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Record of Variance Action

On November 15, 2016, the NYC Board of Correction (BOC) voted to approve the Department of Correction's request for a six-month limited variance from BOC Minimum Standards §§ 105(b) and 1-08(f).

This variance allows the Department of Correction a six-month extension of time, commencing on November 15, 2016, during which the Department may provide young adults (ages 18 through 21) housed in Secure Units with a minimum lock-out time of ten (10) hours per day and access to law library services by means of a law library kiosk and typewriters in the Secure Units.

Type of Variance: Limited

Date on which variance will commence: November 15, 2016

Time period, if any: Six months, ending May 15, 2017

Minimum Standards for which Variance is Granted: §§ 105(b) and 1-08(f)

Date on which Board of Correction first approved variance (for renewals only):
May 10, 2016

Requirements imposed as conditions on variance:

1. During the pendency of this Variance, the Department shall: (a) provide all young adults housed in Secure Units with a minimum out-of-cell time of ten (10) hours per day, except for instances of de-escalation, as set forth in the Department's written directive concerning Secure Units ("Directive"); (b) provide all young adults with due process in connection with their placement in Secure Units; and (c) exclude all young adults with serious mental or serious physical disabilities or conditions from placement in Secure Units.
2. During the pendency of this Variance, the Department shall provide the Board with a monthly, public report on the operation of Secure Units:

- a. For each Secure Unit placement, the reason for placement, the housing category in which the inmate was housed prior to placement (e.g., GP, SCH, TRU, ESH, REST, APU), and the result of his adjudication;
- b. For each Secure Unit release, the reason for release, the total number of days spent in Secure Unit, and the housing category in which the inmate was housed upon release;
- c. The number of young adults transferred to Secure Units' Phase I, Phase II and Phase III and the minimum, maximum, median and average length of stay in each Phase¹;
- d. For each program offered, the number of classes or meetings offered and the average number of participants;
- e. The number of young adults in Secure Units who were placed in de-escalation areas, including the minimum, maximum, median and average length of time in such areas;
- f. The number of incidences of inmate-on-inmate violence (includes fights and slashings/stabbings) involving Secure Unit young adults and the rates of inmate-on-inmate violence involving Secure Unit young adults and the young adult general population;
- g. The number of serious injuries to staff caused by Secure Units young adults and the rates of serious injuries to staff caused by Secure Unit young adults and the young adult general population;
- h. The number of uses of force and the rates of use of force involving Secure Unit young adults and the young adult general population; and
- i. The number of acts of self-harm and the rates of acts of self-harm involving Secure Unit young adults and the young adult general population.

Unless noted otherwise, each data point shall only cover the reported period.

In the event the Department experiences difficulty in reporting on any items enumerated in (a) through (i) of this condition, the Department shall provide the Board with a written explanation of such difficulties.

3. During the pendency of this Variance, the Department shall continue to (a) provide the Board with a monthly progress report on its implementation of the Young Adult Plan and implementation of alternatives to punitive segregation (i.e., Second Chance, TRU and Secure Units); and (b) provide its progress report for each month on the fifth business day of the following month.

¹ The minimum, maximum, median, and average lengths of stay shall be calculated continuously from the opening of the Secure Unit on June 29, 2016 to the end of the reported period. For example, if an inmate was placed in Secure Unit Phase 1 on July 1 and transitioned to Phase 2 on July 29, this 28-day length of stay in Phase 1 would, beginning with the August report, be included in each monthly report's calculations of minimum, maximum, median, and average lengths of stay for Phase 1.