



NEW YORK CITY DEPARTMENT OF CORRECTION  
Joseph Ponte, Commissioner

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July 11, 2016

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

Re: Amended: Limited Variance Request to BOC Minimum Standards Regarding Implementation of the Young Adult Plan: Section 1-02(c)(1), Section 1-17(b)(1)(ii), and Section 1-16(c)(1)(ii)

Dear Mr. Brezenoff:

This letter is submitted as an amendment to the underlying June 30, 2016 variance requests. In addition, the New York City Department of Correction (“Department”) is requesting a limited variance from §1-16(c)(1)(ii) which requires that as of January 1, 2016, inmates ages 18 through 21 year olds be excluded from placement in Enhanced Supervision Housing (ESH), until October 11, 2016. While the scope of the BOC minimum standards §1-16(c)(1)(ii) is applicable to young adults ages 18 to 21 inclusive, the requested variance would only be applicable to young adults ages 19 to 21 years old.

On June 30, 2016, the Department submitted a request for two (2) limited six (6) month variances pursuant to §1-15(b) of the New York City Board of Correction’s (“Board”) minimum standards. First, from §1-02(c)(1) which as of July 12, 2016<sup>1</sup> requires inmates ages 18 through 21 be housed separately and apart from inmates over the age of 21. This limited six (6) month variance request to allow the Department to co-mingle 19 to 21 year olds with inmates 22 years old and older remains unchanged. Second, from §1-17(b)(1)(ii), which requires, as of June 30, 2016<sup>2</sup>, the exclusion of inmates ages 18 through 21 from punitive segregation. Based on our ongoing assessment, we are modifying the original six (6) month variance request from §1-17(b)(1)(ii) to a shortened period, until October 11, 2016. At which time we will report back to the Board on progress made and next steps in the elimination of punitive segregation for this population. The requested variances will remain applicable to young adults ages 19 to 21 years old exclusively.

Discussed in extensive detail in the June 30, 2016 variance letter, as the Department advanced towards the adoption of the young adult plan there was a pronounced spike in the number of serious and violent incidents in George Motchan Detention Center (GMDC). These events required the Department’s rapid response and an immediate halt to further implementation of the young adult plan pending a comprehensive evaluation. The Department has begun this assessment and is

<sup>1</sup> Based on variances granted by the Board on September 8, 2015, December 16, 2015, and January 12, 2016 extending the October 15, 2015 deadline for the housing of inmates ages 18 to 21 separately and apart from inmates over the age of 21.

<sup>2</sup> Based on variances granted by the Board on November 10, 2015, January 12, 2016, and May 26, 2016 extending the January 1, 2016 deadline for the exclusion of inmates 18 to 21 years of age from punitive segregation to June 30, 2016.

requesting three (3) limited variances as an interim measure to maintain safety and security as we survey our young adult management approach and institute essential enhancements.

Limited variance to §1-17(b)(1)(ii) – Elimination of Punitive Segregation (19-21 year olds)

Over the course of the next few months, the Department will work diligently to continually evaluate and strengthen our tiered-response young adult housing structure comprised of Second Chance, Transitional Restorative Unit (TRU), Secure Unit and ESH (subject to the Board's approval of the limited variance). During this assessment period, the Department is seeking to establish a modified punitive segregation specifically designed for young adults age 19 through 21 years old. This modified punitive segregation would be narrowly applied and require the Chief of the Department's approval prior to the placement of any 19 to 21 year old.

Modified punitive segregation would differ from punitive segregation as utilized for adult inmates in our custody in a number of significant ways. Young adults would be afforded two (2) hours of recreation, with the opportunity to earn an additional hour based on good behavior and program participation. As we implement effective inmate educational opportunities and services throughout the Department, we will phase in 2.5 hours of programming for inmates in this modified punitive segregation unit. Proven effective, the Challenge Series (first advanced in ESH) will be included as part of the modified punitive segregation programming. Program Counselor rounds currently provided to the young adults in punitive segregation will continue as part of the modified punitive segregation model until program offerings are implemented.

Only those young adults (19-21 years old) who commit assaults on staff resulting in serious injury or stabbings/slashings would be considered for immediate placement in modified punitive segregation. Young adults who commit lesser offenses would be placed in one of the following alternative housing units: Second Chance, TRU, Secure Unit, or ESH (subject to the Board's approval of the limited variance) dependent upon the severity of the infraction. If the young adult's assaultive and/or violent behavior persists while in one of these units, movement to modified punitive segregation will be considered and finalized only upon approval from the Chief of Department. A young adult's placement in modified punitive segregation would be subject to review every fifteen (15) days to determine whether placement should continue or the young adult should be transferred to appropriate alternative housing.

Limited variance to §1-16(c)(1)(ii) - Exclusion of 19 through 21 year olds from Enhanced Supervision Housing (ESH)

Since the establishment of ESH in February 2015, the Department has not utilized these housing units for the 19 to 21 year old population; however, the availability of ESH as a housing option for these young adults may serve as a part of the Department's long-term comprehensive strategy. The events discussed (noted in the June 30, 2016 letter) prompted the need to reevaluate all viable housing options. In assessing ESH, we identified notable reductions in violence and infractions due to its incentivized programming structure. In fact, there was an approximate fifty percent (50%) reduction in violent infractions for inmates that advanced through this phased programming model. Additionally, when young adults are co-mingled with adults they are involved in fewer violent incidents than their counterparts housed by themselves in GMDC. It is apparent that the successes achieved in ESH coupled with the noted reduction in incidents when young adults and adults are co-mingled necessitates exploration of ESH as a housing tool. Based on the above, the Department cannot fully comply with the provisions of §1-16(c)(1)(ii), requiring the exclusion of 19-21 year olds from ESH.

The Department, therefore, is seeking a limited variance to allow for the co-mingling of young adults (ages 19 to 21 years old) with adults (22 years old and older) within ESH until October 11, 2016. ESH, as an established unit with enhanced programming geared towards facilitating rehabilitation, addressing the root causes of violence, and minimizing idleness, could act as a valuable tool in managing certain problematic young adults. The Department is requesting this limited variance to determine the effectiveness of ESH for the young adult population. If the inclusion of ESH as a housing option for the young adults (19-21 years old) proves to be beneficial, the Department will work with the Board to effectuate a rule change.

The Department has made a good faith effort to fully comply with the Minimum Standards, but based on recent events described in the June 30, 2016 letter, we are unable to achieve full compliance at this time. Over the next several months, the Department will continue to monitor and assess the young adult plan with the goal of instituting a management approach customized to the unique needs of this population. As we assess modified punitive segregation for young adults during this shortened period, until October 11, 2016, we will continue to keep the Board informed.

The Department appreciates the Board's consideration of the above amendments, the six (6) month limited variance request from §1-02(c)(1) which as of July 12, 2016<sup>3</sup> requires inmates ages 18 through 21 be housed separately and apart from inmates over the age of 21, and the limited variance request from §1-16(c)(1)(ii) which requires that as of January 1, 2016, inmates ages 18 through 21 year olds be excluded from placement in Enhanced Supervision Housing (ESH), until October 11, 2016. We look forward to continuing to work together to ensure the successful adoption of the Young Adult Strategy plan.

Sincerely,



Joseph Ponte  
cc: Martha King, Executive Director

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<sup>3</sup> Based on variances granted by the Board on September 8, 2015, December 16, 2015, and January 12, 2016 extending the October 15, 2015 deadline for the housing of inmates ages 18 to 21 separately and apart from inmates over the age of 21.