



NEW YORK CITY DEPARTMENT OF CORRECTION

Cynthia Brann, Commissioner

Office of the Commissioner

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May 8, 2019

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

RE: Six (6) Month Limited Variance Renewal Request – Secure Unit – BOC Minimum Standards §1-05(b) and §1-08(f)

Dear Mr. Cephas;

Pursuant to §1-15(f) of the New York City Board of Correction's ("Board") Minimum Standards, the New York City Department of Correction ("Department") requests a six (6) month limited variance renewal from BOC Minimum Standards §1-05(b) "Lock-in" and §1-08(f) "Access to Courts and Legal Services" for the purpose of maintaining the use of the Secure Unit. The Department seeks that this variance take effect on May 23, 2019, the date upon which the underlying variance is set to expire.

The Secure Unit was created in 2016 as part of the Department's focus on reform and its shift from reliance on punitive segregation as a primary disciplinary measure. Today, the Department operates four alternative housing unit types for young adults who engage in serious or persistently violent behavior: Transitional Restorative Unit (TRU), Second Chance, Secure Unit and Enhanced Supervision Housing (ESH). These housing options give the Department progressively more structured and more therapeutic settings that optimize safety and promote rehabilitation. The Secure Unit and ESH are considered restrictive housing due to the fact that they afford fewer than the minimum standard fourteen (14) hours out-of-cell required by the Board's Minimum Standards. The Secure Unit is a housing option for young adults who exhibit increasingly violent behavior or have a past history of violence and have engaged in recent concerning violent acts such that immediate intervention is needed to prevent further escalation of violence. The Secure Unit may also be considered as a suitable housing option for young adults previously housed in ESH whose behavior necessitates a structured setting in which to continue therapeutic engagement. Initial placement in the Secure Unit is the result of an individualized evaluation of the young adult's current and recent history (within the preceding year) and the recommendation that the Secure Unit is the most suitable for that specific young adult.

The Secure Unit is designed to facilitate each young adult's rehabilitation and advancement. Trained and dedicated unit staff, uniform and non-uniform, familiar with each young adult's history, work with the young adults toward fulfilling their individualized goals. The Secure Unit has enhanced uniform staffing ratios and programming and educational services, which provide a supportive foundation in which positive behavioral change can be achieved. Each young adult in the Secure Unit is supported by a Support Team consisting of a Deputy Warden, Unit Manager (Assistant Deputy Warden), Area Supervisor (Captain), steady Correction Officer, Program Counselor, a mental health provider (when applicable), and relevant services providers. The Support Team meets weekly to provide a forum for the

young adult in which individualized needs are fostered, improvements and benchmarks for progression are noted, and behavioral issues are discussed.

Placement into the Secure Unit is the result of a due process hearing with structured reviews to evaluate each young adult's progress and potential advancement. In this structure, young adults have the opportunity to progress through all three phases of the Secure Unit by following its rules and participating in required programming. Each phase provides for incremental increases in afforded out-of-cell time from ten (10) hours in Phase I, to twelve (12) hours in Phase II, to fourteen (14) hours per day of lock-out in Phase III. In order to successfully progress from Phase I to II, young adults must demonstrate progress in their individualized support plans, exhibit positive behavior for at least twenty-eight (28) days, and receive the approval of the Support Team. Successful progression from Phase II to III is similar with the difference being that the time period a young adult stays within Phase II is individualized, consistent with the recommendation of the Support Team. As of April 24, 2019, there were twelve (12) young adults housed in the Secure Unit. Since its creation in 2016, a total of one hundred and one (101) young adults have been placed in the unit, out of which, only twenty-two (22) of whom have had a repeat Secure Unit placement.

The Department works to ensure that the programming offered to individuals in the Secure Unit are aligned with the objectives described in their individual support plan. Types of programming offered to young adults in the Secure Unit include anger management and coping skills, engaging in journaling, and participating in an arts program offered by the Stella Adler Studio of Acting.

In addition to the targeted and therapeutic programming received by young adults within the Secure Unit, they also have the option of enrolling in the East River Academy to further their education. East River Academy has been providing educational services to individuals in the Secure Unit since September 2016. In recent months, the number of young adults enrolled in educational services have ranged from five (5) to twelve (12) individuals, as reflected in the Secure Unit audit reports provided to the Board for January, February, and March. Young adults enrolled in East River Academy are also afforded tutoring services through the Petey Greene Program, a national leader in providing tutoring support to young adults in custody to achieve their academic goals.

In compliance with the variance conditions set out by the Board, restraint desks are only utilized when deemed necessary in order to protect the security of young adults attending school. The Department has not used restraint desks in the Secure Unit since September 14, 2017. The safety of the young people and staff at East River Academy remains a critical concern and, although the restraint desks have not been recently used, the Department continues to require the ability to use them should an individualized need arise.

The requested variance renewal is related to two provisions of the Minimum Standards: 1-05 "Lock-in" and 1-08(f) "Access to Courts and Legal Services – Law Libraries".

1-05(b) “Lock-in”

As stated herein, the Secure Unit is operated through a multi-phase structure in which young adults can advance through the phases from ten (10) hours in Phase I, to twelve (12) hours in Phase II, and to fourteen (14) hours per day of lock-out in Phase III. The Department is seeking a variance renewal to §1-05 to allow for a minimum of ten (10) hours a day out-of-cell time within the Secure Unit. Restricting young adults to ten (10) hours a day of out-of-cell time is a critical management tool to ensure safe operation of the unit and provide necessary incentives for progression, when combined with the other programmatic and therapeutic offerings. This incentivized behavioral approach establishes defined parameters and a structure in which young adults understand the positive and negative ramifications of their actions.

1-08(f) – “Law Libraries”

The Department is also seeking a variance renewal to §1-08(f) to allow for the continued provision of legal services and materials through alternative access in the unit that permits effective legal research while addressing safety and security concerns. Law library services are afforded inside the housing unit through the use of four (4) typewriters and four (4) kiosks. In addition, there is a law library coordinator assigned to the unit who assists young adults in the provision of law library related services. The approval of this variance is essential to the Department’s secure operation of this unit. This variance renewal remains necessary as the department cannot otherwise effectively control, especially directly after an incident, continued violent activity in the law libraries or prevent gang communication from being conducted. The variance allows for operations that protect staff and other young adults from those that would capitalize on potential opportunities to perpetuate additional violence.

The Department appreciates the Board’s consideration of this six (6) month limited variance renewal, which would allow for the reduction of out-of-cell time afforded to a minimum of ten (10) hours per day and the provision of law library services within the Secure Unit.

Sincerely,



Cynthia Brann

cc: Martha King, Executive Director