



NEW YORK CITY DEPARTMENT OF CORRECTION  
Cynthia Brann, Commissioner

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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 §1-04(b)(2), “Overcrowding,” Including Single Occupancy Wet Cells 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 a renewal to the limited variance from BOC Minimum Standard §1-04(b)(2), “Overcrowding,” which requires each single occupancy cell to contain a flush toilet and a wash basin with drinking water, for the purpose of establishing the specialized juvenile detention facility at Horizon Juvenile Center (“Horizon”). This continuing variance renewal would take effect from August 15, 2020, through September 30, 2020, the date that the current variance is set to expire through the date the SJD will close. 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.<sup>1</sup> 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 (“Rikers youth”). This 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 currently Rikers Youth and pre-RTA youth (17 year olds who, but for the provisions of Correction law 500-p, would have been detained at Rikers).

The Department is seeking a continuing variance from Minimum Standard §1-04(b)(2) to allow pre-RTA youth to be housed in single occupancy dry cells – that is, cells that do not contain either a toilet or a sink.

<sup>1</sup> 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.

Additionally, the Department is seeking a variance from §1-04(b)(2) in part because the physical plant of Horizon cannot accommodate individual wet cells: this change in design would require extensive reconstruction and additional space that is not available. Furthermore, the variance is needed so that the current pre-RTA youth population can be housed in a manner more consistent with nationally recognized best practices in juvenile detention, as RTA envisions.

For more than 20 years, juvenile justice systems across the country have moved in the direction of creating smaller and more home-like settings for youth in custody. This has been a purposeful effort to afford young offenders with an environment that differs from the more stark correctional spaces frequently found in adult jails and prisons. Youth sleeping rooms at Horizon's SJD have followed suit and are equipped with a bed, a desk and shelves on which to place clothing. Youth are also encouraged to decorate their rooms in appropriate ways in order to make it more personalized, familiar, and home-like. Adding toilets and sinks, are common practice in adult jails and prisons, and is inconsistent with the City's alignment to follow best practices. Furthermore, the residents in dry cells are afforded more privacy than those in a cell with a sink and toilet.

As per the requirements of the existing variance, Horizon SJD residents are escorted to the unoccupied housing area bathroom and access to drinking water within (5) minutes of the request, absent extenuating circumstances. Currently, when SJD residents are locked in their rooms and wish to use the bathroom or access drinking water, they are able to activate an indicator light from within the room that is illuminated above the bedroom door. Horizon staff responds to the light by opening the door and escorting the youth to the bathroom and back. In addition, the variance also requires, housing unit staff to document when a bathroom escort or drinking water is requested. All staff are trained to record information regarding access to the bathroom and/or drinking water and work diligently to meet the needs of residents.

Other conditions on this variance, both of which the Department fully supports, include:

1. Horizon staff shall not retaliate against residents who request bathroom access or drinking water.
2. Notice of the specific terms and conditions of this variance and the right to notify the Board of any related violations shall be provided to Horizon SJD residents.

The Department appreciates the Board's consideration of this continuing variance request, which, if granted, will allow the Department, in conjunction with ACS, to continue to provide Horizon SJD residents with their housing needs consistent with the goals of Raise the Age.

Thank you for your consideration and attention to this matter.

Sincerely,



Cynthia Brann

cc: Margaret Egan, Executive Director

