

Department of Correction Response to the Board of Correction's Report on NYC Jail Conditions and Operations during July 2019 Heat Emergency

Maintaining the safety and well-being of all individuals in custody and all staff who work in Department facilities is a critical responsibility of the Department of Correction ("the Department"). The Department thanks all of its staff and partnering Correctional Health Service ("CHS") staff who worked tirelessly over the July 19th weekend to ensure all individuals in custody were safe. It was through their hard work that the Department was able to prevent any heat-related medical emergencies. The Department further thanks the Board of Correction ("the Board") for their report, acknowledgement, and recommendations.

In circumstances when outside temperatures exceed eighty-five degrees and internal temperatures exceed eighty degrees, the Department initiates an Extreme Heat Protocol ("protocol"). The protocol pertains to all individuals in DOC custody and involves the following actions:

- The Department maintains regular contact with CHS, the healthcare provider for the city's jails, who provides notification to the Department of individuals who are designated as heat sensitive. Any treatment and assessment is provided by CHS through Health & Hospitals Corporation (H+H), and DOC Health Affairs confers with CHS to determine if additional medical monitoring is needed.
- CHS is available 24/7 to manage patients who are experiencing heat related symptoms or wish to clarify their heat sensitive status.
- The Department encourages cool showers and plenty of fluids. Individuals in custody have access to cool showers. The Department ensures that ice is regularly distributed to all housing units in accordance with its policies. Each housing area that is not air conditioned is equipped with multiple fans.
- The Department refers any individual experiencing difficulties or who requests to be seen by medical staff, regardless of whether or not they are in a non-air conditioned or air-conditioned housing area, to CHS.
- In case of brownout or blackout conditions, each DOC facility has back-up generators to provide temporary electrical service.

Though it is not a requirement of the Minimum Standards, the Department has additionally made considerable efforts to ensure that anyone in custody who wants summer clothes has them. The Department has distributed thousands of shorts and short sleeve shirts since the beginning of June to help those in Department custody stay comfortable during hot weather days. All individuals in Department custody who wanted short sleeve clothing prior to and during the July 19th weekend were provided ample short sleeve clothing.

The Department has further ensured that all non-air conditioned housing areas have at least two fans. Many housing areas are equipped with additional fans. A review of fans across the

Department conducted on July 19th showed over four hundred operable fans were located across approximately one-hundred-fifty housing areas. The Department has taken additional action to install electrical outlets in certain key areas to further increase the number of fans that can be used. .

The Department remains attentive to facility and outdoor temperatures and will continue its attention during the remainder of the summer season and all future seasons. The Department will continue to adhere to the Extreme Heat Protocol when circumstances require action, and will continue to take additional actions to ensure the safety and well-being of individuals in custody and staff who work in Department facilities. The Department thanks the Board for their continued attention to this matter.

DOC Responses to BOC Report on NYC Jail Conditions and Operations during July 2019 Heat Emergency Recommendations

- 1. During high heat days, the Department should collect temperatures in a sample of non-air-conditioned housing areas in each jail. The Department should monitor these temperatures to identify housing areas or cells that are particularly hot as to be uninhabitable such that no person should be housed in that cell.*

Response: The Department works diligently to ensure that as many individuals as possible are safely housed in air conditioned areas during the summer months. Due to current infrastructure, and as the Board documents in their report, there are not a sufficient number of air conditioned areas to house the entire population. The Department monitors air conditioned housing area temperatures in order to ensure temperatures are suitable for heat sensitive individuals who may be housed in those areas. The Department additionally records temperatures in select non-air-conditioned housing areas. On high heat days, staff work systematically to ensure all individuals in custody are as comfortable as possible. Staff provide for ice deliveries , cooling fans, distribution of appropriate clothing , and have steps in place to provide that all individuals in custody are appropriately monitored for any signs of heat-related illness. Facility leadership maintain the authority to transfer individuals if housing area conditions are determined to be uninhabitable. The Department is considering the proposal to record temperatures in additional non-air-conditioned housing areas.

- 2. The Department should develop an electronic data-tracking system for the systematic collection of the important heat-related information recorded in the Daily Temperature Monitoring Reports. The electronic system would go a long way toward ensuring comprehensive and accurate reporting and that DOC and CHS take appropriate action in response to a heat emergency.*

Response: The Board has not identified any inaccuracies in the Department's temperature monitoring that would suggest anything other than comprehensive and accurate reporting. However, the Department continues to assess areas where technology may benefit facility operations and will include temperature monitoring in this ongoing assessment.

- 3. Pending development and implementation of an electronic tracking system, DOC should train its staff to monitor jail temperatures and produce comprehensive and accurate Reports.*

Response: The Department issued a Teletype on May 18th instructing all staff of temperature monitoring procedures for the summer season temperature monitoring program. Temperature reports are submitted daily and, if reporting deficiencies are identified, a request is immediately sent to the facility to rectify and provide additional information as necessary. Whenever any internal temperature is recorded at or above 80 degrees or any external temperature is recorded at or above 85 degrees, facilities are contacted and instructed on how to proceed with temperature monitoring and reporting during the high-heat period. As a supplemental measure, an in-depth training on heat-sensitive and heat monitoring policies and procedures was provided to facility leadership in early August. These trainings are also provided on a facility level by request and as needed.

- 4. DOC and CHS should work together to create a shared definition of the temperature at which action is taken to mitigate heat risks.*

Response: The Department's standard of an external temperature of eighty-five degrees and internal temperature of eighty degrees has been informed by the Benjamin litigation. The Department believes its current standard is appropriate and does not intend to change the threshold at which it takes preventative and ameliorative action. DOC understands that CHS's heat protocol is being revised to resolve any inconsistency with DOC with respect to the definition of the temperature at which action is taken to mitigate heat risks.

- 5. The Department should immediately move every heat-sensitive person in custody to air-conditioned housing, unless the person voluntarily refuses to move. In what should be a rare exception — when DOC cannot immediately move a heat-sensitive person due to safety/security concerns — facility leadership should fill out the Override Form and review re-housing options daily.*

Response: The Department has and continues to make every effort to house individuals who are heat sensitive in heat sensitive housing. As of September 4th, 2019, there were approximately 1,815 heat-sensitive individuals in Department custody. Over 1,430 of those individuals were housed in heat-sensitive (air conditioned) housing. Of the remaining individuals, approximately 260 refused transfer to heat-sensitive housing and provided a signed refusal form. Approximately 120 individuals received a security override for their housing placements, based on safety and security concerns. The Department is actively working to house the few remaining individuals in heat sensitive housing, many of whom are new admissions, and continues efforts to house heat sensitive individuals in heat sensitive housing. Facility staff are completing override forms and reviewing rehousing options daily, as applicable.

- 6. Additionally, DOC Health Affairs should provide facility leadership with a daily list of all heat-sensitive people in their respective facilities who are subject to a heat-sensitive override. During high-heat days, the Department should assign one staff person per facility to tour and monitor heat-sensitive people housed in non-air-conditioned units, consider re-housing options for them, ensure they are monitored for heat-related illness, and are given*

ice and access to cold showers. The Department should also provide this daily override list to CHS and the Board.

Response: Facility leadership have continuous access to a list of individuals in their facility who have received a security override. Health Affairs additionally provides notice to facility leadership and CHS on each occasion that a new security override is issued. During high-heat days, staff in every housing area are responsible for monitoring all individuals for heat-related illness, not simply those with security overrides, and providing that individuals have access to ice and cool showers. The Board has access to information regarding individuals' override statuses and the Department will continue to provide additional information to the Board upon request on high heat days.

7. *Heat-sensitive people housed in non-air-conditioned units should have access to CHS at least two times each high-heat day. This may include CHS staff rounds to the housing area or DOC escorting people to the clinic.*

Response: The Department will continue to ensure individuals have daily access to clinical staff and additional access as necessary. Further, the Department will continue to provide individuals who are experiencing or may be experiencing heat-related symptoms receive access to immediate medical care.

8. *Heat-sensitive employees of DOC should have the option of working in air-conditioned housing areas on high-heat days.*

Response: All DOC employees have the right to seek a reasonable accommodation as outlined by DOC policy and consistent with local, state, and federal law.

9. *The Department should move all ESH units to air-conditioned housing areas or install air conditioning in the current ESH units. Until then, DOC should move all heat-sensitive people in ESH to air-conditioned units during high-heat days. If a cell in PSEG, ESH, or other restrictive housing is above 80 Fahrenheit, the Department should immediately cease using this cell until the temperature drops below 80 degrees.*

Response: Individuals housed in ESH and PSEG present significant security concerns based on prior institutional behavior, including perpetration of a stabbing, slashing, or assault on a correction officer, and thus require very careful monitoring, as well as restrictions on movement. As a result of the ameliorative measures the Department has put in place to respond to heat conditions, including the provision of ice and constant access to water in cells, the Department believes current housing practices are reasonable and prudent. As the population in custody decreases, the Department will continue to assess the most effective ways to utilize existing housing capacity to meet the needs of the population.

10. *Install additional fans throughout all non-air-conditioned units. When two fans are not sufficient to circulate air throughout the entire housing area, DOC should install more than two fans. If more fans cannot be installed due to a shortage of electrical outlets, DOC should install additional outlets.*

Response: Per the report findings, the Department has ensured that all non-air conditioned housing areas have at least two operable fans. Many housing areas are equipped with additional fans. A review of fans across the Department conducted on July 19th showed over four hundred operable fans were located across approximately one-hundred-fifty housing areas. The Department has taken additional action to install electrical outlets in certain key areas to further increase the number of fans. The Department will continue to assess opportunities to increase air circulation and ensure that non-air conditioned housing areas are kept as cool as possible on high heat days.

11. Take temperature readings of the showers immediately prior to anticipated high-heat days and during high-heat days.

Response: The Department recognizes the importance of providing cool showers to incarcerated individuals on high heat days. For security reasons, many of the showers have a “blended” water feature whereby the hot and cold water provided to the showers is blended prior to initiating water flow, so the shower water is provided with one push button and at one constant temperature. The Department provides at least one shower per housing area is at a cooler temperature. The Department takes shower temperatures in advance of the high-heat season and will pursue additional temperature monitoring in advance of anticipated heat emergencies. Staff are further on-call to respond to any maintenance issues that may arise during a heat emergency, including the adjustment of water temperatures.

12. Increase ice deliveries so that ice is delivered to housing areas (and directly to people in their cells, as necessary) consistently throughout the day and evening hours. To the extent ice deliveries are limited by the capacity of jail ice machines to generate enough ice to meet demand, DOC should ensure backup ice is available in the NIC storage freezer and staff and vehicles are available to transport ice, as needed. If NIC back-up ice cannot meet jail demands, particularly at borough jails, DOC should consider a contract with a vendor who could provide ice delivery, as needed, in an emergency.

Response: The Department delivers cambros of ice to all housing areas on high heat days, consistent with Department policy and provides for access to a sufficient amount of ice to each individual. On high heat days, ice is delivered cell-side to individuals in PSEG and ESH units every two hours and additional ice is provided upon request. A sufficient storage of ice is maintained in each Department facility for distribution on high heat days and sufficient additional ice is stored on Rikers Island for immediate distribution in the event of ice machine failures in the facilities.

13. Work with City building engineers to test additional measures to lower housing area temperatures during high-heat days (e.g., utilize shades to cover windows during the day; utilize bottom tier cells whenever possible as an alternative to top tier cells which tend to be hotter); and develop facility-specific plans for lowering housing area temperatures during high-heat days.

Response: The Department has and continues to evaluate all possible effective methods of lowering housing area temperatures during high-heat days in order to preserve the safety of those in its custody and staff. Previously tested temperature abatement measures, such as the installation of shades, awnings, or tinted film, had no appreciable effect on housing area temperatures. Each housing area that is not air conditioned is equipped with multiple fans. Individuals in custody have access to cool showers, and ice is provided in each housing area that is not air conditioned. The Department provides that ice is regularly distributed to housing units, consistent with Department policy. The Department will continue to evaluate such decisions on a case-by-case basis in consideration of the safety and security of Department facilities, the individuals in custody, and staff.

14. Ensure maintenance staff is on-site or on-call during weather emergencies to support remedial efforts (e.g. install additional fans or change shower temperature).

Response: The Department has policies in place to ensure that maintenance staff are available on-site during high-heat days, and are available to respond during non-business hours in the case of an emergency.

15. Formalize the suspension of daytime lock-in for count during high-heat days except when security concerns militate otherwise.

Response: Daytime institutional lock-in for the purpose of an institutional count and changing of staff tours is a common correctional practice that allows the Department to ensure accurate accounting of all individuals in custody. Institutional lock-in further ensures that all staff arriving for their tours of duty are briefed with up-to-date information that is vital to the safe and effective operation of Department facilities. The Department made the determination to suspend institutional lock-in on the afternoons of July 20th and July 21st in order to ensure individuals had continued access to dayroom spaces with fans and cool showers. The Department will continue to evaluate such decisions on a case-by-case basis in consideration of the safety and security of Department facilities, the individuals in custody, and staff.

16. Prior to anticipated high-heat days, post information in each housing area to educate people in custody and staff about precautions to prevent heat-related illness. DOC should also formalize its public communication process during heat emergencies (e.g. social media, website, phone calls with advocates, etc.) for consistent communication during emergencies in the future.

Response: The Department displays heat alert posters throughout each facility where individuals in custody are housed, which advise the population and staff of heat-related precautions to prevent heat-related illness. Over the July 19th weekend, the Department posted information publicly on its website and through social media regarding the Department's response to the heat emergency and will continue to do so during future heat emergencies.

17. People in custody and staff reported cold temperatures in the jails this past winter and in previous winters. The Department should review and test its cold-weather emergency and storm plans sufficiently in advance of the winter months to ensure preparedness.

Response: The Department will continue to review its policies, as applicable, and will be prepared to respond to any cold-weather emergencies during the winter months.