



NEW YORK CITY DEPARTMENT OF CORRECTION

Cynthia Brann, Commissioner

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

September 2, 2020

718 • 546 • 0708
Fax 718 • 278 • 6022

Jennifer Jones Austin, 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 Commingling Young Adults (19-21 Years Old) with Adults (22 Years Old and Older)

Dear Chair Jones Austin,

Pursuant to §1-15(f) of the New York City Board of Correction (“Board”) Minimum Standards, the New York City Department of Correction (“Department”) requests a six (6) month limited variance renewal from Board Minimum Standards, §1-02(c)(1), which requires individuals in custody ages 18 through 21 to be housed separate and apart from individuals 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 years-old, the Department seeks for this variance request to apply only for young adults ages 19 to 21 years-old. The Department requests this renewal to take effect September 14, 2020, the date upon which the current variance is set to expire.

In working collaboration with the Board, the Department developed a housing strategy for young adults that most directly serves each young adult’s individual safety, programming, and educational needs. Central to the Department’s strategy is the understanding that the young adult population is diverse in its underlying criminogenic risks and related needs. Through the designation of Robert N. Davoren Center as a facility focused primarily on the care and custody of young adults, the Department has further innovated its approach to young adult service provision and unit management in order to offer age-appropriate programming to the majority of the young adult population in the Department’s care. Further, through the development and continued refinement of Young Adult Enhanced Supervision Housing and the Secure Unit, the Department has continued to prioritize the educational and programming needs of young adults who have engaged in seriously or persistently violent behavior while in custody. Lastly, by selectively commingling young adults who benefit from being housed with adults, or who have otherwise demonstrated an inability or unwillingness to live in young adult only housing, the Department retains an important mechanism to promote safety and to address the most critical risks and needs of each individual young person in custody.

The commingling of young adults with adults is a strategic determination that the Department makes on an individual basis with careful consideration of all alternative housing options. While certain young adults, after an individualized assessment, may be found to benefit from commingled housing, the Department continues to make every effort to house young adults (19-21 years old) in young adult exclusive housing. The Department further continues to house all 18-year-olds in accordance with the Board’s Minimum Standards. However, the Department requires the flexibility to selectively commingle certain young adults, after an individualized assessment, when it has been deemed necessary for their safety or the safety of others in

custody. In exceptional circumstances, a young adult with no history of violence may be commingled if necessary for the safety and security of the individual and/or the facility. Conversely, a young adult with a history of violence or assaultive behavior may continue to be housed in young adult exclusive housing if a safe placement can be determined. All young adults who are placed in commingled housing receive a written determination regarding their housing that includes a justification for the determination in accordance with the Board's current variance conditions. All underlying documents are provided to the Board for their oversight and consideration.

The Department's young adult population accounts for a disproportionate share of violence and affiliates with active gang involvement at higher rates than the adult population. In FY19, the percent of young adults in custody with a security risk group affiliation was 45.4%. Comparatively, the percent of adults with security risk group affiliation was 15.6%. In FY19, gang-affiliated young adults committed violence against other individuals in custody at a rate that was over nine (9) times higher when compared to the gang-affiliated adult population. Additionally in FY19, young adults in Department custody without any known gang affiliation committed violence against other individuals in custody at more than double the rate of adults in Department custody without gang affiliation. Separating aggressors, victims, and those who provoke incidents – particularly in light of the number and complexity of security risk groups in Department facilities – represents an exceedingly complex challenge. In certain instances, and particularly in regards to both persistently violent and persistently victimized young people in custody, a safe and secure young adult exclusive housing placement is not always available or prudent.

Whether a young adult is placed in commingled or young adult exclusive housing, the Department remains committed to affording all young adults with meaningful opportunities to engage in programming and educational services. Throughout the COVID-19 pandemic, the Department has continued to work closely with the New York City Department of Education (DOE) to ensure all enrolled students receive individualized learning materials while in-person educational services have been temporarily suspended. Programming staff have delivered these learning materials to all students on a weekly basis since March 2020. In order to encourage further enrollment and engagement in educational services, steady staff carry supplemental learning packets for distribution to any interested individual, regardless of whether they are enrolled in DOE services or not.

Starting in July 2019 and ending in June 2020, the East River Academy administered a total of 51 high school equivalency exams. Out of the tests administered, 36 students passed the exam and obtained a high school diploma and 5 are currently awaiting their results. During the summer school session, the DOE provides educational services to 12-month students who have an Individualized Education Plan (IEP). As of August 11, 2020, the summer session enrollment was 28 students at RNDC, 12 students at GRVC, 3 students at RMSC, and 1 student at OBCC. As an additional resource, a DOE hotline was established for all students, no matter their housing assignment, which allows them to connect with teachers and counselors during the hours where normally in-person instruction would be provided. The Department has further continued its rollout of tablets to individuals in custody. Tablets include supplementary educational content and young adults enrolled in school have the additional option to directly message their DOE counselors and educators for assistance with their learning via a tablet messaging system arranged in collaboration with DOE.

While in-person programming services have been suspended due to the pandemic, the Department's Programs Division continues to provide young adults with self-guided programming packets on a weekly basis. The Programs Division developed a system whereby all commingled young adults receive packets comprised of Young Adult (YA) curriculum components. Packets include Dialectical Behavior Therapy (DBT) worksheets, materials from the "Young Men's Work" book, interactive journaling, and youth communication. The packets are prepared and delivered by counselors who routinely conduct follow-up sessions in a safe manner with young adults to respond to questions and ensure the completion of the self-guided packets.

Over the past decade, a clearer understanding of young adult brain development and related behavioral considerations have informed the Department's safe housing practices and management of the young adult population in custody. This new understanding does not, however, justify or call for a one size fits all approach to the housing of young adults within correctional facilities. Over time and through meaningful adjustments to our management strategy, the Department has found that not all young adults are best housed exclusively with young adults. Certain young people benefit greatly from an alternative environment inclusive of adult mentors. The Department remains committed to the Young Adult Plan and to housing substantially all young adults in young adult exclusive housing. However, commingling continues to serve as an important option for certain young adults who benefit from such placement.

The Department appreciates the Board's consideration of this six (6) month limited variance renewal request, which would allow for the commingling of young adults (19-21 years-old) with adults (22 year-olds and older) and looks forward to a substantive discussion at the Board's September public meeting. The Department additionally appreciates the Board's consideration of a similar provision in future rulemaking. We are committed, in partnership with the Board, to ensuring a safe and supportive management approach for all young adults in Department custody and will continue to refine our management approach to the individual needs of each young person in Department custody.

Sincerely,

A handwritten signature in blue ink that reads "Cynthia Brann". The signature is fluid and cursive, with the first name "Cynthia" written in a larger, more prominent script than the last name "Brann".

Cynthia Brann

cc: Margaret Egan, Executive Director