



Stanley Brezenoff, Chair
Derrick D. Cephas, Vice Chair
Gerard W. Bryant, Ph.D.
Robert L. Cohen, M.D.
Hon. Bryanne Hamill
Jennifer Jones Austin
Michael J. Regan
Stanley Richards
Steven M. Safyer, M.D.

BOARD OF CORRECTION
CITY OF NEW YORK
1 CENTRE STREET, RM 2213
NEW YORK, NY 10007
212 669-7900 (Office)
212 669-7980 (Fax)

Martha W. King
Executive Director

Record of Variance Action

On July 12, 2016 the NYC Board of Correction voted to approve the Department of Correction's request for a limited variance from BOC Minimum Standard § 1-17(b)(1)(ii).

This variance allows the Department a three-month extension of time, commencing on July 12, 2016 and ending on October 11, 2016, to exclude inmates ages 19 through 21 ("young adults") from punitive segregation.

Type of Variance: Limited

Date on which variance will commence: July 12, 2016

Time period, if any: Three months, ending October 11, 2016

Minimum Standard for which Variance is Granted: 1-17(b)(1)(ii)

Date on which Board of Correction first approved variance (for renewals only):

Requirements imposed as conditions on variance:

1. By 5:00 p.m. on July 13, 2016, the Department shall review each young adult held in punitive segregation and shall transfer to alternative housing units those who are in punitive segregation for infractions other than infractions for (a) a slashing or stabbing of staff or other assault on staff that causes staff to suffer one or more serious injuries; or (b) a slashing or stabbing of another inmate.
2. During the pendency of this Variance, each request for approval of a sentence to punitive segregation must be in writing and specify the reason why a less restrictive housing setting is not a safe option. The Chief of Department must also specify his reason for approving the request. The request for approval and the Chief's approval thereof shall be sent immediately to the inmate who is the subject of the request, NYC Health + Hospitals ("H+H") and the Board.
3. During the pendency of this Variance, a young adult shall not be held in punitive segregation for more than thirty (30) consecutive days nor held in punitive segregation for more than a total of sixty (60) days within any six (6) month period. A young adult who has served thirty

(30) consecutive days in punitive segregation shall be released from punitive segregation for at least seven (7) days before that inmate can be returned to punitive segregation.

4. During the pendency of this Variance, whenever fifteen (15) consecutive days of a young adult's time served in punitive segregation has elapsed, the Chief of Department shall complete a review of the inmate's time served on the fifteenth (15th) day to determine whether the inmate can be safely placed in an alternative housing unit for the remainder of the sentence the inmate is serving. The decision and the reasoning supporting it shall be stated in writing and immediately sent to the inmate, the Board and H+H.
5. During the pendency of this Variance, the Department shall provide the Board with a weekly, public report of implementation of the foregoing conditions, which shall include the following information:
 - (a) The daily number of young adults held in punitive segregation, Secure Unit, SCH, TRU and ESH, and the number of young adults released from each of these housing units;
 - (b) For each punitive segregation sentence, the rule violation alleged; whether the sentence was approved or disapproved by the Chief of Department; and the type of housing unit in which the inmate was housed at the time of alleged rule violation (e.g., GP, SCH, TRU, Secure, ESH);
 - (c) For each punitive segregation sentence the Chief of Department reviewed fifteen (15) days after commencement, whether an inmate was placed in an alternative housing unit for the remainder of the sentence and, if so, where;
 - (d) For each young adult released from punitive segregation at the end of his full sentence, the housing unit (e.g., GP, SCH, TRU, Secure, ESH) into which he was transferred;
 - (e) The daily number of young adults in punitive segregation who were offered two hours of recreation and the daily number of such inmates who accepted two hours of recreation;
 - (f) The daily number of young adults in punitive segregation who were offered three hours of recreation and the number of such inmates who accepted three hours of recreation;
 - (g) The daily number of young adults in punitive segregation who were offered 2.5 hours of programming and the number of such inmates who accepted such programming¹;
 - (h) The daily summary of young adults in punitive segregation who were offered four hours of out-of-cell time and the number of such inmates who accepted the four hours of out-of-cell time²;
 - (i) A weekly young adult census showing in which housing units and jails young adults are housed;
 - (j) A weekly summary of young adults in TRU, SCH, Secure Unit or ESH (collectively, "PS alternatives"). The summary shall include:
 - (1) The number and percentage of young adults in PS alternatives who had a previous placement(s) in TRU, SCH, or the Secure Unit followed by a placement in General Population (GP) housing or any housing other than a step-down from TRU or Secure Unit during their current incarceration.
 - (2) The number and percentage of young adults in each PS alternative or in punitive segregation who received a timely case review and a timely determination as to whether they would remain or be transferred out. Timeliness is determined by the periodicity of reviews and determinations set forth in the relevant Department directive or draft directive; and
 - (3) The number and percentage of young adults transferred from each PS alternative following a case review; and

¹ The Department's variance request noted that it will "phase in" the programming.

² The Department will begin to offer these four hours of out-of-cell time within 30 days.

- (k) A plan and timeline detailing steps and benchmarks necessary to end punitive segregation for young adults.

The Department shall provide the Board with its first weekly report by July 19, 2016 and shall provide a weekly report thereafter on the second business day of the following week.

6. On a weekly basis, the Department shall provide to the Board notification and review paperwork for young adults admitted to TRU, SCH, Secure Unit or ESH.
7. By September 6, 2016, the Department shall report to the Board, in writing, whether DOC is on track to end punitive segregation for young adults by October 11, 2016 and the benchmarks it has met and may still need to meet in order to end punitive segregation.
8. All young adults confined in punitive segregation will be provided with the option to lock out for at least four hours per day in an adequately sized area of the housing block. The Department will begin to offer these four hours of out-of-cell time within 30 days. Once the Department's planned programming for young adults in punitive segregation begins, these four hours will include the 2.5 hours of programming.