



NEW YORK CITY DEPARTMENT OF CORRECTION
Joseph Ponte, Commissioner

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May 2, 2017

Derrick D. Cephas
NYC Board of Correction
1 Centre Street, Room 2213
New York, NY 10007

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 plan. The Department seeks this variance to be effective on May 15, 2017, the date upon which the underlying variance is set to expire.

Throughout the evolution of the Department's Young Adult Strategy plan, the focus of the plan has been optimizing safety and promoting rehabilitation. The Secure unit was first established in June 2016. In the time since, 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 year olds in the Department's custody based on specific criteria that account for the severity and persistence of the violent behavior.

The goal of the Young Adult Strategy plan is to create a shift in correctional practice and the manner in which young adults within the correctional system are housed, supported and managed. This dramatic change requires both the creation of innovative housing options and an understanding of how these new units work together to manage the population and their needs. The Department further expanded upon the Young Adult Strategy plan through the addition of ESH. The use of ESH as a housing option for young adults resulted in reconsideration of how best to utilize each of the available housing options based on the young adult's behavioral challenges and overarching safety and security needs. The current housing construct, comprised of Second Chance, Transitional Restorative Unit (TRU), Secure Unit, and ESH provides the Department with the necessary flexibility to determine the most suitable and appropriate placement for young adults who exhibit violent behavior while in our custody. Currently, less than 1% of the total male young adult population is housed in Second Chance, TRU, ESH or Secure Unit, with seven (7) young adults in the Secure Unit.

Since the Board first granted the limited variance and the establishment of the Secure model, we have operationalized one (1) unit located at George R. Vierno Center (GRVC) with a total of thirty-one (31) young adults placed in the unit, two (2) of whom had a repeat placement. As the Young Adult Strategy plan has continually been refined and evolved so too has the Secure Unit. With the inclusion of ESH as a housing option, the Secure Unit served to address 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. With the newly established ESH Entry Unit, in March 2017, (formerly the young adult ESH unit) the Secure Unit can also serve as 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 and interacts with the young adults. 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.

The positive impact of the Secure Unit on young adults placed in the unit can be seen in several key areas, school participation, scholarship opportunities, and outlets for artistic expression. In September 2016, the East River Academy began providing educational services within the Secure Unit. During the period of September 2016 through March 2017, eighteen (18) young adults enrolled and participated in school. This is particularly significant as half of those young adults (9 out of the 18) had not previously enrolled in school during their incarceration. In addition to school, young adults have received the opportunity to be involved in the arts through a mural project and theatrical endeavors geared to inspire hope, compassion and creativity. These programs are intended to engage young adults in positive and constructive ways that have an immediate effect on their behavior but also long term benefits for life changes upon release from DOC custody. An example of this can be noted by the two (2) young adults who were recipients of Stella Adler, world-class professional actor training school, scholarships based on the programming they completed while in this unit. This opportunity will afford them access to further education in theater upon discharge.

The benefits of the Secure Unit go beyond those young adults placed in the unit and can also be evidenced by its impact on safety and security. 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. The Secure Unit utilizes an incentivized behavioral approach through a multi-phase process. To encourage each young adult's rehabilitation and advancement, there is 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 is 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.

It should not be understated that 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. As stated in the original variance and sought in this variance renewal, 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 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 defined 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 safe and critical incentive tool that allows for incrementally increasing the amount of out-of-cell time over the course of the phases. Young adults in Phase III receive fourteen (14) hours per day of lock-out. During this phase, the Department evaluates 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, without continued risk of engaging in severe, violent behavior. Ten (10) young adults have completed all three (3) phases of Secure Unit.

Additionally, all mandated services and programming is 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 six (6) months prescribed but we cannot do so as additional time is needed to incorporate the parameters of the Secure Unit within broader restrictive housing rulemaking. During the previously prescribed variance period, the Department examined the overall Young Adult Strategy plan and the manner in which each housing unit utilized for the management of young adults advanced plan objectives. 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. The Department has begun discussions with the Board towards the establishment of new minimum standards that will serve to provide for comprehensive restrictive housing. In this interim period, it is imperative that we maintain the Secure Unit, as outlined herein, as we continue to solidify the overall Young Adult Strategy plan, the Secure Unit, and the recent establishment of the ESH Entry Unit. Each of the young adult housing options and the interplay among them must be considered as we move forward.

The reforms and fundamental changes in the management of young adults in our custody has provided for a solid foundation which will support the advancement of a plan that results in enhanced safety and security for officers and inmates while reinforcing the needs of young adults. It is our hope that educational and therapeutic engagement will lead these young adults towards positive life changes and decrease their likelihood of future incarceration. Five (5) young adults that have been in Secure Unit have transitioned back to the community.

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 together in the implementation of an unprecedented disciplinary model for the management of young adults within the correctional setting and to achieve compliance through future restrictive housing rulemaking.

Sincerely,



Joseph Ponte

cc: Martha King, Executive Director