



NEW YORK CITY DEPARTMENT OF CORRECTION
Joseph Ponte, Commissioner

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April 27, 2016

Stanley Brezenoff, Chair
NYC Board of Correction
51 Chambers Street, Room 923
New York, NY 10007

Dear Mr. Brezenoff;

Pursuant to §1-15(b)(1)(i) 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 from BOC Minimum Standards §1-05(b) "Lock-in" and §1-08(f) "Access to Courts and Legal Services" for the purpose of establishing the Secure Unit, a key component of the Young Adult Strategy plan. As more fully set forth below, the Department needs this limited variance to effectively transition from the use of punitive segregation towards a new disciplinary approach that optimizes safety and promotes rehabilitation.

Since discussions first began to eliminate punitive segregation for young adults, 18 to 21 year olds, in the Department's custody, a concerted effort by multiple agencies has been made to develop and implement a progressive approach to the management of this population. As evidenced by the Young Adult Monthly Progress reports, the Department has been moving towards the implementation of an alternative housing structure that utilizes a continuum of disciplinary sanctions and an approach that promotes good behavior. A key component of the plan is completion of the necessary infrastructure and operational changes at George Motchan Detention Center (GMDC) and the gradual movement of the young adults into the facility. As GMDC has been identified as the facility to house the majority of the young adults, it must be modified to address the unique developmental needs and safety challenges associated with the transitional period from adolescence to adulthood. As of April 25, 2016, twenty-six (26) housing units in GMDC have been dedicated to the housing of young adults with 70% of the total young adult population transferred to their appropriate facility.

The Department remains steadfast in our commitment to ending the use of punitive segregation for the young adults and advancing new responses to violence and other misbehavior that are tailored to their unique needs. As set forth in the updated Young Adult plan submitted to the Board in January, the new tiered response protocol uses three (3) levels of progressively more structured and more therapeutic housing types. Building upon the lessons learned from the creation of alternatives to punitive segregation for adolescents, similar housing units for young adults include: Second Chance, Transitional Restorative Unit (TRU), and Secure Unit. Placement in any one of these three housing options will be based on specific criteria that account for the severity and persistence of the violent behavior. Young adults placed in any of the three units will be provided with an explanation of why they have been placed in that unit and what they must do to return to general population.

Placement will be subject to periodic review that assesses the continued appropriateness of the placement and whether a more or less therapeutic housing option is appropriate. Young adults who exhibit a pattern of disruptive behavior necessitating individualized programming will be placed in Second Chance and those who demonstrate more serious behavioral challenges and involvement in incidents resulting in serious injury may be placed in TRU. Alternatively, young adults who are engaging in serious violence and assaultive behavior will be

considered for the Secure Unit. To date, two (2) Second Chance units and one (1) TRU have opened. The final of the three (3) housing options, the Secure Unit, will be launched shortly.

As previously stated, the Secure Unit is intended for the housing of young adults who commit serious and persistent acts of violence such as assaults on staff and peers, gang activity, and slashings and stabbings. The goal of this unit is to safely house and closely supervise these young adults while providing individualized therapeutic programming designed to address their specific behavioral needs. Placement into the unit will be the result of a due process hearing with placement reviews conducted every twenty-eight (28) days to evaluate each young adult's progress. The unit would also include higher staffing ratios, a dedicated program counselor to each housing area, and programming specifically geared towards addressing behavioral issues. Group and individual therapy will be provided in collaboration with NYC Health + Hospitals (H+H) and other stakeholders.

The Secure Unit will utilize an incentivized behavioral approach instituted through a multi-phase process. To encourage each young adult's rehabilitation and advancement, there will be an admission process, during which time the young adult will receive an orientation and program plan setting forth the programming offered to facilitate their successful progression in the unit. Upon admission to the unit, all young adults begin in Phase I. Phase I, the most restrictive of the phases, limits lock-out to ten (10) hours a day and does not permit full access to commissary or personal property. Phase II and Phase III provide for progressively more privileges and lock-out time, eventually up to fourteen (14) hours per day. Young adults' behavior and actions within the unit will directly impact their progress through the phases. During each phase, an individual must demonstrate consistent satisfactory behavior for a minimum of twenty-eight (28) days in order to be considered for advancement to the next phase and ultimately for discharge to appropriate housing.

The young adults placed in the Secure Unit are the most challenging of the overall young adult population, as they have exhibited a history of persistent, violent, and/or assaultive behavior. Restricting Phase I young adults to ten (10) hours a day of out-of-cell time is a critical management tool to ensure safe operation of the unit and provide necessary incentive for progression, when combined with the other programmatic and therapeutic offerings. This lock-out period coincides with the hours in which facility staffing is at optimal levels to respond to any security issues that may arise. A key element of the incentivized behavioral approach is the establishment of parameters and a structure in which young adults understand the positive and negative ramifications of their actions. Enabling the Department to limit young adults' lock-out time provides a critical incentive tool and the latitude necessary to incrementally increase the amount of out-of-cell time over the course of the phases. Young adults in Phase III will receive fourteen (14) hours per day of lock-out. During this phase, the Department will be evaluating the young adult's behavior and interaction with others to assess whether he can safely transition out of the Secure Unit and successfully reenter a general population unit.

The Department is requesting a variance to minimum standard §1-05(b) to permit us to reduce an inmate's out-of-cell time to a minimum of ten (10) hours per day. In the limited circumstances described, the Department cannot achieve full compliance, as doing so would seriously compromise the safety and security of staff and inmates.

In addition, an essential component of this unit is the ability to maintain necessary separation between the young adults placed in the unit and young adults housed elsewhere. To facilitate this separation, the Secure Units will be located outside of GMDC, at GRVC and OBCC. Additionally, all mandated services and programming will be conducted in the unit. As we have experienced in other units, adequate services can be provided within the unit by setting up law library kiosks and typewriters in the area. The Department is seeking a variance to §1-08(f) to allow for the provision of legal services and materials through alternative access, in the unit, that permits effective legal research while addressing safety and security concerns. This variance is necessary as the Department cannot otherwise effectively control violent activity in the law libraries, to prevent gang communication from being conducted, or protect other young adults and staff from presumptive predators.

Establishment of the Secure Unit is integral to the new tiered response structure and essential to the elimination of punitive segregation for young adults. It is vital to the maintenance of safety and security that the Department have the flexibility to operate the unit within the confines of strict supervision as outlined above.

The Department appreciates the Board's consideration of this six (6) month limited variance which would allow for the reduction of out-of-cell time to a minimum of ten (10) hours per day and the provision of law library services within Secure Unit. We look forward to continuing to work together in the elimination of punitive segregation for young adults and the adoption of an unprecedented disciplinary model for the management of young adults within the correctional setting.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joseph Ponte".

Joseph Ponte

cc: Martha King, Executive Director