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In April 2015, the Department opened a Transgender Housing Unit (THU) as a housing option for our transgender female population. This unit was exclusive to transgender females. Placement in the unit is on a voluntary basis, through individual request. Each request for placement is reviewed and a range of factors are considered as part of the placement determination.

When it opened in 2015, THU was located in North Infirmery Command (NIC). It was then moved to the Manhattan Detention Complex (MDC). Each of these facilities houses male inmates. On July 31, 2018, THU was moved to the Rose M. Singer Center (RMSC), the Department's female facility. The transgender female inmates in the THU are now housed in the female jail.

The Department appreciates the Board's assessment of THU and related recommendations. To facilitate further discussion, we have provided, herein, unit background, feedback and clarifications on the Board's report, and some updates on the significant changes being implemented as it pertains to placement, accessibility, training, and overall unit operations. Additional updates will be provided at future Board meetings.

As announced in April, the Department is actively working to ensure compliance with Executive Order No. 16, which ensures that people are able to use facilities consistent with their gender identity. The Department is committed to housing individuals according to gender identity and maintaining THU. <https://www1.nyc.gov/office-of-the-mayor/news/193-18/mayor-de-blasio-department-correction-will-house-incarcerated-individuals-according-to>

Methodology and Limitations

During the time period covered by the report, the Department used a paper-based Screening Tool. This method made it difficult to track our transgender population effectively or to go back and reconcile all movement and housing related to this population. To address the issues identified, a new electronic screening tool was developed and rolled out. As of February 2018, all facilities are utilizing the Electronic Screening Tool, which differentiates between individuals based on whether they identify as transgender female and transgender male, and includes categories such as intersex and gender non-conforming.¹ This allows for better tracking of individuals in DOC custody who self-report as transgender female and transgender male.

Screening and Placement Process

THU is a unique unit as it is designed to address the needs of the transgender female population who have voluntarily chosen to be considered for placement. It is important to recognize that not all of our transgender population wants to be placed in this type of unit and have not volunteered themselves for consideration. When the unit first opened, as part of the

¹ The tool also includes categories such as gay and lesbian, though those are not related to gender identity.

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screening process, staff was directed to ask individuals if they were interested in being placed in the unit. Applications were only completed for those individuals who expressed an interest in being transferred into THU. Since that time, the screening process has been refined and all staff completing the Electronic Screening Tool is required to ensure that all individuals who self-identify as transgender complete an application. To further facilitate the process, a Captain in the PREA Unit supervises the screening process and runs a report twice a week. We are striving to be inclusive of all transgender, even those not housed in the THU, so we can monitor and track everyone that self-identifies as being transgender upon entry into DOC custody.

The Department has been conducting a comprehensive review of the THU processes and effectuating changes to streamline the application process, improve deficiencies, and reduce processing time. Placement determinations will continue to be on a case-by-case basis in order to ensure the individual's safety, but will not be initiated at the court level. The Directive is being revised to ensure that the THU is offered at intake, and not a process that is performed at the court level. As part of this review, we are contemplating revising the Evaluation Committee structure and eliminating the need for an Advisory Committee. Many of these unit modifications will be incorporated into unit policy.

As part of this review, the Department recognized that the appeal process was being underutilized. We noted that individuals who were denied initially would reapply instead of appealing the denial. These re-submitted applications were considered in the same manner as an appeal. Additionally, individuals were not automatically disqualified or prevented from reapplying based on previous submissions. Therefore, the need for an appeal process would have been superfluous. Furthermore, the members of the Committee that make the determinations represent the interest of the inmates from a medical perspective as we partner with NYC Health + Hospitals (H+H) when making determinations, while also preserving the security concerns of the Department. We will continue to allow individuals to re-submit an application so we can reconsider whether or not they present a security concern that would prevent entry.

Applications

The Board details a number of issues with THU applications and placements. While the Department is appreciative of the Board's efforts to evaluate this process, the Department is also aware that there are a number of issues or context that may not have been considered when writing the report. The Board noted that "individuals who applied and were not placed [in THU] spent more time in DOC custody before applying than those who applied and received a placement." Without proper context of the timing of establishing the THU, this statement does not account for the fact that the Department spent time establishing the THU unit and did not simply review candidates that came in starting from when the unit was first opened. In fact, prior to its opening, the PREA Team interviewed every individual known to be transgender at that time and as provided by H+H, to determine if these individuals were interested in being placed in the THU once opened. An individual's days in custody had no bearing on whether they

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qualified for THU (and the DOC was learning how best to notify individuals of the unit, as well as how best to make decisions on placement to the new unit, based on a process the DOC has refined ever since). In this way, DOC believes the report's estimate of the average amount of time spent in custody prior to submitting an application does not account for those individuals who were in DOC custody prior to or shortly after the establishment of THU. An individual in custody may have been informed of THU by staff or another inmate, and submitted the request to be transferred through the application process. It is also important to note that some of the applicants may not have wanted to be housed in THU when they first entered DOC custody. For example, intake staff may have asked a new admission transgender female if she would like to be placed in THU. The individual may have opted out of being placed in THU from the onset, but at a later date requested to be transferred to THU, at which time an application would have been completed. In the above described circumstance, an individual may have had time in our custody prior to requesting THU. The report does not reflect that the unit was available to both those already in custody and the new admission population.

As mentioned previously, the Department has instituted operational changes to increase awareness of the availability of THU. Intake staff has been trained to offer the THU to every self-identified transgender inmate that comes into custody, which is monitored by the PREA Unit to ensure that an application is completed.

Gender Identity of Applicants

While the Department's Inmate Information System (IIS) generally does not designate a person's gender identity based on self-reporting, the new Electronic Screening Tool, within IIS, reflects the person's status as transgender, intersex or gender non-conforming. We are working to establish a process that provides staff with information related to the individual's gender-identity while maintaining a level of confidentiality, and in recognition of the person's safety.

Application Decisions

As noted earlier, the Department has established a formal application process for THU placement. Therefore, individuals can only be accepted into the THU by submitting an application. Placement into the unit without a formal application is not permissible, and the Committee can only make a determination based on a review of an application.

If an individual who does not identify as transgender was mistakenly placed into the housing unit designated as THU, this was immediately corrected, and the individual was placed in a different housing area.

Alternatively, it is also possible the Board's report did a broad review of placements in housing areas, and not the specific THU unit, which skews some of its findings. Specifically, when the THU was relocated to a housing area at MDC, two separate areas within the same housing area designation were established (at least for the purposes of IIS and facility system designation). One of which was the THU, and one of which was a separate housing unit designated for another population. During that time, IIS classified both areas with the same housing

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designation. However, those areas were separate and apart. Therefore, the transgender inmates did not comingle with the other inmates not admitted into the THU.

In the past, placement determinations were not documented on the applications. Record-keeping mechanisms have been instituted to ensure that each application includes a notation of the decision and clearly indicates, whether placement was granted or denied. In addition, applicants who are denied placement are provided written notification of the denial. If the individual has further questions regarding the denial PREA staff are available to discuss the matter in further detail. This practice is designed to be informative while maintaining safety and security.

As we continue to improve upon the application process, the length of time the Committee deliberates prior to a determination has been significantly reduced. Generally, barring unforeseen circumstances, placement determinations are made within approximately 2-3 days. During this interim period, pending a decision, the person is interviewed and may be considered for temporary placement in protective custody, as appropriate.

The Board's assessment states that, "placement decisions tended to be responsive to incidents in custody, rather than the result of proactive screening." The Department would like to reiterate to the Board that placement in THU is initiated through the submission of an application, and applications are available at any time during an individual's incarceration. An individual in custody may request placement in the unit after being involved in an altercation, but placement decisions are not responsive to an incident, but based on an individual's request.

Characteristics of the Population Placed in the THU

As part of the Board's assessment, the report included a discussion of the population housed in THU and specifically notes a correlation between those individuals housed in THU and suicide watch designations. The report states that "individuals housed in the THU were more likely to have been on a suicide watch at some point during their current incarceration."

When assessing a population that identifies as transgender, research supports the increased likelihood of those individuals being known to mental health, and also increases the likelihood for suicidal behavior. However, it is difficult to verify the accuracy of the statistics provided in the report, as the Department has not reviewed the data utilized by the Board in support of the analysis. Our data reflects a significantly lower number of individuals who have been housed in THU and were ever identified as being on suicide watch. Additionally, of the individuals identified as having been on suicide watch, they were not in that status during their placement in THU. For the Department to provide further feedback, additional identifying information would be needed to cross-check our records and address any discrepancies. The Board's findings do not align with Department records and the underlying assertion by the report may not be clear in what recommendation is being made for the Department to consider.

Conditions in THU

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The report also speaks to the conditions of the unit with a focus on unit staffing, staff overtime and the provision of staff training.

Staffing

The report cites to the impact of staff overtime and we appreciate the Board's concern for our staff's well being. Unfortunately, overtime has been necessary throughout the agency to cover posts due to unfilled vacancies as well as to relieve staff that attend mandatory annual training as well as all Nunez related courses. Overtime is also used to cover posts for those on sick or vacation leave, participate in special operations details, assigned to special projects, etc. The Department has worked diligently to recruit, hire and train over 3,000 new staff members over the past three years and has significantly reduced our reliance on overtime. We continuously explore options that reduce our reliance on overtime.

Staff Training

The Department recognizes the importance of ensuring that all staff receives PREA training. The minimum standards require that by December 21, 2017, at least 20% of DOC staff have the PREA training. The Department is ahead of schedule in our training requirements. Every recruit is given PREA training prior to graduating from the Academy. Starting in July, every non-uniform employee receives PREA training as part of the orientation process. Additional training that includes the psychosocial and safety needs of this population and instruction on communicating in a manner that is respectful of gender identity is also provided. According to the minimum standards, the Department must complete such training by January 2, 2018. In November 2017, staff that was steady in the THU received this training and additional training was given in January 2018. EEO mandated training is also provided on a yearly basis and covers "sensitivity training" on how best to interact and communicate with transgender individuals.

The Department is committed to ensuring that our more vulnerable populations are housed in a safe environment. We will continue to refine and improve on the THU and its processes. We look forward to continued dialogue with the Board as we move forward.