



NEW YORK CITY DEPARTMENT OF CORRECTION

Cynthia Brann, Commissioner

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Jacqueline Sherman, Interim 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 Interim Chair Sherman,

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 for this variance to take effect on November 24, 2019, the date upon which the current variance is set to expire.

In 2014, the Department released the Young Adult Plan which outlined a significant shift in how young adults in Department custody are housed. Along with the release of the Young Adult Plan, the Department eliminated the use of punitive segregation as a management tool for young adults in lieu of specialized housing areas specifically designed to address the behavioral needs of young adults who engage in problematic behaviors while in custody. The Secure Unit is positioned within the current young adult housing continuum as a safe housing option for young adults who perpetrate persistent violence and/or assaultive behavior and would therefore benefit from a structured living environment that optimizes safety and promotes rehabilitation. Placement criteria for Secure Unit includes, but is not limited to, slashings, stabbings, and assaults with serious injury.

Initial placement and subsequent progress through the Secure Unit is a collaborative process that encourages young adult participation. Continued placement in the Secure Unit is the result of a due process hearing where young adults are adjudicated, informed of the underlying reasons for their placement, and provided an opportunity to produce witnesses or otherwise participate in the process if they wish to do so. Following placement in the unit, progression through the phases is determined during a regular review process, in which a Support Team evaluates each young adult's behavior and progress with the full awareness and optional participation of the young adult. In accordance with the current variance conditions, phase progression is entirely dependent on whether the young adult engaged in violent, aggressive or disruptive behavior during the preceding review period. Young adults who do not participate in such behavior are automatically advanced. As of October 28, 2019, there were twelve (12) young adults housed in the Secure Unit. Since its creation in 2016, a total of one hundred and thirty-five (135) young adults have been placed in the unit, twenty-eight (28) of whom have had a repeat Secure Unit placement.

The phase structure within the Secure Unit represents a key element of the housing model design, which lends to the rehabilitation of those in the unit. The phases within the Secure Unit provide young adults opportunities to earn varying levels of privileges in order to incentivize positive behavior and progression back to general population, with Phase I being the most restrictive and Phase III being the least. Phase I allows for a minimum of ten (10) hours of daily out of cell time, Phase II allows for twelve (12) hours, and Phase III allows for fourteen (14) hours. Commissary levels also increase as young adults move to less restrictive phases. Both of these elements offer strong incentives for individuals to refrain from engaging in violent or disruptive behavior, which is critical for the smooth operation of the unit as well as the young adults' progression through the phases and return to general population.

In order to further encourage positive behavior and rehabilitation, each individual in the Secure Unit meets with the Support Team on a weekly basis. The Support Team consists of a Deputy Warden, Unit Manager (assistant Deputy Warden), Area Supervisor (Captain), steady Correction Officer, Program Counselor, a mental health provider (when applicable), and other relevant service providers. These weekly meetings provide an opportunity for the group to discuss and refine individualized goals for positive behavior change. These goals are identified by the young adult, with the support of a program coordinator, during the Secure Unit orientation and are then detailed within the young adult's individualized support plan (ISP). The support plan maps out an individual's long- and short-term goals in order to address the problematic behaviors that led to the individual's placement in the Secure Unit. Following the development of the ISP, these goals are shared with the entire Support Team and the plan is then used as a foundation for discussion and modification during weekly meetings.

Programming offered in the Secure Unit aligns with the objectives set forth in the individualized support plans. The Department continuously refines program offerings as the needs of young adults in the unit evolve or are otherwise identified. Programming offered to young adults in the Secure Unit includes, but is not limited to, Anger Management, Dialectical Behavior Therapy, Creative Arts, Healthy Relationships, and Interactive Journaling. Between June and September of 2019, the Programs Division integrated new programming opportunities in addition to the current offerings in the Secure Unit. Two new programs were added to bolster the creative arts offerings in the unit. A program provider known as the Kite engages young adults in creative writing workshops, and Society of Illustrators engages participants through the process of developing and illustrating their own graphic novels. Woosa Wellness, which teaches positive coping mechanisms through stress reducing yoga techniques, was also incorporated into the programming model.

In addition to programming, educational services are provided by the East River Academy to young adults in the Secure Unit. Over the last school year, and in the first month of the current school year, on average six (6) young adults voluntarily have been enrolled in school while in the Secure Unit. There were eleven (11) young adults in Secure Unit on average during the same period. During the 2018-2019 school year, one (1) student in the Secure Unit earned his High School Equivalency Diploma. As of October 21, 2019, there were eight (8) students voluntarily enrolled in school within the Secure Unit.

The requested variance renewal pertains to two (2) 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 three phases from ten (10) hours of daily lockout in Phase I, to twelve (12) hours in Phase II, and to fourteen (14) hours 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. Providing young adults a minimum of ten (10) hours of daily out-of-cell time is a critical management tool that ensures safe operation of the unit. When combined with programmatic and therapeutic offerings, reduced out of cell time provides young adults with a critical incentive to exhibit positive behavior in order to progress back to general population. This incentivized behavioral approach further establishes defined and communicated progression parameters, therefore ensuring a structure in which young adults understand the positive and negative impacts of their actions.

1-08(f) – “Law Libraries”

The Department is 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, which 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 the unit. This variance renewal remains necessary as the department cannot otherwise effectively manage potentially violent activity in the law libraries or prevent contact in the law library between individuals who must be separated for safety or security reasons. The variance allows for operations that protect staff and other young adults from those who may otherwise capitalize on potential opportunities to perpetuate additional violence, while providing equivalent access to law library services, legal research, and legal coordinator assistance.

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 continued provision of law library services within the Secure Unit.

Sincerely,



Cynthia Brann

cc: Michelle Ovesey, Acting Executive Director & General Counsel