



NEW YORK CITY DEPARTMENT OF CORRECTION
Cynthia Brann, Commissioner

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July 7, 2020

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

RE: Renewal of Continuing Variance Request from Minimum Standard §1-11 “Correspondence” for Specialized Juvenile Detention Facility (SJD) at Horizon Juvenile Center (HJC)

Dear Chair Jones Austin:

Pursuant to §1-15(c) of the New York City Board of Correction’s (“Board”) Minimum Standards, the New York City Department of Correction (“Department”) requests the renewal of the continuing variance from BOC Minimum Standard §1-11, “Correspondence,” directing no limitation regarding whom individuals in the Department’s custody may correspond with; to granting such limitation based upon a juvenile justice centered approach. The initial variance was first granted for the Specialized Juvenile Detention (“SJD”) facility at Horizon Juvenile Center (HJC) by the Board on July 10, 2018 and has continued for six month periods through August 15, 2020. This continuing variance renewal is requested for the period of August 15 through September 30, 2020, the date that the current variance is set to expire through the date of the closing of the SJD. The last pre-RTA youth ages out on July 26, 2020, and it is extremely unlikely that any new youth will be admitted during that period.

As the Board is aware, in 2017, the Governor signed into law New York State’s Raise the Age (RTA) legislation, which amended and enacted various provisions of law to raise the age of criminal responsibility from 16 to 18. This legislation changes the way 16 and 17-year-olds are prosecuted and detained.¹ RTA also amended state Correction Law to add a new section, 500-p, which prohibits the City from holding youth under 18 in a Rikers Island Correctional Facility or any facility located on Rikers Island after October 1, 2018 . The “Rikers youth” population was removed from Rikers Island and is now housed in an SJD facility at Horizon, which is jointly licensed by the Office of Children and Family Services (“OCFS”) and the State Commission on Correction (“SCOC”) and jointly operated by ACS and DOC. The residential composite of the SJD is Rikers youth and pre-RTA youth (17 year olds who would have been detained on Rikers but for the provisions of Correction Law 500-p).

¹ This part of the law went into effect for 16 year olds on October 1, 2018, and on October 1, 2019 for 17 year olds.

The Department is seeking the renewal of a continuing variance from Minimum Standard §1-11 to allow for a modified model of correspondence for Rikers youth and pre-RTA youth that more closely aligns with ACS's existing juvenile detention model. Under this system, there is generally no restriction on either the amount of correspondence youth receive, or on the language used by youth in the correspondence. However, procedures exist for identifying individuals for whom mail correspondence is prohibited ("non-contact") or restricted based on the safety and security of the youth, the facility, and/or consistent with any existing court orders. The SCOC regulations, in 9 NYCRR §7334.5, "Restrictions on Correspondence," acknowledge that SJD facilities need the ability to restrict correspondence: "Nothing contained in this Part shall be deemed to prevent the director, or designee, from establishing a list of correspondents with whom youth shall be prohibited from corresponding in order to protect the safety, security, or operational stability of the facility, or the safety, security, or the health of a person."

Correspondence is never read by facility staff unless youth request reading assistance. Correspondence is also only opened in youth's presence; and is only inspected preliminarily to screen for inappropriate contents.

As required by the condition imposed on the variance on January 8, 2019, outgoing mailboxes were installed in common areas, and ACS case management staff check the mailboxes daily. Additionally, youth can give outgoing mail to ACS program counselors or case managers on a daily basis.

The Department appreciates the Board's consideration of this continuing variance renewal, which if granted, will allow the Department, in conjunction with ACS, to continue to provide Horizon SJD residents with mail correspondence that aligns with the national standard of juvenile detention models.

Thank you for your consideration and attention to this matter.

Sincerely,



Cynthia Brann

cc: Margaret Egan, Executive Director