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THE COUNCIL
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November 15, 2016

Martha King, Executive Director
Chair and Members
New York City Board of Correction
1 Centre Street, Room 2213
New York, NY 10007

Re: -Sexual Abuse and Harassment Final Rule
-Continuing Variance Request to Minimum Standards § 1-07 (Practice of religion)
and § 1-08 (Access to courts and legal services, including law library) (Inmates
Requiring Safety Separation)
-Presentation of Limited Variance Renewal to Minimum Standards § 1-05(b)
(Lock-in) and § 1-08(f) (Access to courts and legal services, including law library)
(Secure Unit)
Presentation of Limited Variance Renewal to Minimum Standard § 1-17(d)(2)
(Limitations on the use of punitive segregation) (Seven-Day Waiver)
-Emergency Declarations at OBCC and Emergency Variance Request

Dear Board Members:

I am writing to recognize the significant step the Board of Correction (Board) has taken toward reform and to encourage further progress. At today's meeting, the Board is considering a large number of items, which the public has had to digest in a short period of time. I ask the Board to be mindful of the need to make this process as transparent and accessible as possible, always giving the public an opportunity to meaningfully respond.

As the Board considers whether to adopt the Sexual Abuse and Harassment Final Rule, I express continuing concerns about how well-tailored such rules are to New York City jails. While I applaud the adoption of this rule with the few substantive amendments that were made, I am concerned about how few of the vitally important reform measures were actually included. I ask that the Board focus on lesbian, gay, bisexual, and transgender issues, particularly transgender concerns. Moving forward, I encourage you to closely monitor the situation and listen to the concerns of advocates and impacted individuals.

As for the variance requests of the Department of Correction (DOC), I ask that you reject any efforts to subvert the established rulemaking process. Concerning Minimum Standard § 1-07 (practice of religion) for “inmates requiring safety separation,” the Board should not grant the variance request since the Standards already provide for the process by which to make individualized determinations. Concerning §1-08(f) (access to courts and legal services, including law library) for this same population, I discourage the Board from granting the requested variance but, if you are inclined to do so, request that you include assurances of same or next-day assistance.

The variance request around § 1-05(b) (lock-in) for the “Secure Unit” should not be granted. The DOC’s request provides no evidence as to why this is warranted or how the DOC has attempted to achieve compliance with the Standards before the end of the previous six-month variance period. The DOC seems to be extending non-compliance with the Standards until a possible future rule change, which contravenes both the spirit and the letter of the rulemaking process. Concerning §1-08(f) (access to courts and legal services, including law library) for this same population, I discourage the Board from granting the requested variance but, if you are inclined to do so, request that you include assurances of same or next-day assistance.

The variance around § 1-17(d)(2) (limitations on the use of punitive segregation) requesting renewal of the seven-day waiver should not be granted or even considered without more detailed information on the impacted population and a detailed plan for full compliance as soon as possible.

Finally, the Board should reject the DOC’s emergency variance request for OBCC. Due to its impact on a large number of individuals, any extended period of lockdown deserves the Board’s utmost scrutiny. The *post hoc* variance request that DOC submitted does not warrant the Board’s approval. In fact, the Board needs to demand DOC’s full and immediate compliance with the Standards in this instance and assurance that this will not happen again.

Thank you for your careful consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Dromm", with a long horizontal stroke extending to the right.

Daniel Dromm
New York City Council Member, 25th District