



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 May 10, 2016, the NYC Board of Correction voted to approve the Department of Correction's request for a limited variance from BOC Minimum Standard § 1-05(b) (requiring a minimum out-of-cell time of 14 hours per day), and § 1-08(f) (requiring access to the law library).

This allows the Department a variance for six-months, commencing on May 10, 2016, during which it may provide young adults (ages 18 through 21) housed in Secure Units with a minimum lock-out time of ten (10) hours per day and access to law library services by means of a law library kiosk and typewriters in the Secure Units.

Type of Variance: Limited

Date on which variance will commence: May 10, 2016

Time period, if any: Six months, ending November 10, 2016

Minimum Standard for which Variance is Granted: § 1-05(b) and § 1-08(f)

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

Requirements imposed as conditions on variance:

1. During the pendency of this Variance, the Department shall (a) provide all young adults housed in Secure Units with a minimum out-of-cell time of ten (10) hours per day, except for instances of de-escalation the parameters of which shall be set forth in the Department's written directive concerning Secure Units ("Directive"); (b) provide all young adults with due process in connection with their placement in Secure Units; and (c) exclude all young adults with serious mental or serious physical disabilities or conditions from placement in Secure Units.
2. During the pendency of this Variance and before the assignment of any young adults to Secure Units, the Department shall provide the Board of Correction with a Directive, which shall include a detailed description of:

- (a) The specific due process protections that each young adult will be provided in connection with his placement in a Secure Unit (e.g., written notice stating reasons for placement, a hearing, ability to submit a written statement, call witnesses and present evidence, hearing facilitator if necessary, burden of proof, written decision, post-transfer periodic review with advance notice of review and ability to submit written statement);
 - (b) Admission criteria, including the specific role that the Correctional Health Authority will play in the initial placement and periodic review process and the categories of young adults who will be excluded from Secure Units;
 - (c) Staffing (e.g., staffing ratios, steady posts, staff positions; specialized staff training);
 - (d) Security procedures (e.g., use of enhanced restraints);
 - (e) De-escalation parameters;
 - (f) The treatment of a young adult's owed punitive segregation time upon entering a Secure Unit;
 - (g) Mandated and other services (including recreation, sick call and other health care/mental health care services), phone calls, visits, law library, education, commissary) and limitations on accessing them (e.g., whether recreation will be congregate or in individual cages; whether educational instruction will be provided in classroom or in cell);
 - (h) Therapeutic and other programming; and
 - (i) Description of privileges that can be earned.
3. During the pendency of this Variance, the Department shall provide the Board with a monthly written assessment of its operation of Secure Units, which shall include the following information:
- (a) The housing units from which young adults were transferred to Secure Units and the number transferred from each such unit;
 - (b) The number of young adults in Secure Units' Phase I, Phase II and Phase III and the minimum, maximum, median and average length of stay in each Phase;
 - (c) Number of young adults participating in each therapeutic or other program;
 - (d) The number of young adults who subsequently were released into Second Chance, Transitional Restorative Unit (TRU), or other housing unit and the number released into each such unit;
 - (e) The number of young adults who challenged their initial placement in a Secure Unit and the number who were subsequently placed elsewhere;
 - (f) The number of young adults who received a periodic review and the number who were released from a Secure Unit as a result of such review.
 - (g) The number of young adults in Secure Units who were placed in de-escalation areas, including the minimum, maximum, median and average length of time in such areas;
 - (h) The rates of violence in Secure Units and the young adult general population since implementation of Secure Units;
 - (i) The rates of use of force in Secure Units and the young adult general population since implementation of Secure Units; and
 - (j) The rates of acts of self-harm in Secure Units and the young adult general population since implementation of Secure Units.

The Department shall provide the Board with its first monthly assessment by August 10, 2016 and shall provide an assessment for each month thereafter on the tenth business day of the following month. In the event the Department experiences difficulty in reporting on any items enumerated in (a) through (j) of this condition, the Department shall provide the Board with a written explanation of such difficulties.

4. During the pendency of this Variance, the Department shall continue to (a) provide the Board with a monthly progress report on its implementation of the Young Adult Plan and implementation of alternatives to punitive segregation (i.e., Second Chance, TRU and Secure Units); and (b) provide its progress report for each month on the fifth business day of the following month.