



NEW YORK CITY DEPARTMENT OF CORRECTION

Louis A. Molina, Commissioner

Office of the Commissioner

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November 14, 2022

Julio Medina, Acting Chair
NYC Board of Correction
2 Lafayette, Suite 1221
New York, NY 10007

RE: Continuing Variance Request to Board of Correction Minimum Standards Section 1-11(e)(1)(i) Regarding Correspondence

Dear Acting Chair Medina,

Pursuant to §1-15 of the New York City Board of Correction Minimum Standards, I write to seek a continuing variance from Board Minimum Standards § 1-11(e)(1)(i). That provision states that: “[i]ncoming mail shall not be opened except in the presence of the intended recipient.”

As you may know, the Department is in the process of contracting with a vendor to provide incarcerated individuals access to a broad variety of content, including educational material, e-books, religious material, radio programs, and legal material. Each individual would have their own tablet, which they can use in the privacy of their cell or the common area. As part of the plan, it is the Department’s intention for individuals to use the tablets to read their incoming correspondence. The goal of the tablets is to keep contraband out of our facilities, reduce idleness and increase efficiency of mail processing.

Specifically, the plan is for the vendor to open all non-privileged correspondence from an off-site location, to scan the correspondence and then to forward it to the recipient’s tablet. (Family and friends will be informed on the DOC website of a P.O. Box to which to send correspondence). At present, drugs, including fentanyl, are entering our facilities, in part, through correspondence sent in from the outside, often with deadly consequences.¹ Paper is literally soaked in fentanyl and mailed in to those in our custody. Copies of three such papers – a child’s drawing, a love letter, and a prayer schedule – are attached to this submission, and there are dozens more. Incarcerated individuals smoke the paper or otherwise ingest it. In the past year, there have been three confirmed deaths from fentanyl, and three additional suspected deaths. Thus, keeping fentanyl out of our facilities is a paramount priority to promote the safety of individuals in our custody.

Importantly, under the plan no one will read correspondence, except in accordance with §1-11(e) (allowing reading pursuant to search warrant or Warden’s written order). The contents of correspondence will remain private. (Legal correspondence will be received and forwarded as it is now.) The Department hopes to begin issuing the tablets and scanning incoming mail as early as January 2023. Our request is for a continuing variance because the Department has no intention of returning to the current correspondence practice so long as the tablets prove effective.

¹ Fentanyl is a synthetic opioid that is up to 50 times stronger than heroin and 100 times stronger than morphine.

Notably, scanning incoming mail to a tablet is already in effect in numerous other jurisdictions, including some 140 jails across the country; counties from Massachusetts to Oregon follow this practice. If a variance is granted, it will not impose any danger or hardship on the individuals in our custody. Other than §1-11(e)(1)(i), no other minimum standard will be affected. The Department recognizes the importance of incarcerated individuals receiving letters from their loved ones and friends, but receiving fentanyl-laced materials is not a protected right.

I ask that the Board resolve this request promptly so that we can move forward with this promising plan. If you need additional information, please contact Paul Shechtman, the Department's General Counsel and Allie Robertson, Executive Director of Intergovernmental Affairs.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Louis A. Molina'.

Louis A. Molina

cc: Amanda Masters, Executive Director