



NEW YORK CITY DEPARTMENT OF CORRECTION

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November 5, 2018

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

RE: Six (6) Month Limited Variance Renewal Request – Secure Unit – BOC 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. The Department seeks that this variance take effect on November 23, 2018, the date upon which the underlying variance is set to expire.

The Department’s reform efforts and shift from past reliance on punitive segregation as the primary disciplinary model, coupled with the recognition that a different approach was needed for the young adult population, resulted in the creation of a new model consisting of less restrictive programmatic focused housing options that address safety and security. The Young Adult plan consists of four (4) housing types: Second Chance, Transitional Restorative Unit (TRU), Secure Unit, and Enhanced Supervision Housing (ESH). Each of these housing options are designed to provide a progressively more structured and more therapeutic setting that optimizes safety and promotes rehabilitation. Placement in any one of these housing options is based on specific criteria that accounts for the severity and persistence of a young adult’s violent behavior. The Secure Unit and ESH are the primary housing options for the management of violent young adults (18 to 21 years old). The Secure Unit is positioned within the current housing continuum as a housing option for young adults who exhibit increasingly violent behavior or have a past history of violence and have engaged in recent concerning violent acts such that immediate intervention is needed to prevent further escalation of violence. The Secure Unit is also considered as a suitable housing option for young adults previously housed in ESH whose behavior necessitates a structured setting in which to continue therapeutic engagement. Initial placement in the Secure Unit is the result of an individualized evaluation of the young adult’s current and recent history (within the preceding year) and the recommendation that the Secure Unit is the most suitable for that specific young adult.

The Secure Unit is designed to facilitate each young adult’s rehabilitation and advancement. Enhanced staffing ratios, staff engagement with the young adults, and programming and educational services provide a supportive foundation in which positive behavioral change can be achieved. Trained and dedicated unit staff, uniform and non-uniform, familiar with each young adults’ history, work with the young adults toward fulfilling their individualized goals. The unit maintains a multi-phase structure in

which all young adults are placed in Phase I upon entry to the unit and progress through all three phases, based on their positive behavioral changes. Placement into the unit is the result of a due process hearing with reviews conducted every twenty-eight (28) days to evaluate each young adult's progress and potential advancement. Each phase provides for incremental increases in afforded out-of-cell time from ten (10) hours in Phase I, to twelve (12) hours in Phase II, to fourteen (14) hours per day of lock-out in Phase III. To date, a total of sixty-seven (67) young adults have been placed in the unit, seven (7) of whom had a repeat placement. Thirty (30) young adults have completed all three (3) phases. As of November 1, 2018, there are six (6) young adults housed in the Secure Unit. Weekly Support Team meetings promote continual and consistent engagement, where staff have meaningful discussions with the young adults relative to their support plan, noting milestones reached, identifying areas where further improvement is needed and encouraging the behavioral changes that will help them reach their goals.

Participation in school and other educational and programmatic services can have a significant and potentially lifelong impact on young adults. The East River Academy (ERA) commenced the provision of educational services in the unit in September 2016. Currently, two (2) young adults are enrolled in school. In 2018, supportive educational services were provided to young adults through tutoring and the introduction of educational tablets. Creative Arts Expression and Leadership Development Skills continues to afford young adults an outlet for artistic inspiration, compassion and creativity. Stella Adler, a world-class professional actor training school, has continued to conduct theater workshops for the young adults. Young adults are obtaining the skills needed to solve life challenges without resorting to violence. Since September 2017, the Department has conducted school in the unit without the need for program desks. Safety for staff and young adults attending school remains paramount and requires that we continue to have the ability to utilize program desks should a security concern arise necessitating such use.

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"

As stated herein, the Secure Unit is operated through a multi-phase structure in which young adults can advance through the phases 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. The Department is seeking a variance renewal to §1-05 to allow for a minimum 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.

1-08(f) – "Law Libraries"

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. In the Secure Unit, law library services are provided through the use of law library kiosks and typewriters. Currently, there are four (4) kiosks and four (4) typewriters located in the unit. 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 remains necessary as the

Department cannot otherwise effectively control, especially directly after an incident, continued violent activity in the law libraries or prevent 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 cannot do so at this juncture. The Secure Unit remains an important housing option for violent young adults. Since March 31, 2017, the Department has been advocating for the Board to enter into restrictive housing rulemaking. The Department continues to urge the Board to include the Secure Unit as part of restrictive housing rulemaking. During this interim period, the Department seeks this variance renewal to maintain unit operations.

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 afforded 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