



NEW YORK CITY DEPARTMENT OF CORRECTION  
Cynthia Brann, Commissioner

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November 5, 2020

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Jennifer Jones Austin, Chair  
NYC Board of Correction  
1 Centre Street, Room 2213  
New York, NY 10007

RE: Limited Six (6) Month Variance Renewal Request to Board of Correction Minimum Standards Section 1-02 Regarding Commingling Young Adults (19-21 Years Old) with Adults (22 Years Old and Older)

Dear Chair Jones Austin,

Pursuant to §1-15(f) of the New York City Board of Correction (“Board”) Minimum Standards, the New York City Department of Correction (“Department”) requests a six (6) month limited variance renewal from Board Minimum Standards, §1-02(c)(1), which requires individuals in custody ages 18 through 21 be housed separate and apart from individuals over the age of 21. While the scope of the Board’s Minimum Standards §1-02(c)(1) is applicable to young adults ages 18 to 21 years-old, the Department seeks for this variance request to apply only for young adults ages 19 to 21 years-old. The Department requests this renewal to take effect December 14, 2020, the date upon which the current variance is set to expire.

Since 2015, when the Board first granted this variance, the Department has continued to develop and improve its housing strategy for young adults. The Department is committed to finding the best way to serve each young adult’s individual safety, programming, and educational needs while they are in our custody. Central to the Department’s strategy is the understanding that the young adult population is diverse in its underlying criminogenic risks and related needs. Through the designation of Robert N. Davoren Center as a facility focused primarily on the care and custody of young adults, the Department has innovated its approach to young adult service provision and unit management in order to offer age-appropriate programming to the majority of the young adult population in the Department’s care. Further, through the development and continued refinement of Young Adult Enhanced Supervision Housing and the Secure Unit, the Department has prioritized the educational and programming needs of young adults who have engaged in seriously or persistently violent behavior while in custody. Lastly, the Department continues to commingle a select group of young adults who have been shown to benefit from being housed with adults, or who have otherwise demonstrated an inability to live in young adult only housing. In this way, commingling remains a critically important alternative housing strategy to ensure the safety of those in our facilities and to promote positive behavior change without the use of more structured or restrictive housing options.

The commingling of young adults with adults is a determination that the Department makes on an individual basis with careful consideration of all alternative housing options. While certain young adults, after an individualized assessment, may be found to benefit from commingled housing, the Department continues to make every effort to house young adults (19-21 years old) in young adult exclusive housing. As of November 2, 2020, there were 119 young adults in custody housed outside of RNDC. Of the 119 young adults, seventeen (17) were housed in young adult only housing in Secure and ESH, two (2) were commingled in ESH housing,

three (3) were housed in protective custody housing, seven (7) were housed in Centrally Monitored Case (“CMC”) housing or other secure housing, and eleven (11) young adults were housed in the Rose M. Singer Center (“RMSC”). Of the remaining young adults housed outside of RNDC, thirty-five (35) were housed in new admission housing due to COVID-19 screening, and ten (10) young adults were housed in specialized mental health housing, the hospital, or an infirmary. Only thirty-four (34) young adults, fewer than 8% of young adults in custody, were commingled in GP housing outside of RNDC based on violent incidents or threats to the safety and security of the facility.

Commingling is typically requested following repeated violent or dangerous behaviors, or following a more serious violent incident by a young adult. The Department requires the flexibility to selectively commingle certain young adults, after an individualized assessment, when it has been deemed necessary for their safety or the safety of others in custody.

These measures, which allow for expanded housing options, are particularly critical when considering that young adults account for a disproportionate share of violence within facilities and are gang affiliated at significantly higher rates than the adult population. In FY19, the percent of young adults in custody with a security risk group affiliation was 45.4%. Comparatively, the percent of adults with security risk group affiliation was 15.6%. In FY19, gang-affiliated young adults committed violence against other individuals in custody at a rate that was over nine (9) times higher when compared to the gang-affiliated adult population. Additionally in FY19, young adults in Department custody without any known gang affiliation committed violence against other individuals in custody at more than double the rate of adults in Department custody without gang affiliation. Separating aggressors, victims, and those who provoke incidents – particularly in light of the number and complexity of security risk groups in Department facilities – represents an exceedingly complex challenge. In certain instances, and particularly in regard to both persistently violent and persistently victimized young people in custody, a safe and secure young adult exclusive housing placement is not always available or prudent.

It is important to note, however, that a young adult with a history of violence or assaultive behavior may continue to be housed in young adult exclusive housing if a safe placement can be determined. All young adults who are placed in commingled housing receive a written determination regarding their housing that includes a justification for the determination in accordance with the Board’s current variance conditions. All underlying documents are provided to the Board for their consideration and oversight.

Whether a young adult is placed in commingled or young adult exclusive housing, the Department remains committed to affording all young adults with meaningful opportunities to engage in programming and educational services. In the face of the COVID-19 pandemic, our staff innovated by shifting their practices and policies to engage young adults under these unprecedented conditions in a meaningful manner that is also consistent with public health guidance. Throughout the COVID-19 pandemic, the Department has continued to work closely with the New York City Department of Education (“DOE”) to ensure all enrolled students remain engaged in their educational pursuits. Initially, all students received weekly learning packets from their instructors, but through close collaboration and the tireless work of our Information Technology Division, the Department expanded its educational platforms to include virtual classroom-based instruction and tablet-based instruction. As an additional resource, a DOE assistance hotline was established for all students, regardless of housing assignment, or the learning platform they have available to them. The hotline allows all students to connect directly with teachers and counselors during the hours when in-person instruction would be typically provided. Students utilizing tablets have the additional option to directly message their DOE educators for assistance with their learning via a tablet messaging system arranged in collaboration with DOE.

In order to encourage enrollment and engagement in educational services, steady staff carry supplemental learning packets for distribution to interested individuals, regardless of whether they are enrolled in DOE services or not. Further, throughout the month of September – leading up to the resumption of education services – the DOC Educational Services Unit meticulously surveyed young adults in custody to determine interest in enrollment in DOE services. A total of 349 responses from young adults were collected.

While in-person programming continues to be curtailed due to the pandemic, the Department's Programs Division continues to provide ongoing engagement with young adults throughout this time. Self-guided programming packets are delivered on a weekly basis along with individual counseling and law library services, as requested. The Programs Division developed a system whereby all commingled young adults receive packets comprised of Young Adult (YA) curriculum components. Packets include Dialectical Behavior Therapy (DBT) worksheets, materials from the "Young Men's Work" book, interactive journaling, and youth communication. The packets are delivered by counselors who routinely conduct follow-up sessions with young adults to respond to questions and encourage completion of the self-guided packets. More recently, DOC program staff have significantly extended their in-person service hours, allowing for greater engagement with individuals in custody. We hope to continue this expansion in accordance with COVID-19 safety measures.

Over the past decade, a clearer understanding of young adult brain development and related behavioral considerations have informed the Department's safe housing practices and management of the young adult population in custody. This new understanding does not, however, justify or call for a one-size-fits-all approach to the housing of young adults within correctional facilities. Over time and through meaningful adjustments to our management strategy, the Department has found that not all young adults are best housed exclusively with other young adults. Certain young people benefit greatly from an alternative environment inclusive of adult mentors and free of the peer pressure often associated with young adult only housing. In this manner, commingling is a proven violence-reduction tool.

Per a recent Department evaluation of commingling practices,<sup>1</sup> young adults who engage in violent or disruptive behavior while in young-adult-only housing are significantly less likely to engage in violent or disruptive behavior when transferred to commingled housing. Young adults were 16% less likely to be involved in incidents resulting in serious injury to other people in custody while housed in commingled housing. Young adults were a staggering 42% less likely to be involved in fights while in commingled housing as opposed to young-adult-only housing. Young adults were 32% less likely to be involved in a use of force incident following their transfer to commingled housing. These findings demonstrate the Department's operational understanding and lived experience witnessing the positive and calming effects commingled housing placements can have for certain young adults who struggle to live peacefully in young adult only housing. Still, however, the Department remains committed to housing substantially all young adults in young adult exclusive housing. This commitment must be balanced with the understanding that commingling continues to serve as an important option for certain young adults who benefit from such placement and may otherwise be housed in more structured or restrictive housing based on their behavior and engagement in disruptive and violent acts.

The Department appreciates the Board's consideration of this six (6) month limited variance renewal request, which would allow for the commingling of young adults (19-21 years-old) with adults (22-year-olds and older) and looks forward to a substantive discussion at the Board's November Public Meeting. The Department additionally appreciates the Board's consideration of a similar provision in future rulemaking. We are committed, in partnership with the Board, to ensuring a safe and supportive management approach for all

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<sup>1</sup> The analysis considers documented violence and use of force data for young adults who were admitted to young-adult-only housing before being transferred to commingled housing between October 1, 2019 and October 5, 2020 in order to analyze changes in daily incidence rates of various key data indicators in the unit prior to commingling and in the unit following commingling.

young adults in Department custody and will continue to refine our management approach to the individual needs of each young person in Department custody.

Sincerely,

A handwritten signature in blue ink that reads "Cynthia Brann". The signature is written in a cursive, flowing style.

Cynthia Brann

cc: Margaret Egan, Executive Director