



NEW YORK CITY DEPARTMENT OF CORRECTION
Cynthia Brann, Commissioner

Office of the Commissioner
75-20 Astoria Blvd., Suite 305
East Elmhurst, NY 11370

718 • 546 • 0890
Fax 718 • 278 • 6022

July 2nd, 2019

Jacqueline Sherman, Interim Chair
NYC Board of Correction
1 Centre Street, Room 2213
New York, NY 10007

RE: Six (6) Month Limited Variance Renewal Request to BOC Minimum Standards: Use of Enhanced Supervision Housing (ESH) Section 1-16(c)(1)(ii) for Young Adults (18 to 21 years old)

Dear Interim Chair Sherman,

Pursuant to §1-15(f) of the New York City Board of Correction's ("Board") Minimum Standards, the Department requests a six (6) month renewal to the limited variance from BOC Minimum Standards §1-16(c)(1)(ii) which requires that "as of January 1, 2016, inmates ages 18 through 21, provided that sufficient resources are made available to the Department for necessary staffing and implementation of necessary alternative programming" be excluded from placement in Enhanced Supervision Housing (ESH). The Department seeks this variance renewal to be effective on August 18, 2019, the date upon which the current variance is set to expire. Given that the Board is not holding a Public Meeting in August, the Department is requesting this limited variance renewal in the July Public Meeting.

The Department and the Board share the same overall objectives: creating and supporting a correctional setting that is safe, humane, and produces positive outcomes. Over the past five years, the Department has undertaken numerous reforms efforts aimed to modernize our correctional practices. Our goal is continual improvements, which means our work may never, and likely should never, be finished. The Department's elimination of punitive segregation for young adults, and the creation of ESH housing for this population, demonstrates our progress and our ongoing efforts to find innovative solutions that support the individuals in our care.

Between 2012 and 2014, there were approximately 200 young adults (15% of the young adult population) in punitive segregation on any given day. In 2015, we fundamentally transformed the structure of punitive segregation with the creation of a specific, tiered, and proportional sentencing grid. Prior to 2015, punitive segregation had been the only response to all infractions, with sentences of 90 days administered for relatively minor infractions such as tobacco possession. Following the reforms, punitive segregation focuses specifically on violent Grade I infractions and sentence durations are directly proportional to the specific act committed. Further, there is a maximum punitive segregation sentence of 60 days for serious assaults on staff and a maximum of 30 days for other serious, violent offenses. Individuals are released from punitive segregation for at least seven days before returning to punitive segregation and cannot serve more than 60 days in a six month period, unless the individual commits an egregious infraction that warrants an override during his time out. Such overrides are

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considered by the Chief of the Department and only approved when the alternative would place inmates and staff in direct danger. As a result of these reforms, the use of punitive segregation for young adults during 2015 was reduced by half, with only approximately 80 young adults (7% of the young 2 adult population) in punitive segregation on any given day. In 2016, segregation was eliminated for all inmates ages 21 and under. At the same time that punitive segregation was eliminated for young adults, ESH was identified as a necessary housing option in order to safely house a limited number of violent young adults in both a structured and secure setting that managed their contact with other inmates and staff, but also provided for the delivery of enhanced programming. The type of programming offered focuses on facilitating rehabilitation, addressing the core causes of violence, and minimizing idleness. Within ESH, there are three levels with each one having a more tailored environment for the young adults to facilitate the easing of their return to general population. A young adult can only be placed in Level 1, the most restrictive level, if they have recently participated in an actual or attempted stabbing or slashing, or engaged in activity that caused serious injury to an officer, another person in custody, or any other person. Level 1 affords seven hours of lock-out time (three additional hours if they elect to attend school), during which time a restraint desk is utilized that enables the provision of school, programming and socialization with peers while also ensuring safety. Young adults who have not recently engaged in violent activities are not eligible for ESH Level 1 and therefore, may be considered for direct placement into ESH Level 2 based on the criteria set forth in the Minimum Standards under 1-16(b). Levels 2 and 3 do not utilize the restraint desk during lock-out time. Further, in January 2019, the Department began providing a separate school session for young adults in Levels 2 and 3, that does not include young adults in Level 1, which means there is no longer a need to restrain young adults in Levels 2 and 3 in the desks during school.

Following the initial placement, young adults participate in therapeutic and behavioral programming designed to increase prosocial behavior. In order to advance through the program, a review of an individual's progress is conducted by representatives of the Multidisciplinary Review Team (comprised of both uniformed staff as well as social service providers and programs staff) as well as the young adult himself. Based on the team's assessment of the young adult's behavior and overall participation in programming, he may be recommended to advance, to regress, or to stay at the same level for another review period. Reviews in Level 1 are conducted every fifteen (15) days, while reviews for individuals in Level 2 and 3 are conducted every twenty-one (21) days. The review determination always includes justification for advancement, no advancement, or regression.

In 2017, there were approximately thirty-three (33) young adults (3% of the young adult population) in ESH on any given day, with approximately eleven (11) young adults (1% of the young adult population) in Level 1, the most restrictive level. The numbers reduced in 2018, to twenty-four (24) and seven (7) young adults, respectively, but because of the reduction in the number of young adults in custody, they continued to represent the same percentages of the young adult population.¹ At the time of this letter, there are fifteen (15) young adults housed in ESH and only one (1) young adult in ESH Level 1. Since January 1, 2019 there have been sixty-nine (69) new placements in ESH². Of those sixty-nine (69) young adults, fifteen (15) were initially placed in Level 1, based on a recent qualifying event: twelve (12) based primarily on a slashing or stabbing, and three (3) were based primarily on an assault on a staff member or another person in DOC custody. Fifty-four (54) young adults were initially placed in ESH Level 2, based on a qualifying event which occurred within the last year, such as a slashing or stabbing, possession of a dangerous article, or an assault on a staff member or another person in DOC custody.

¹ Information accurate as of July 2nd, 2019. Information has been updated due to improved reporting as communicated to Board staff.

² Information accurate as of June 21, 2019.

ESH is not only a critically important management tool, but the program itself also provides individuals in the program with dedicated educational services. The East River Academy continues to provide educational services to the young adults housed in ESH. As more thoroughly outlined in the Department's October 2018 and February 2019 Young Adult Plan Updates, the Department remains resolute in our commitment to engaging with young adults during their time in our custody in promotion of the importance of education and the opportunities available to them. From February 1, 2019 – May 31, 2019, there were sixty-eight (68) unique young adults housed in ESH³. Of those 68, fifty-four (54) young adults were enrolled in East River Academy while housed in ESH, and five (5) young adults were enrolled multiple times within the school year. Of the fifty-nine (59) total, non-unique young adults enrolled, fifteen (15) young adults were enrolled in school before, during, and after being housed in ESH. In addition, four (4) individuals continued with their education classes following transfer out of the ESH program. Eight (8) individuals were enrolled solely while in ESH and twenty-eight (28) were enrolled prior to and during their placement in the ESH program.

In order to enhance the facilitation of educational courses for all young adults in ESH, the Department opened a second YA ESH school at the beginning of 2019. Over the course of the 2018/2019 school year, 3 young adults in ESH earned high school equivalency degrees. We have appreciated the Board's support during this period of significant, groundbreaking reform, including the urging of important changes to the operation of ESH such as narrowed placement criteria, more frequent reviews and the presence and participation of the young adult in their periodic review. The shortened review periods have enhanced the overall process, allowing for more frequent and meaningful engagement between staff and the young adults in which young adults receive valuable feedback and positive recognition for milestones reached. The increased frequency of the reviews also facilitates the opportunity for young adult's to advance more expeditiously through the ESH Levels. These changes support a culture of fairness and transparency and ensure that these restrictive housing units are only used when and with whom they are truly necessary.

The Department appreciates the Board's consideration of this six (6) month limited variance renewal request to permit the continued use of ESH for young adults (18 to 21 years-old). We look forward to continuing to work with the Board to ensure safe and appropriate housing for everyone in the Department's care.

Sincerely,



Cynthia Brann

cc: Martha King, Executive Director

³ This figure is inclusive of individuals who were housed in ESH prior to February 1, 2019 as well as those who were placed in ESH between February 1, 2019 – May 31, 2019.

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