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February 4, 2019

Derrick D. Cephas, Chair
NYC Board of Correction
1 Centre Street, Room 2213
New York, NY 10007

Re: Limited Six (6) Month Variance Renewal Request to Board of Correction Minimum Standards Section 1-02 Regarding Co-mingling Young Adults (19-21 years old) with Adults (22 years old and older)

Dear Chair Cephas:

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") writes to request a six (6) month limited variance renewal from BOC Minimum Standards, §1-02(c)(1) which as of February 12, 2019¹ requires inmates ages 18 through 21 be housed separate and apart from inmates over the age of 21. While the scope of the Board's Minimum Standards §1-02(c)(1) is applicable to young adults ages 18 to 21 inclusive, the Department is seeking that this variance apply only for young adults ages 19 to 21 years old. This renewal would take effect on February 12, 2019, the date upon which the current variance is set to expire.

Since 2015, when this variance request was first made, the Department has worked diligently to provide an ever improving environment for young adults in our custody. The Department remains steadfast in its commitment to our young adult population and to maintaining a management approach that supports their safety, educational, and programmatic needs, including access to re-entry services. When the Department created the Young Adult Plan (Plan), it deviated from the established punitive management model, envisioning a program that fostered a safer environment through increased staffing ratios and the incentivizing of positive behavior. Since implementing this unprecedented model in 2015, the Department has repeatedly reevaluated and reassessed the components of the Plan, so as to continuously improve upon existing work and make necessary adjustments in real time. Through the evolution and implementation of the Plan, it has become clear that a dual approach to young adult housing is essential to the comprehensive safety and management of this population. The Department has taken to heart the lessons learned from our attempt to house over 700 young adults at GMDC in 2016, many of whom were high-security risk, with only young adults, which resulted in a marked spike in violence. The Department remains committed to a young adult housing strategy that prioritizes housing young adults together with only young adults, so long as they can reasonably and safely be housed in that manner, but requires the flexibility to comingle young adults who engage in violent or assaultive behavior or who pose security risks to their fellow inmates, with inmates over age 21. The ability to comingle certain young adults is

¹ Based on variances granted by the Board on September 8, 2015, December 16, 2015, January 12, 2016, July 12, 2016, January 10, 2017, July 11, 2017, January 9, 2018, July 10, 2018, October 15, 2018, and January 8, 2019 extending the October 15, 2015 deadline for the housing of inmates ages 19 to 21 separately and apart from inmates over the age of 21.

imperative for the overall safety and security of everyone who lives and works in DOC facilities.

As discussed at the July 2018 Board meeting, and reaffirmed in the October 2018 Board meeting, the Department has pledged to house substantially all young adults in young adult only housing. As of the January 2019 Young Adult Housing Monthly Progress Report, there was an overall increase of 61 young adults in the young adult-only housing areas and an overall decrease of 61 in young adults in comingled housing area.² On January 31, 2019, there were a total of 646 young adults in the total population. 433 of these young adults were housed in young adult only units (67%) while 213 young adults were housed in comingled units (33%).

Going forward, the Department will continue to house all 18 year old male inmates in young adult only housing. The Department will make young adult only housing a priority for males ages 19-21 if they are enrolled or seeking Department of Education related services, or have expressed interest in participating in programming services, and are not housed in a restrictive housing area with less than 14 hours of lock out time (e.g., Enhanced Supervision Housing). Further, the Department will make every effort to house young adult male inmates ages 19-21 in young adult only housing unless after a case-by-case determination it is determined that a young adult inmate has engaged in violent or assaultive behavior³ towards staff or other individuals in custody, or engaged in actions that threaten the safety and security of the facility, and would be more safely housed in comingled housing. Although historical violence or assaultive behavior may certainly be a consideration in the housing determination of a young adult, the intention is to respond to specific threats in real time, adjusting the housing assignments of young adults when they pose a threat to the safety of others in their current housing assignment. This may mean moving to another young adult only unit or to a comingled unit. In exceptional circumstances, a young adult with no history of violence may be moved if necessary for the safety and security of the inmate and/or the facility. Conversely, a young adult with a history of violence or assaultive behavior may still be housed in young adult only housing if a safe placement can be determined.

Regardless of the type of unit a young adult is housed in, the Department remains committed to affording all young adults with access to education and to engaging them in programming. Not only is access to education a right for young adults, the Department believes that programming engagement is a vital indicator of future success and a tangible tool in reducing violence and promoting safe facilities. Inmates in both co-mingled and pure young adult housing will continue to receive dynamic and targeted programming and educational services led by experienced instructors, nonprofit partners, and DOC staff. In December 2018, twenty-four separate programs were available to young adults across the facilities. Programs offerings range from group emotional support to hard skill building. Educational services are similarly available to all young adults and young adults can choose to opt into educational programming at any time. If a young adult is in a comingled unit within a facility that does not have a school, the Department will prioritize rehousing that young adult in the safest manner possible. In recent months, the Department instituted an educational outreach team at the Robert N. Davoren Center (RNDC), the facility that currently houses the majority of the Department's young adult population. The educational outreach team works to encourage young adults to opt into educational program, specifically targeting those young adults who did not express an interest during the intake process. A DOE-DOC working group was also formed that meets to address issues of school attendance and safety, among others. The Department recognizes that its young adult population has distinct needs that are separate from the adult population and is committed to providing age-appropriate programs and services to all of the young adults in our care.

² As compared to the December 2018 Young Adult Housing Monthly Progress Report.

³ In this instance, "assaultive" behavior refers to an intentional act or acts by one individual that causes harm to another individual. Assaultive behavior is frequently violent, though violence is not necessarily assaultive. "Violent" behavior is an act or acts that intends to cause harm. For example, violence can be directed toward oneself or manifested in a failed attempt to assault another.

The Department is advancing a balanced custody management approach, founded on the understanding that while there are overarching needs that relate to young adults, individualized consideration must be made in determining the most appropriate housing option, comingled or young adult exclusive, that best suits each individual young adult. Since March 31, 2017, the Department has been advocating for the Board to enter into restrictive housing rulemaking inclusive of the use of comingling. The Department continues to urge the Board to initiate rulemaking that allows for this custody management option. The Department has made a good faith effort to comply with the noted provision of the minimum standard within the three (3) months prescribed in the prior two variances, but we cannot do so at this time as it would undermine the benefits of the Young Adult Plan and the violence reduction trends we have seen to date.

The Department appreciates the Board's consideration of a six (6) month limited variance renewal, which would allow for the comingling of young adults (19 to 21 years old) with adults (22 years old and older). We look forward to continuing to work together to ensure the successful management of the Department's young adult population and to achieve compliance through future rulemaking.

Sincerely,

A handwritten signature in blue ink that reads "Cynthia Brann". The signature is written in a cursive, flowing style.

Cynthia Brann

cc: Martha King, Executive Director