



NEW YORK CITY DEPARTMENT OF CORRECTION

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November 7th, 2019

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

RE: Renewal of Limited Six (6) Month Variance Request from Minimum Standard §3-06(e)(5) “Nursery program” Specialized Juvenile Detention Facilities(SJD) at Horizon Juvenile Center (HJC)

Dear Ms. Sherman:

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 six (6) month variance renewal from BOC Minimum Standard §3-06(e)(5), “Nursery program,” which requires a physical nursery and child care program for youth who may give birth while in custody. The current variance addresses the fact that compliance with this minimum standard is not feasible based upon the structural and spacing limitations of the facility. The initial variance was first granted for the Specialized Juvenile Detention (“SJD”) facility at Horizon Juvenile Center (HJC) by the Board on July 10, 2018 and continued through January 8, 2020. This limited variance renewal is requested for six (6) months and would take effect on January 8, 2020, the date that the current variance is set to expire.

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.¹ 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 the renewal of a limited variance from Minimum Standard §3-06(e)(5) to allow Rikers and pre-RTA youth to be housed in a facility that does not have “necessary child care” and a “nursery program.” The Department is seeking a variance from §3-06(e)(5) in part because the physical plant of Horizon cannot accommodate a nursery: this change in design would require extensive reconstruction and additional space that is not available. A nursery program would also be underutilized at the SJD, as has been evident from October 1, 2018 to present. The number of female

¹ 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.

youth who enter and remain in the SJD for any substantial amount of time is projected to remain low; as the last year has reflected, very few female youth have been detained in the SJD at Horizon. It is very improbable that a pregnant youth would give birth during their short stay at the SJD.

In continuing to apply the existing DOC model, if a late-term pregnant youth is admitted, ACS would make an individualized assessment to determine the best interests of the child, as required by law (Correction Law 611), which takes into account the mother's history of violence. ACS has contracted with Children's Village to put in place a wrap-around model of support for the SJD facility that provides a variety of parenting services to all young parents (mothers and fathers), which includes supported visitation, parent-child service coordination and specialized case management, education, and coaching. These services also follow the youth back to the community or other settings, upon their release.

The Department appreciates the Board's consideration of this six (6) month limited variance renewal, which if granted, will allow the Department, in conjunction with ACS, to continue to provide Horizon SJD residents with nursery program services that align with the national standard of juvenile justice models.

Thank you for your consideration and attention to this matter.

Sincerely,



Cynthia Brann

cc: Michelle Ovesey, Acting Executive Director & General Counsel