



NEW YORK CITY DEPARTMENT OF CORRECTION
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March 30, 2009

Richard T. Wolf
Executive Director
NYC Board of Correction
51 Chambers Street
New York, NY 10007

**RE: VARIANCES FOR MODIFICATION OF
VISIT AND RECREATION SCHEDULES**

Dear Mr. Wolf:

As discussed at the Board of Correction meeting of March 12th, I am writing to request two continuing variances concerning the visit and recreation schedules. The visit schedule would be compressed from five days to four days, although detainee and sentenced inmates would continue to be able to receive three and two visits per week respectively, in accordance with BOC Minimum Standards. The outdoor recreation schedule would be compressed from seven days with one-hour recreation sessions to five days with one and one-half hour sessions. While the total number of days that recreation is offered per week would be reduced, the total number of recreation hours that would be offered per week would increase from seven hours to seven and one-half hours. Adolescent, punitive segregation and close custody inmates would be exempt from the variance and would continue to receive daily one hour recreation sessions. The proposed visit and recreation schedules comply with applicable Minimum Standards of the State Commission of Correction (SCOC) and, in every instance, offer more contact visit hours and recreation hours per week than any of the five other largest jail systems in the United States.

The two proposed variances would result in annual cost savings of approximately \$2.9 million for visits and \$4.5 million for recreation, a total of \$7.4 million each year. These savings would be put toward the city's \$6.4 billion budget gap. The BOC's approval of these variances is requested by June 30, 2009 for budgetary reasons.

Department's Response to Budgetary Constraints

While the two variance proposals meet applicable state regulations, are consistent with sound correctional practices and compare very favorably to practices in other large jails in the United States, the Department only made these proposals *after* exhausting other avenues to reduce agency costs. During the current administration, the Department has implemented over \$200 million in annual

budget cuts through a wide and diverse range of initiatives. The Department consolidated the food production areas from ten to four, reorganized the fleet maintenance facility to cut costs and reduce vehicle down time, and renegotiated the contract for natural gas to lower energy costs. In the past year, the Department also eliminated 228 budgeted positions in administration and management through attrition and redeployment to avoid cutting positions in jails. The Department has slashed the budgets for support services so severely, that they cannot be cut any further.

The challenge ahead is to identify and implement additional, mandatory budget cuts without jeopardizing the safety and security of inmates, staff and the public. The two proposed variances, along with the proposals to reduce the Department's inmate census discussed at the last BOC meeting, are fiscally prudent methods to reduce expenditures that enable us to maintain essential services and fulfill our mission to operate safe and efficient jails.

Modification of the Visit Schedule

The Department is requesting a continuing variance from BOC Minimum Standard 1-09 (c) (1), which states in part: "Visiting hours may be varied to fit the schedules of individual facilities but must meet the following minimum standard requirements for detainees: (i) Monday through Friday. Visiting shall be permitted on at least three days...Saturday and Sunday. Visiting shall be permitted on both days..." (Emphasis added.) Thus, this BOC Minimum Standard requires the provision of a total of five visit days each week – three days during the week and on both weekend days.

The Department proposes to eliminate one of the three visit days during the week – visits will continue to be scheduled on both weekend days. Currently, one of the three weekday visit days is designated for visitation of inmates whose last names begin with letters A – L. Another weekday visit day is designated for visitation of inmates whose last names begin with the letters M – Z. The third weekday visit day is designated for visitation of any inmate i.e., an A – Z visit day. Although one weekday visit day would be eliminated under the variance, the remaining two weekday visit days would be designated as A – Z visit days. In addition, Saturday and Sunday are currently scheduled as alternating A - L and M – Z visit days. Saturday would be re-designated as an A – Z visit day under the variance. While one weekday visit day would be eliminated, the total number of A – Z visit days would increase from one to three. Furthermore, evening visiting hours would continue to be available during the weekday.

The revised schedule would enable detainee inmates to continue to receive at least three visits per week with at least one on an evening or the weekend, in accordance with BOC Minimum Standard 1-09 (c) (5).¹ Moreover, the revised visit schedule would meet the other BOC Minimum Standard scheduling requirements for detainees. These requirements include: 1) visits shall be available during the weekday for at least three consecutive hours between 9:00AM and 5:00 PM; 2) visiting shall be available on the weekday on at least two evenings for at least three consecutive hours between 6:00 PM and 10:00 PM; and 3) visiting shall be available on the weekend for at least five consecutive hours between 9:00 AM and 8:00 PM. (See BOC Minimum Standard 1-09 (c) (1).)

Uniformed staff assigned to visit posts would be reassigned to work in non-visit posts in the jails on the day of the week that visits are closed. The reassignment of the uniformed staff on the closed visit day would reduce jail overtime, resulting in an annual savings of \$2.9 million. If the BOC approves this variance request, a revised visit schedule would be submitted to the BOC for review and approval.

¹ Under the variance, sentenced inmates would continue to receive at least two visits per week with at least one on an evening or the weekend, accordance with BOC Minimum Standard 1-09 (c) (5).

Visit Proposal – Comparison with SCOC Minimum Standards

Unlike the BOC, the SCOC has no Minimum Standard on the number of days per week that visits should be scheduled. The SCOC only requires that the visit schedule enable each inmate to have at least two visits per week; each visit must be at least 30 minutes and each inmate is entitled to receive at least two hours of visitation per week. The two visits per week apply to both detainees and sentenced inmates. (See SCOC Minimum Standard 7008.3 (a) and (b).) Thus, a correctional facility has the discretion under the SCOC Minimum Standards to offer each inmate either two one-hour visit sessions per week, or four 30-minute visit sessions per week.

As noted above, the Department's variance proposal would enable detainee inmates to continue to have three one-hour visit sessions per week within a four-day visiting schedule. This proposal offers only slightly less visiting opportunities than required in the existing BOC Minimum Standards but more visiting opportunities than required in the SCOC Minimum Standards. Thus, under the variance from the BOC, the Department would still be providing more visiting opportunities than required for all other jails in New York State.

Visit Proposal – Comparison with other Large Jails in the United States

With the approval of the variance request, the NYC Department of Correction would continue to provide the greatest number of weekly contact visit hours per inmate compared to the other five largest jail systems in the United States.² Four of the five jail systems offer no contact visits – all visits in these jail systems are non-contact visits i.e., no physical contact between inmate and visitor is permitted, as inmates and visitors communicate through glass partitions or the use of video equipment.

While the Philadelphia jails have contact visits, they are limited to two 30-minute visits per week. Thus, the allowable number of contact visit hours per week in Philadelphia is one hour – one-third the number of hours that would be permitted in the NYC Department of Correction under the variance.

Approval of this variance would not jeopardize the position of the NYC Department of Correction as the leader in the provision of contact visits amongst the largest jail systems in the country. (See attached Office of Policy and Compliance (OPC) Survey of the Six Largest Jail Systems in the United States.)

Visit Proposal – Planning Considerations

The Department recognizes the importance of taking proactive and effective measures to notify inmates and the public in advance of a modification of the visit schedule. The following specific measures would be implemented prior to the enactment of a revised visit schedule:

- The revised visit schedule shall be posted on the Department's website.
- Information on the revised visit schedule shall be available on the Department's automated telephone information system.

² The list of the largest jail systems in the United States was obtained from the Bulletin on Jail Inmates at Midyear 2007, issued by the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, dated June 2008. The Bulletin ranks the largest jail systems by average daily population. The six largest jail systems, in rank order, consist of the following: Los Angeles County, CA; New York City, NY; Cook County, IL; Harris County, TX; Maricopa County, AZ; and Philadelphia City, PA.

- The revised visit schedule shall be posted in facility visit areas, Rikers Island Visit Control Building, housing areas, intake areas and program service areas.
- Inserts on the revised visit schedule shall be placed in Inmate Handbooks distributed to new admission inmates.
- Announcements on the revised visit schedule shall be made at Inmate Council Meetings.
- Announcements on the revised visit schedule shall be made to visitors in the visit areas.

The above measures would ensure that information on the revised visit schedule is widely disseminated to inmates and visitors in a timely fashion. The Department's Office of Policy and Compliance would monitor both the planning and implementation of these measures and initiate corrective action, if needed. There would be no change to policy or practice as it applies to attorney visits.

Modification of the Recreation Schedule and Comparison with SCOC Minimum Standards

The Department is requesting a continuing variance from BOC Minimum Standard 1-06 (c), which states in part: "Recreation shall be at least one hour...Recreation shall be available seven days per week in the outdoor recreation area..." As noted above, the outdoor recreation schedule would be compressed from seven days with one-hour recreation sessions to five days with one and one-half hour recreation sessions. While the total number of days that recreation is offered would be reduced, the total number of recreation hours that would be offered per week would increase from seven hours to seven and one-half hours. The compression of the recreation schedule complies with SCOC Minimum Standard 7028.2 (b), which states in part: "All inmates...shall be entitled to exercise periods which, at the discretion of the chief administrative officer, shall consist of: (1) at least 1 - 1/2 hours during each of the five days per week; or (2) at least one hour seven days a week." (Emphasis added.)

In accordance with SCOC Minimum Standard 7028.2 (d), the five-day recreation schedule would not apply to inmates in punitive segregation. These inmates would continue to receive daily one-hour recreation sessions. In addition, the Department would also exempt other categories of inmates from the five-day recreation schedule – although these exemptions are not specifically required pursuant to the SCOC Minimum Standards. Close Custody inmates and all adolescent inmates would not be subject to the variance, and would continue to receive daily one-hour recreation sessions.

The two specific days per week that recreation would be closed may vary by facility. The Department is currently developing a five-day recreation schedule for each facility in the Department.

Closure of the recreation two days per week would eliminate the need for 50 uniformed positions, resulting in an annual savings of \$4.5 million.

Recreation Proposal – Comparison with other Large Jails in the United States

With the approval of the variance request, the NYC Department of Correction would continue to provide the greatest number of weekly outdoor recreation hours per inmate compared to the other five largest jail systems in the United States. The Department would offer seven and one-half hours of outdoor recreation per week over five days under the variance as noted above. None of the other five largest jail systems offer more than five hours of outdoor recreation per week. The number of outdoor recreation hours per week in these jail systems ranges from zero to five. (Harris County, Texas offers no outdoor recreation.)

Only one of these five jail systems offers outdoor recreation five days per week. The number of outdoor recreation days provided per week ranges from zero to three for the remaining four jail systems.

Approval of this variance will not jeopardize the position of the NYC Department of Correction as the leader in the provision of opportunities for outdoor recreation amongst the largest jail systems in the country. (See attached OPC Survey of the Six Largest Jail Systems in the United States.)

Recreation Proposal – Planning Considerations

As in the case of visits, the Department recognizes the importance of taking proactive and effective measures to notify inmates in advance of a modification of the recreation schedule. The following specific measures would be implemented prior to the enactment of a revised recreation schedule.

- The revised recreation schedule shall be posted in housing areas and program service areas.
- Inserts on the revised recreation schedule shall be placed in Inmate Handbooks distributed to new admission inmates.
- Announcements on the revised recreation schedule shall be made at Inmate Council Meetings.

The above measures would ensure that information on the revised recreation schedules is widely distributed to inmates in a timely fashion. The Department's Office of Policy and Compliance would monitor both the planning and implementation of these measures and initiate corrective action, if needed.

Thank you for your consideration of these variance requests. My staff will work with the BOC to address any questions or concerns.

Sincerely,



Martin F. Horn
Commissioner

c: John Antonelli, Senior Deputy Commissioner
Judy LaPook, Chief of Staff
Carolyn Thomas, Chief of Department
Mark Cranston, Deputy Chief of Staff
Peter Curcio, Chief of Facility Operations
Florence Hutner, Deputy Commissioner
Robert Maruca, Deputy Commissioner
Stephen Morello, Deputy Commissioner
Sara Taylor, Assistant Commissioner
Harry Ahl, Executive Officer, OPC
Ronald Greenberg, Director, OPC



OFFICE OF POLICY AND COMPLIANCE
 SURVEY OF THE SIX (6) LARGEST JAIL SYSTEMS IN THE UNITED STATES *



PROVIDED # OF OUTDOOR RECREATION HOURS PER WEEK
 ALLOWABLE # OF RECREATION HOURS PER WEEK
 ALLOWABLE # OF VISITS PER WEEK
 ALLOWABLE # OF MINUTES PER VISIT
 ALLOWABLE # OF OUTDOOR RECREATION HOURS PER WEEK

JURISDICTION	PROVIDED # OF OUTDOOR RECREATION HOURS PER WEEK	ALLOWABLE # OF RECREATION HOURS PER WEEK	ALLOWABLE # OF VISITS PER WEEK	ALLOWABLE # OF MINUTES PER VISIT	ALLOWABLE # OF OUTDOOR RECREATION HOURS PER WEEK
LOS ANGELES COUNTY, CALIFORNIA **	2	4	4 (Non-contact visits only)	45 Minutes	3 Hours
COOK COUNTY (CHICAGO), ILLINOIS	3	4	*** (Non-contact visits only)	30 Minutes	***
MAZAROPA COUNTY (PHOENIX), ARIZONA	5	5	3 (Non-contact visits only)	30 Minutes	1 1/2 Hours
HARRIS COUNTY (HOUSTON), TEXAS	No outdoor Recreation	0 (No outdoor Recreation)	7 (Non-contact visits only)	20 Minutes	2 Hours 20 Min
PHILADELPHIA CITY, PENNSYLVANIA	2	3	2	30 Minutes	1 Hour
NEW YORK COUNTY (NEW YORK), NEW YORK	5	7 1/2	3	1 Hour	3 Hours

* The list of the largest jail systems in the United States was obtained from the Bulletin on Jail Inmates at Midyear 2007, issued by the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, dated June 2008.

** Data provided for "Los Angeles County's largest facility, with a capacity of 10,000 inmates."

*** Each inmate can only have visitors one day per week as determined by the facility. Each visit may be up to 30 minutes in duration per individual visitor. Visits with more than one visitor at a time are prohibited. An inmate may have multiple individual visits on his or her assigned day.

**** Data provided for Philadelphia's "House of Correction" and "Detention Center," which have central recreation areas comparable to the NYC Department of Correction.