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Cathy Potler, Esq.
Executive Director

September 20, 2012

Dora B. Schriro, Commissioner
NYC Department of Correction
75-20 Astoria Boulevard
East Elmhurst, NY 11370

Re: Continuing variances from Minimum Standards
Section 1-05(b), Section 1-03(b), Section 1-06(c),
Section 1-07(c) and (j), Section 1-08(f)(4),

Dear Commissioner Schriro:

This is to formally advise you that at its public meeting on September 10, 2012, the Board of Correction granted the Department's request for a continuing variance from Minimum Standards section 1-05 ("Lock-In") subsection (b)(2) authorizing DOC to temporarily restrict for up to two hours in their cells adolescent prisoners assigned to cell housing units at RNDC who continue to engage in minor misconduct after being ordered to stop. An inmate in temporary cell restriction will have access to all mandated services, unless in the opinion of the area supervisor the inmate has not regained his composure.

The variance authorizes the Department to delay or deny a temporarily restricted inmate's access to the following services as described below:

- Section 1-03(b) ("Personal Hygiene-Showers"): If in the opinion of the area supervisor the restricted inmate has not regained his composure, a prisoner on temporary cell restriction will receive his shower later that day after the restriction is lifted, unless the restriction extends into the overnight lock-in period.
- Section 1-06(c) ("Recreation-Schedule"): If in the opinion of the area supervisor the restricted inmate has not regained his composure, a prisoner may be denied recreation if called during his temporary cell restriction.

However, he shall be permitted to participate in an enhanced recreation opportunity, if one is scheduled later that day.

- Section 1-07(c) and (j) (“Religion – Congregate religious activities and Limitations on the exercise of religious beliefs”): If in the opinion of the area supervisor the restricted inmate has not regained his composure, a prisoner on temporary cell restriction may be denied congregate religious services. However, the Department shall arrange for a chaplain to make contact with the inmate within 24 hours.
- Section 1-08(f)(4) (“Access to Courts and Legal Services-Law libraries”): If in the opinion of the area supervisor the restricted inmate has not regained his composure, a prisoner on temporary cell restriction may be denied access to the law library. However, the prisoner shall be given the opportunity to attend the next law library make-up session after the temporary cell restriction is lifted.

All other provisions of the Minimum Standards remain in full force and effect, including Section 1-09 “Visiting”.

The variances will remain in effect for four months until the Board’s January 2013 public meeting, which currently is scheduled for January 14, 2013.

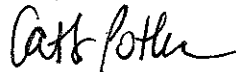
These variances are granted upon the following conditions:

1. The Department will report in writing to the Board every week on its tracking of implementation of the variances. Specifically, DOC will list every inmate, by name and book and case number, who is restricted to his cell; provide a description of the behavior engaged in by the inmate that resulted in cell restriction; the time of the misbehavior; the time the inmate is first confined to his cell and the time that he is released from cell restriction; the names of the officer who recommended cell restriction and the area captain and tour commander who participated in the cell restriction determination; the time the area captain arrives in the housing area and the time tour commander makes his/her determination to lock-in and then lock-out the inmate; list each and every mandated service that was affected and indicate whether they were delayed or denied; and indicate if mental health services were provided and if disciplinary action was taken.
2. The two-hour temporary cell restriction period will begin to run when the prisoner is first locked in his cell.
3. The determination to place a prisoner on temporary cell restriction shall be made by the tour commander after consulting with the area supervisor, who shall interview staff who witnessed the incident and the prisoner(s) involved.
4. A prisoner on a temporary cell restriction, regardless of his age, who is enrolled in school, shall not be delayed or denied from attending class.

5. A prisoner on a temporary cell restriction with funds in his inmate account shall be able to go to commissary with his housing area, if in the opinion of the area supervisor the incident has been satisfactorily resolved. Otherwise the prisoner shall be afforded the opportunity to purchase commissary items through the bagging operation.
6. Prior to implementation of these variances, adolescent prisoners assigned to RNDC shall be educated about temporary cell restriction. Information about this restriction shall be posted on the DOC website and made available to new admission prisoners as part of the orientation process, and will be posted in all adolescent housing areas.
7. By 10 a. m. each day the Department will provide the RNDC Health Services Administrator and DOHMH's CHS Director of Clinic Administration a daily report of prisoners placed in temporary cell restriction for the prior 24 hours.
8. If a mandated service occurs during the two-hour restriction period, the Department cannot "make-up" the remaining restriction time when the inmate returns from the service.
9. The Department shall provide the Board with the following data regarding RNDC adolescents from March 1, 2012 and for as long as the variances are in effect:
 - by month, the number of infractions by type and for each infraction where the inmate is found guilty, the penalty imposed and the actual number of days the inmate is confined in punitive segregation (RNDC, CPSU, and MHAUII) and
 - by month, the total number of fights, and total number of fights with injuries.

If you have any questions, please feel free to contact me.

Very truly yours,



Cathy Potler

c: Members of the Board of Correction

Dep. Commissioner Amanda Parsons, MD, MBA