



NEW YORK CITY DEPARTMENT OF CORRECTION

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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 BOC Minimum Standards §1-05(b) and §1-08(f) regarding the use of the Secure Unit

Dear Chair Jones Austin,

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 requests this renewal to take effect on November 14, 2020, the date on which the current variance is set to expire.

The Department implemented sweeping reforms to various correctional practices over the past several years, including its previous reliance on punitive segregation as a response to serious violence perpetrated by young adults in custody. The reforms further the Department's vision of age-appropriate rehabilitative programming and progressive housing structures, with individualized consideration for the unique educational, social, and behavioral needs of each young adult in the Department's care. Per these considerations, the Department created several alternative housing areas for young adults with the intention of ensuring safety and security within the facilities, while also providing opportunities for meaningful development and growth. The Secure Unit is one of the primary alternative housing options for young adults who engage in persistent violent and/or dangerous behavior. The unit is designed to provide programmatic and therapeutic engagement to young adults in a structured setting that enables and prioritizes each young adult's focus on rehabilitation by addressing individualized root causes of violence and supporting associated needs.

Young adults who are placed in the Secure Unit typically committed a seriously violent act while in custody, such as an assault with injury, an assault while using a weapon, or another act of a similar seriousness. Accordingly, the Secure Unit provides the Department a safe housing option for young adults whose history of violent behavior may not reach the level required for placement in Enhanced Supervision Housing, but still requires a high level of security in tandem with intensive programmatic and therapeutic offerings. As of October 15, 2020, there were fourteen (14) young adults housed in the Secure Unit. Since its creation in 2016, a total of two hundred and three (203) young adults have been placed in the unit.

During a young adult's stay in the Secure Unit, trained uniform and non-uniform staff members continually encourage advancement toward agreed-upon goals and objectives that emphasize needed behavior change and personal development in alignment with comprehensive Individualized Support Plans (ISPs). These trained staff members are familiar with each young adult's history while in custody and constitute the unit's Multidisciplinary Support Team. On a weekly basis, the Support Team assesses each young adult's progress in alignment with their ISP goals. The Support Team also meets with each young adult to highlight progress and discuss areas in need of improvement throughout each review period. This multidisciplinary team is comprised of a Deputy Warden, Unit Manager (Assistant Deputy Warden), Area Supervisor (Captain), steady Correction Officers, Program Counselors, mental health providers (when applicable), and other relevant service providers.

There are three phases within the Secure Unit. Young adults are often placed in Phase I and progress through all three phases before return to general population housing. 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. Accounting for all three phases, young adults spend an average of fifty-five (55) total days in Secure Unit.<sup>1</sup> As an additional incentive for progression, commissary spending limits increase with each phase. 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 negative behavior automatically advance to the next phase. This can result in young adults moving through the phases and being release back into general population without having meaningfully participated in their ISPs and the assigned programming aimed at addressing their unique individualized needs.

The Department is concerned that the rehabilitative potential of the Secure Unit is not currently being realized as program participation is not incentivized in alignment with the unit structure. While all staff in the unit, including steady correction officers, make every effort to encourage program participation among the young adult population, including through targeted conversations and one-on-one counseling sessions, young adults are keenly aware that program participation is not currently a requirement for phase progression and, accordingly, frequently decline to meaningfully participate in their ISPs. Since the establishment of the Secure Unit in 2016, there have been forty-five (45) young adults who have been placed in the Secure Unit on multiple occasions.<sup>2</sup> Many young adults progress out of the Secure Unit without participating in programming only to again commit similarly violent behaviors while in general population housing. Young adults whose behavior rises to the level of Secure Unit placement have serious challenges and needs that can only be addressed through meaningful participation in their ISPs. Ensuring that therapeutic and rehabilitative programming is a fundamental part of each young adult's stay in the unit is critically important for their current and future development, as well as facility safety and the safety of all young adults and people in custody.

Over the past several months, the Department has collaborated with Board members and Board staff to develop new variance conditions in alignment with national best practices in order to incentivize young adults to meaningfully participate in the targeted programming offered in Secure Unit. The proposed additional criteria would allow the Multidisciplinary Support Team to also consider participation in programming when determining advancement to a less restrictive phase. Programming and educational services are central elements of the design of the Secure Unit. These new criteria will provide a significant incentive for programmatic engagement and, as a result, greatly support the overall effectiveness of the unit in interrupting violent and dangerous behavior.

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<sup>1</sup> Evaluated using data from January 1, 2020 through September 30, 2020.

<sup>2</sup> Updated as of October 15, 2020.

Engagement in programming is particularly vital as Secure Unit staff work tirelessly to provide a dynamic array of evidence-based programming within the unit. Under normal operating circumstances, in-person programming such as anger management, dialectical behavior therapy, and creative arts along with in-person educational instruction are provided in the unit throughout each week. In consideration of the ongoing COVID-19 pandemic, the Department worked to continue providing these critical services in a manner consistent with COVID-19 social distancing guidelines. Program Counselors continue to provide one-on-one counseling and community meetings consistent with social distancing guidelines. In addition to the programming offered, young adults in Secure Unit are provided with structured recreation and self-guided materials, based on each of the young adult's individual needs, as determined by the Support Team. The self-guided materials include components on goal setting, pro-social development, anger management, and dialectical behavioral therapy among others. Counselors also offer review sessions of previously distributed programming packets. Additionally, law library and counseling services continue to be provided to young adults in the Secure Unit. As of October 15, 2020, the Law Library staff have completed 259 request slips in Secure Unit since the system became operational in March 2020.

In anticipation of the new school year, the Department's Educational Services Unit conducted outreach and recruitment efforts to encourage young adults to enroll in Department of Education ("DOE") educational services. Enrolled students in Secure Unit commenced the school year with DOE remote learning provided through tablets on September 21, 2020. Students can additionally utilize their tablets to message their teachers for further assistance and access additional DOE content on the tablets. Informational flyers were distributed, which include the days and times that remote learning classes are conducted as well as the DOE's hotline information. The Department, in close collaboration with DOE, continues to emphasize the importance of education during this time. We remain committed to ensuring educational services are provided in the Secure Unit, and elsewhere in Department facilities, in a manner that maximizes learning opportunities while ensuring everyone's health and safety.

The Department's young adult housing continuum ensures a tailored approach to rehabilitation and behavioral management for young adults who perpetrate persistent violence towards others while in Department custody so long as young adults participate in the offered programming and services. The Secure Unit currently remains a critical piece of that continuum. The new proposed conditions for phase progression would allow the Department to meaningfully incentivize young adult participation in potentially life-changing programs offered in accordance with ISPs. The Department appreciates the Board's continued collaboration in the development of the Secure Unit and their consideration of this six (6) month limited variance renewal.

Sincerely,



Cynthia Brann

cc: Margaret Egan, Executive Director