



NEW YORK CITY DEPARTMENT OF CORRECTION

Cynthia Brann, Commissioner

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June 4, 2019

Stanley Richards, Vice-Chair
NYC Board of Correction
1 Centre Street, Room 2213
New York, NY 10007

RE: Renewal of Continuing Variance Request from Minimum Standard §3-06(e)(5) “Nursery program” Specialized Juvenile Detention Facilities(SJD)/Horizon Juvenile Center (HJC)

Dear Mr. Richards:

Pursuant to §1-15(c) of the New York City Board of Correction’s (“Board”) Minimum Standards, the New York City Department of Correction (“Department”) requests a continuing variance from BOC Minimum Standard §3-06(e)(5), “Nursery program,” which requires a physical nursery and child care program for youth who may give birth while in custody. The current variance addresses the fact that compliance with this minimum standard is not feasible based upon the structural and space limitations of the facility. The initial variance was first granted for the Specialized Juvenile Detention (“SJD”) facility/Horizon Juvenile Center (HJC) by the Board on July 10, 2018 and continued, effective January 8, 2019 through July 8, 2019. This continuing variance renewal is requested for six (6) months and would take effect on July 8, 2019, the date that the current variance is set to expire.

In 2017, the Governor signed into law New York State’s Raise the Age (RTA) legislation, which amended and enacted various provisions of law to raise the age of criminal responsibility from 16 to 18. This legislation changes the way 16 and 17-year-olds are prosecuted and detained.¹ RTA also amended state Correction Law to add a new section, 500-p, which prohibits the City from holding youth under 18 in a Rikers Island Correctional Facility or any facility located on Rikers Island after October 1, 2018 (“Rikers youth”). This population was removed from Rikers Island and is now housed in an SJD facility (Horizon), which is jointly licensed by the Office of Children and Family Services (“OCFS”) and the State Commission on Correction (“SCOC”) and jointly operated by the New York City Administration for Children’s Services (“ACS”) and the Department. Additionally, 17 year olds who do not yet fall under RTA are housed with the youth moved off Rikers (collectively “pre-RTA youth”).

The Department is seeking the renewal of a continuing variance from Minimum Standard §3-06(e)(5) to allow pre-RTA youth to be housed in a facility that do not have “necessary child care” and a “nursery

¹ This part of the law goes into effect for 16 year olds on October 1, 2018, and on October 1, 2019 for 17 year olds.

program.” The Department is seeking a variance from §3-06(e)(5) in part because the physical plant of Horizon cannot accommodate a nursery: this change in design would require extensive reconstruction and additional space that is not available. A nursery program would also be underutilized at the SJD. Only twelve (12) females in total have resided at Horizon since the youth were relocated on or about October 1, 2018, and generally no more than three (3) females have been detained concurrently at the SJD at any given time. Furthermore, there are substantial stretches of time during which no females are detained at Horizon. Between October 1, 2018 and May 29, 2019, there were a total of eighty (80) days where the facility held no female detainees. Given that the average length of stay for females that have been detained at Horizon is approximately fifteen (15) days, it is very improbable that a pregnant youth would give birth during their short stay at the SJD.

If a late-term pregnant youth is admitted, ACS would make an individualized assessment to determine the best interests of the child, as required by law (Correction Law 611), which takes into account the mother’s history of violence. ACS has been planning for a wrap-around model of support that provides a variety of parenting services to all young parents (mothers and fathers), which includes supported visitation, parent-child service coordination and specialized case management, education, and coaching. ACS is currently in the process of procuring these wrap-around services for the SJD facility. These services also follow the youth back to the community or other settings, upon their release.

The Department appreciates the Board’s consideration of this six (6) month continuing variance renewal, which if granted, will allow the Department, in conjunction with ACS, to continue to provide Horizon residents with nursery program services that aligns with the national standard of juvenile justice models.

Thank you for your consideration and attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Cynthia Brann". The signature is written in a cursive, flowing style.

Cynthia Brann

cc: Martha King, Executive Director