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Martha W. King
Executive Director

Record of Variance Action

This variance allows the Department of Correction a two month extension of time, commencing on September 13, 2017, during which the Department 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: September 13, 2017

Time period, if any: ends November 21, 2017

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

Date on which Board of Correction first approved variance (for renewals only):
May 10, 2016

Requirements imposed as conditions on variance:

1. During the pendency of this Variance, the Department shall not use restraint desks in Secure Units except in the Secure Unit school area and only when (a) extenuating safety or security circumstances, or specific, credible intelligence of a safety or security threat, require their use; and (b) the Deputy Warden of Secure approves their use in writing. The Department shall provide written notice to the Board on a weekly basis stating whether restraint desks were used and specifying the circumstances that required their use.
2. During the pendency of this Variance, the Department will make every effort to (a) increase the number of staff present and supervising young adults during Secure Unit school sessions; and (b) keep the number of students to a safely manageable number without restraint desks by adding multiple school sessions if necessary.

3. During the pendency of this Variance, the Department shall not use three- or more point- restraints in Secure Units.
4. During the pendency of this Variance and commencing October 1, 2017, the Department shall notify the Board, in writing, every time the lock-out period in Secure Units does not start at 5:00 a.m. and the reasons therefor. The Department shall provide written notice to the Board within 24 hours of such occurrence.
5. During the pendency of this Variance, if the young adult in a Secure Unit has not committed an infraction within the preceding 28 days, the young adult will advance to a less restrictive level or unit unless: (1) he has been placed in the Secure Unit more than once; and/or (2) he has engaged in disruptive, violent, or aggressive behavior while in Secure Unit Level 1; and/or (3) there is credible intelligence that he may engage in additional violence in a less restrictive unit.
6. By November 21, 2017, the Department shall submit an analysis of the Secure Units that will include a discussion of specific outcomes that were used to measure the success of these Units and the specific metrics that were used to determine whether these outcomes were met. These metrics shall be in line with national best practices and address the Department's compliance with Minimum Standards and the conditions therein.
7. During the pendency of this Variance, where the Department is permitted to consider a young adult's activity occurring or actions committed prior to the instant incident, such activity or actions must have occurred within the preceding year.
8. 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, as 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.
9. During the pendency of this Variance, the Department shall provide the Board with a monthly public report on the implementation of the variance and foregoing conditions. The requirements for this report are outlined in a document attached to this record of variance action.
10. During the pendency of this Variance, the Department shall adhere to the terms of DOC's June 9, 2017 Written Plan for Complying with and Reporting on the BOC Minimum Standards § 1-05(b) (Lock-in) and § 1-08(f) (Access to Courts and Legal Services, including Law Library).
11. During the pendency of this Variance, on at least a monthly basis, the Department shall provide the Board access to all documentation considered in each Secure

placement and review decision. This includes, but is not limited to, all records reviewed or created by Secure adjudication, Health + Hospital's placement review, the Chief's reviews, and the Secure Unit Support Team. On a monthly basis, the Department shall transmit to the Board a list of all Secure placements and reviews.

The Department shall provide this documentation by the tenth business day of September, October, November, and December 2017, and the fifth business day of January 2018.