



NEW YORK CITY DEPARTMENT OF CORRECTION  
Cynthia Brann, Commissioner

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November 6, 2017

Derrick D. Cephas, Acting Chair & Vice-Chair  
NYC Board of Correction  
1 Centre Street, Room 2213  
New York, NY 10007

RE: Six (6) Month Limited Variance Renewal Request to BOC Minimum Standards: Use of Enhanced Supervision Housing (ESH) Section 1-16(c)(1)(ii) for Young Adults (18 to 21 years old)

Dear Mr. Cephas:

Pursuant to §1-15(f) of the New York City Board of Correction's ("Board") Minimum Standards, the Department requests a six (6) month renewal to the limited variance from BOC Minimum Standards §1-16(c)(1)(ii) which requires that "as of January 1, 2016, inmates ages 18 through 21, provided that sufficient resources are made available to the Department for necessary staffing and implementation of necessary alternative programming" be excluded from placement in Enhanced Supervision Housing (ESH). The Department seeks this variance to be effective on November 15, 2017, the date upon which the current variance is set to expire.

The evolution of the Young Adult Strategy is reflective of the Department's efforts to establish a new model of correctional practice and management for the young adult population in our custody. The Department advanced a supportive housing continuum geared to the unique needs of young adults (18 to 21 years old), which beginning in 2016 included Enhanced Supervision Housing (ESH). During this transformative period, improvements in custodial management of young adults has been effectuated through programmatic expansion, a shift in the provision of educational services, incident reduction<sup>1</sup>, and the establishment of re-entry services. In FY2017, young adults completed more than 2,000 job skills training programs, which will facilitate employment opportunities upon return to their community. The underlying principle woven throughout has been maximizing engagement and educational and programmatic opportunities for all young adults with the hope that it will lead them on a path of positive life changes and minimize the likelihood of future incarceration. This strategy has been showing indications of continued success. Violence related to young adults is lower. In the George Motchan Detention Center (GMDC), as noted in the most recent Monitor's Report, violence in both raw numbers and rates has declined.

With the full elimination of punitive segregation for young adults (18 to 21 years old), the Department has been focused on how best to address the needs of a small subset, 4%, of the young adult population who engage in

<sup>1</sup> Between FY15 and FY17, incidents involving young adults (18 to 21 year olds) have been reduced in the following ways:

- Use of force with serious injury down 46%
- Use of force with minor injury down 19%
- Assault on staff with serious injury down 55%
- Assault on staff with minor injury down 45%
- Total assault on staff down 23%

persistent violent behavior that threatens the safety of their peers and overall facility security. A key component of this shift is a concerted effort to increase engagement with everyone, even those who are most violent. ESH has been instrumental as a housing option for young adults within this category. Through on-going discussions with the Board, the types of behavior warranting consideration for placement in ESH was more narrowly tailored to address the specific needs of the most problematic, violent young adults in DOC custody.

The young adults considered for placement in ESH are based on a limited range of circumstances. Young adults (18 to 21 years old) who have recently committed and/or participated in an actual or attempted slashing or stabbing or engagement in activity that caused serious injury to an officer, another inmate, or any other individual may be considered for placement in the ESH Entry unit. Young adults (19 to 21 years old) who have not engaged in a recent violent incident and are not eligible for the Entry Unit may be considered for direct placement in ESH Level 2 based on the criteria set forth in Minimum Standards under 1-16(b).<sup>2</sup> In those circumstances, the placement is based on the young adult's actions or activities occurring within the preceding year. It is important to note that young adults considered for placement in Level 2 would not be placed based solely on gang related criteria.<sup>3</sup> Since August 2017, when the most recent variance renewal took effect, nineteen (19) young adults were initially placed in ESH<sup>4</sup>. Of those young adults, fourteen (14) were initially placed in ESH Entry unit based on a recent qualifying event: nine (9) based on a slashing or stabbing and five (5) for engaging in activity that caused serious injury to staff. Five (5) young adults were initially placed in ESH Level 2, based on their actions and activities within the preceding year.

In July 2016, as the Department contemplated the inclusion of young adults in ESH, it was in an effort to reduce violence among the young adult population in a structured, incentivized way as well as with the observation that when young adults were co-mingled with adults they were involved in fewer incidents than their counterparts housed exclusively with other young adults (18 to 21 years old). Since that time, based on lessons learned, in addition to housing young adults (19 to 21 years old) in blended units<sup>5</sup>, the Department established a young adult ESH unit which became the ESH Entry unit<sup>6</sup>, exclusively for the housing of young adults (18 to 21 years old) following their involvement in a serious incident. As we move forward, the Department recognizes the continued value of co-mingling young adults (19 to 21 year olds) with adults (22 years old and older) within blended ESH units.

Central to the ESH model is the provision of rehabilitative programming within a secure structure. The Department's commitment to the provision of programming is further evidenced by its expansion to all individuals in our custody. This is a shift in practice from what once existed, when programming was limited and educational services available to individuals with violent institutional conduct was provided through cell study. The ESH Entry unit affords young adults the opportunity to participate in programming and school where they can safely engage with their peers. Program participation is a key indicator in assessing a young

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<sup>2</sup> Minimum Standards 1-16(b) sets forth the criteria for placement in ESH:

(b) Policy. An inmate may be confined in ESH if the inmate presents a significant threat to the safety and security of the facility if housed elsewhere. Such a determination shall only be supported by a finding that one of the following has occurred: (1) the inmate has been identified as a leader of a gang and has demonstrated active involvement in the organization or perpetration of violent or dangerous gang-related activity; (2) the inmate has demonstrated active involvement as an organizer or perpetrator of a gang-related assault; (3) the inmate has committed a slashing or stabbing, has committed repeated assaults, has seriously injured another inmate, visitor, or employee, or has rioted or actively participated in inmate disturbances while in Department custody or otherwise incarcerated; (4) the inmate has been found in possession of a scalpel or a weapon that poses a level of danger similar to or greater than that of a scalpel while in Department custody or otherwise incarcerated; (5) the inmate has engaged in serious or persistent violence; or (6) the inmate, while in Department custody or otherwise incarcerated, has engaged in repeated activity or behavior of a gravity and degree of danger similar to the acts described in paragraphs (1) through (5) of this subdivision, and such activity or behavior has a direct, identifiable and adverse impact on the safety and security of the facility, such as repeated acts of arson. Provided, however, that, where the Department is permitted to consider an inmate's activity occurring or actions committed at a time when the inmate was incarcerated, such activity or actions must have occurred within the preceding five (5) years. Where the Department is permitted to consider an inmate's activity occurring or actions committed at a time when the inmate was not incarcerated, such activity or actions must have occurred within the preceding two (2) years.

<sup>3</sup> Only young adults (19 to 21 years old), not eighteen year olds, have been directly adjudicated for placement in ESH Level 2.

<sup>4</sup> Young adults are initially placed in ESH based on the approval of the Chief of the Department or designee. All initial placement's are subject to an adjudication hearing.

<sup>5</sup> Blended units are units where young adults (19 to 21 years old) are housed with adults (22 years old and older). Eighteen year olds are not co-mingled with adults.

<sup>6</sup> ESH Entry Unit was established in March 2017.

adult's engagement. In 2017, the average program participation rate<sup>7</sup> within the Entry unit was 82%. This data is very promising as it illustrates that young adults have a strong interest in self-improvement and learning which will prepare them for successful release to general population and ultimately to the community. During this time period, there were thirty (30) instances where a young adult advanced to a less restrictive level within ESH.<sup>8</sup>

The Department has made a good faith effort to fully comply with the applicable provisions of the Minimum Standards within the prescribed three (3) month period, however, we are unable to do so at this juncture. ESH is a vital component of the Young Adult Strategy and a primary housing option for the management of the most violent young adults. The Department maintains the position that the Board consider the inclusion of ESH as a housing option for young adults in the advancement of restrictive housing rulemaking. This was also articulated in our March 31, 2017 letter to the Board relative to restrictive housing rulemaking. For the safety of all staff and inmates, the Department urges the Board to move forward in the advancement of restrictive housing rulemaking and the inclusion of this essential housing option. We understand that we are defining new alternatives for which there is no national precedent. The Department continues to explore the best options and ways to change and improve upon the management of this population. At this time, as the Department further examines structural and operational modifications, it is imperative that we maintain this management tool.

The Department appreciates the Board's consideration of this six (6) month limited variance renewal to permit the continued use of ESH for young adults (18 to 21 years old). We look forward to further collaboration with the Board towards the advancement of related restrictive housing rulemaking.

Sincerely,



Cynthia Brann

cc: Martha King, Executive Director

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<sup>7</sup> For the period covering January 2017 through October 2017.

<sup>8</sup> In addition to the ESH Entry unit, there are four (4) levels within ESH. Inmates earn additional privileges with successful completion of each level.