitment to utilizing the housing setting only when necessary and only when precipitated by egregiously violent or persistently violent acts. While the population has declined, the Department continues to need ESH in order to ensure the safety of young adults who cannot be safely housed in specialized general population housing, such as TRU or Second Chance, or alternative young adult housing, such as the Secure Unit.

ESH is not only a critically important tool for maintaining safety in DOC facilities, it also provides particularly challenged and challenging individuals in the Department's care with targeted programming and educational services. While in ESH, young adults participate in programming designed to increase prosocial behavior by fostering rehabilitation, addressing the core causes of violence, and minimizing idleness. Programming includes, but is not limited to, dialectical behavioral therapy, leadership development, and interpersonal skill development.

To further bolster programming in ESH, the Department's Division of Programs and Community Partnerships recently engaged a number of new service providers. Since May 2019, the Department has

¹ In 2017 the ADP for young adults in ESH was 33 with 11 young adults in Level 1 on any given day. In 2018 the numbers reduced to 24 and 7, respectively. These figures have been updated due to improved reporting, as communicated to the Board staff.

partnered with community-based service providers such as Elite Learners, The Foundation for the Advancement and Rehabilitation of the Marginalized (FARM), and Society of Illustrators. Through these important partnerships, young adults in ESH receive targeted programming that ranges from mentorship focused on anger management, conflict resolution, and peer mediation, to art programs on art history and the creation of young adults' personal stories through illustrations.

In addition to the evidence-based program offerings, the East River Academy continues to provide educational services to the young adults housed in ESH. As more thoroughly outlined in the Department's October 2018 and February 2019 Young Adult Plan Updates, the Department remains resolute in our commitment to provide opportunities for education to the young adults in our custody. In order to enhance the facilitation of educational courses for young adults in ESH, the Department opened a second YA ESH classroom area at the beginning of 2019. Also during this time, the Department began providing a separate school session for Young adults in Levels 2 and 3, which does not include young adults from Level 1. This change eliminated the need to utilize restraint desks for young adults in Levels 2 and 3 during school. During the current school year (July 2019 through January 13, 2020), two (2) young adults earned a high school equivalency degree while housed in ESH.

Since the inception of ESH, its operations and overall structure has continued to evolve with the Board's support. Significant changes have included narrowed placement criteria, more frequent reviews, and the presence and participation of the young adult in their periodic reviews. These changes have fostered a culture of fairness and transparency and have ensured that the housing areas are only used when and with whom they are truly necessary. The Department appreciates the Board's ongoing partnership in the evolution of this program and its consideration of this six (6) month limited variance renewal request to permit the continued use of ESH for young adults (18 to 21 years-old). We look forward to continuing to work with the Board in order to ensure safe housing options are incorporated into the Board's proposed restrictive housing rulemaking and to ensure safe and appropriate housing for everyone in the Department's care.

Sincerely,



Cynthia Brann

cc: Margaret Egan, Executive Director