



New York City Jails Action Coalition

c/o Urban Justice Center
40 Rector Street, 9th floor
New York, NY 10006

January 6, 2017

BY E-MAIL

NYC Board of Correction
1 Centre Street, Room 2213
New York, NY 10007

Dear Members of the Board of Correction:

We are deeply concerned that the Department of Correction (DOC) continues to rely on isolation, extended lockdowns, and group punishment – often in violation of the Minimum Standards. We urge the Board to take the following actions:

- monitor closely compliance with Minimum Standard § 1-05 (Lock-in);
- hold DOC accountable for violations of § 1-05;
- regulate use of all housing areas in which incarcerated people are permitted less than 14 hours out-of-cell time daily;
- require meaningful due process protections for all individuals placed in such housing areas;
- require enhanced services, programming, and individualized treatment plans with frequent regular reviews at which individuals have the opportunity to participate in the review process and the opportunity to be moved to less restrictive housing areas;
- evaluate the effectiveness of programming through qualitative analysis that assesses the effectiveness of programs through measures of individual achievement;
- evaluate the harm inflicted on young adults due to current restraint policies in the Secure Unit; and
- eliminate the inclusion of young adults in the Enhanced Supervision Housing (ESH).

The number of individuals in punitive segregation has reduced significantly since the Board adopted regulations regarding the use of punitive segregation in January 2015. However, the Department continues to isolate individuals in their cells and restrict their access to basic services in settings outside punitive segregation – including at West Facility,¹ through extended lockdowns of particular units or entire facilities,² and through restraint policies in ESH and other units which result in individuals opting not to leave their cells.

¹ Board of Correction Notice of Violation of Minimum Standards at West Facility, September 29, 2016.

² Board of Correction Notice of Violation of Minimum Standards, November 2, 2016.

The Board has allowed the Department to chip away at the out-of-cell time requirements of § 1-05 for greater and greater segments of the population without regard to the harm caused by the imposed isolation. The Board acquiesced to the Department's request for ESH in adopting § 1-16, but also imposed requirements regarding programming, placement review hearings and periodic reviews, and reporting. The rule specifically requires that the Board meet "to discuss effectiveness and continued appropriateness of ESH" no later than two years after implementation.³

We request that all Board members tour the ESH units – unannounced and during different tours – and that Board staff regularly observe operation of the units, review all placement review hearings and periodic reviews, speak with the individuals in ESH, and report on the operation of the unit to determine whether it meets the objectives set forth when it was adopted.

The Board has allowed for placement of young adults in ESH – despite their specific exclusion when the rule was adopted. The Board should engage in rulemaking to determine how such limited out-of-cell time impacts the development of young adults, what programming should be offered to young adults, and whether there are more effective alternatives than the significant isolation and restrained movement in ESH.

The Department also provides fewer hours out-of-cell to young adults in the Secure Unit. When this variance which allows the Department to increase lock-in time in the Secure Unit was proposed, the unit was intended for housing young adults "who commit serious and persistent acts of violence such as assaults on staff and peers, gang activity, and slashings and stabbings."⁴ In the Secure Unit, some young adults are physically restrained even during out-of-cell time. The Board has not sanctioned use of additional restraints while out of cell. The Board must not continue to grant variances allowing the Department to operate the Secure Unit, but instead should engage in rulemaking to determine whether such housing units accomplish the goal of "safely hous[ing] and closely supervis[ing] these young adults while providing individualized therapeutic programming designed to address their specific behavioral needs"⁵ as well as the unit's effect on young adults' development. The Board should not sanction units with reduced lockout time without regulating the criteria for placement in the units, requiring due process hearings and reviews, and setting forth programming requirements.

Without the Board's approval and in violation of § 1-05, the Department has operated units at West Facility in which individuals are isolated and their time out of cell is spent only in a slightly larger cell. In response to the Board's notice of violation letter, the Department has proposed yet another restrictive security status which amounts to near complete physical isolation of these individuals indefinitely.

³ Minimum Standard § 1-16(i)(2).

⁴ Department of Correction variance request, p. 2, April 27, 2016.

⁵ *Id.*

The Board must not sanction the Department's continual expansion of these restrictive units. It is clear that isolation leads to more violence, not less. The Department should adopt strategies that provide safety through humane treatment and engagement rather than isolation.

Sincerely,

NYC Jails Action Coalition

cc: Martha King, Executive Director