



NEW YORK CITY DEPARTMENT OF CORRECTION
Cynthia Brann, Acting Commissioner

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Derrick D. Cephas, Acting Chair & Vice-Chair
NYC Board of Correction
1 Centre Street, Room 2213
New York, NY 10007

RE: Limited Variance Renewal – Secure Unit – Minimum Standards §1-05(b) and §1-08(f)

Dear Mr. Cephas;

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 BOC Minimum Standards §1-05(b) "Lock-in" and §1-08(f) "Access to Courts and Legal Services" for the purpose of maintaining the use of the Secure Unit, in furtherance of the Department's efforts and refinement of the Young Adult Strategy. The Department seeks this variance to be effective on July 11, 2017 the date upon which the underlying variance is set to expire.

The Young Adult Strategy is a dynamic and evolving plan that has been subject to modification resulting from lessons and insight gained since the plan's initial implementation. Over the last several months, the Department has reiterated the continued importance of the Secure Unit within the overall Young Adult Strategy plan and interplay between the Secure Unit and Enhanced Supervision Housing (ESH) for the management of violent young adults in DOC custody.

Since the establishment of the Secure Unit in June 2016, we have operationalized one (1) unit located at George R. Vierno Center (GRVC) with a total of thirty-seven (37) young adults placed in the unit, two (2) of whom had a repeat placement. Currently, there are six (6) young adults housed in the Secure Unit. The Secure Unit and the Enhanced Supervision Housing (ESH) Entry Unit and ESH Level 1 have become the primary housing options for the management of violent young adults 18 to 21 years old in the Department's custody based on specific criteria that account for the severity and persistence of the violent behavior. The inclusion of ESH as a housing option has refocused the utilization of the Secure Unit.

During the last month, the Department has reevaluated and revised the criteria for placement in the Secure Unit. In order to address which segment of the young adult population is best served by the Secure housing model, the Department has engaged in on-going discussions with the Board on the criteria for young adult placement in Secure. At this time, young adults considered for placement in Secure Unit will be based on one of the following:

1. Escalation of behavior in Second Chance or Transitional Restorative Unit (TRU),
2. Assault with injury or use of a weapon, or taking or holding any person hostage,
3. Assault with no injury and a past history of slashing/stabbing or causing serious injury to anyone during their current incarceration,
4. Repeated assaults,
5. Involvement in the organization and/or perpetration of a violent or dangerous gang related incident that results in serious injury, or

6. Identified gang member and has perpetrated violent or dangerous gang related activity.

The new criteria is geared to identify and address the behavioral issues of a young adult who has begun to exhibit increasingly violent behavior or has a past history of violence and has engaged in recent concerning violent acts such that immediate intervention is needed to prevent further escalation of violence.

The Secure Unit is a housing option for a specific category of violent young adults' whose history of violent behavior may not rise to the level of consideration for placement in ESH but requires that they be in a unit that has higher staffing ratios, programmatic and therapeutic offerings, and an initial ten (10) hours a day of out-of-cell time. Additionally, the Secure Unit may also provide a critical housing option for young adults transitioning from the Entry Unit. This transition enables young adults to have an incremental increase in out of cell time from seven (7) hours to ten (10) hours while continuing therapeutic engagement. The Secure Unit is structured to facilitate enhanced safety and security while fostering an environment where young adults can obtain skills for positive change. The unit's Support Team conducts weekly reviews to assess each young adults' support plan and ways to encourage their individual advancement. Trained and dedicated unit staff, both uniform and non-uniform, are knowledgeable of young adults' histories and work with them to further develop their strengths and advance their goals.

There have been notable benefits for both the young adults who have been placed in the unit and more generally to overall safety and security evidenced through an evaluation of Use of Force (UOF) and fights data.¹ Participation in educational services is another area where there has been discernable indications of a beneficial affect on young adults. Since September 2016, when the East River Academy began providing educational services in the unit, through June 2017 twenty-one (21) young adults enrolled and participated in school. This is particularly significant as nearly half of those young adults (10 out of the 21) had not previously enrolled in school during their incarceration. Art and violence-intervention programs continue to play an important role in engaging with young adults through creative expression and critical thinking.

Upon admission, young adults receive an orientation and a program overview setting forth the programming offered to facilitate their successful progression in the unit. All newly admitted young adults begin in Phase I. Each phase provides for progressively more privileges and lock-out time, eventually up to fourteen (14) hours per day. During Phase I and initial placement in the unit, a young adult must demonstrate consistent satisfactory behavior for a minimum of twenty-eight (28) days in order to be considered for advancement to the next phase. In the remaining phases, a young adult may be considered for phase progression prior to the twenty-eight (28) day period. Young adults' behavior and actions within the unit will directly impact their progress through the phases. Ten (10) young adults have completed all three (3) phases of Secure Unit.

The requested variance renewal is related to two provisions of the Minimum Standards: 1-05 "Lock-in" and 1-08(f) "Access to Courts and Legal Services – Law Libraries".

1-05 "Lock-in"

Young adults placed in the Secure Unit are some of the most challenging within this population, as evident by the severity of their violent, and/or assaultive behavior. The Department is seeking a variance renewal to §1-05 to allow for the use of ten (10) hours a day out-of-cell time within the Secure Unit. Restricting 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 incentives for progression, when combined with the other programmatic and therapeutic offerings. This incentivized behavioral approach establishes defined parameters and a structure in which young adults understand the positive and negative ramifications of their actions. 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. Enabling the Department to limit young adults' lock-out time provides a safe and critical incentive tool that allows for incrementally increasing the amount of out-of-cell time over the course of the phases. The unit lock-out

¹ There is a noted decline in rates of Use of Force (UOF) and fights during placement in comparison to the period preceding placement. UOF rates decrease further post-Secure, most notably among those young adults who have completed all three (3) phases.

incrementally increases from ten (10) hours in Phase I, to twelve (12) hours in Phase II and to fourteen (14) hours per day of lock-out in Phase III.

1-08(f) – “Law Libraries”

In the Secure Unit all mandated services and programming are conducted in the unit. The Department is also seeking a variance renewal to §1-08(f) to allow for the continued provision of legal services and materials through alternative access, in the unit, that permits effective legal research while addressing safety and security concerns. Law library services are provided within the unit through the use of law library kiosks and typewriters in the area. A law library coordinator is also assigned to the unit to assist young adults in the provision of law library related services. This variance renewal is necessary as the Department cannot otherwise effectively control, especially directly after an incident, continued violent activity in the law libraries, gang communication from being conducted, or protect other young adults and staff from those who would capitalize on potential opportunities to perpetuate additional violence.

The Department has made a good faith effort to comply with the noted provisions of the Minimum Standards within the month prescribed but we cannot do so as maintaining the Secure Unit as part of the Young Adult Strategy is essential. Recognizing the critical importance of maintaining these therapeutic, structured housing options geared towards incentivizing positive behavior with heightened programming, inmate engagement and staffing, the Department began to pursue rulemaking. On March 31, 2017, the Department submitted a letter to the Board regarding the advancement of restrictive housing rulemaking and proposed subject matter for their consideration. Discussions have continued towards the establishment of new Minimum Standards that will serve to provide for comprehensive restrictive housing inclusive of the Secure Unit. On June 9, 2017, pursuant to the variance conditions, the Department submitted to the Board a written plan for complying and reporting on the Minimum Standards provisions §§1-05(b)(Lock-in) and 1-08(f) (Access to courts and legal services, including law library). During the last month, the Department has also continued to evaluate the role of the Secure Unit within the Young Adult housing option continuum and the criteria for placement in the unit. The Department urges the Board to move forward in the advancement of restrictive housing rulemaking.

The Department has long recognized the diverse needs of the populations within our custody and the value of establishing correctional management tools that focus on those unique needs. One of the critical components of the Young Adult Strategy plan was to create safe alternative housing models that specifically addresses the behavioral and therapeutic needs of young adults. The current housing options are inclusive of Second Chance, TRU, Secure Unit, and ESH, each of which is essential to the overall management of the young adult population. Secure Unit’s placement within the housing continuum provides the Department with the opportunity to intervene with the goal of preventing further escalation of violence. The Department looks forward to continuing conversations with the Board regarding how best to serve the overall young adult population by developing the most appropriate criteria for the constantly-evolving spectrum of alternatives to punitive segregation for young adults.

The Department appreciates the Board’s consideration of this six (6) month limited variance renewal, 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 with the Board towards the advancement of restrictive housing rulemaking.

Sincerely,



Cynthia Brann

cc: Martha King, Executive Director