



**NEW YORK CITY DEPARTMENT OF CORRECTION**  
**Joseph Ponte, Commissioner**

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November 7, 2016

Stanley Brezenoff, Chair  
NYC Board of Correction  
1 Centre Street, Room 2213  
New York, NY 10007

Dear Mr. Brezenoff;

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") requests a six (6) month limited variance renewal from BOC Minimum Standards §1-05(b) "Lock-in" and §1-08(f) "Access to Courts and Legal Services" for the purpose of maintaining the use of the Secure Unit, as the Department continues implementation of its Young Adult Strategy plan. The underlying variance was set to expire on November 10, 2016 and was extended for a five (5) day period, until the next scheduled BOC public meeting on November 15, 2016. The Department seeks this variance to be effective on November 15, 2016, the date upon which the underlying variance is set to expire.

On October 11, 2016, the Department took monumental steps in the management of young adults, 19 to 21 years old, through the elimination of the use of punitive segregation for this population. This historical event was the result of two years of reforms and continual evaluation and adjustments to the Young Adult plan. The new and evolving disciplinary approach focuses on optimizing safety and promoting rehabilitation. The initial Young Adult plan was designed as a tiered response protocol utilizing three (3) levels of progressively more structured and more therapeutic housing types, including: Second Chance, Transitional Restorative Unit (TRU), and Secure Unit. Placement in any one of these three (3) housing options is based on specific criteria that account for the severity and persistence of the violent behavior. Young adults placed in any of the three (3) units are provided with an explanation of why they have been placed in that unit and what they must do to return to general population.

Due to the unprecedented nature of the Department's management approach, as issues arose with the preliminary housing structure, an assessment was conducted to determine what further enhancements would be necessary. Based on these assessments, in July 2016, the Department sought and was granted a variance to allow for the use of Enhanced Supervision Housing (ESH) for 19 to 21 year olds. In October 2016, the Department sought and was granted a renewal of the variance to continue the use of ESH for the 19 to 21 year olds and a separate variance to allow for the use of ESH for 18 year olds. It is anticipated that the addition of ESH as a housing option for all young adults will serve to address noted gaps in the overall housing strategy.

Over the six (6) months since the Board granted the limited variance that permitted the establishment of the Secure model, we have operationalized one (1) unit. As we piloted this new unit and incorporated it into the tiered response, the Department has noted and worked to address issues. There has also been some very promising preliminary outcomes for the young adults in the unit. Several young adults who had previously not been participating in programming have started to engage in such opportunities including investing in their education. This is evidenced by their consistent attendance in school. School is a voluntary option for all young adults ages 18 to 21 years old. Over the last several months, there has also been significant security benefits

directly related to the structure of the unit and the introductory orientation process that each young adult is provided prior to housing assignment. Through the orientation and unit programming, better communication between the staff and young adults has allowed for information to be revealed that served to shed light on potential safety concerns and led to their resolution without incident. While it is clear at this juncture that the Secure Unit is an integral component of the young adult housing construct, it is critical that we have additional time to assess trends and practices prior to advancing towards formalizing adoption of this housing in the minimum standards.

It should not be understated that young adults placed in the Secure Unit are some of the most challenging within this population, as evident by the severity of their violent, and/or assaultive behavior. As stated in the original variance request, restricting young adults to ten (10) hours a day of out-of-cell time is a critical management tool to ensure safe operation of the unit and provide necessary incentive for progression, when combined with the other programmatic and therapeutic offerings. This lock-out period coincides with the hours in which facility staffing is at optimal levels to respond to any security issues that may arise. A key element of the incentivized behavioral approach is the establishment of defined parameters and a structure in which young adults understand the positive and negative ramifications of their actions. Enabling the Department to limit young adults' lock-out time provides a safe and critical incentive tool that allows for incrementally increasing the amount of out-of-cell time over the course of the phases. Young adults in Phase III will receive fourteen (14) hours per day of lock-out. During this phase, the Department will be evaluating the young adult's behavior and interaction with others to assess whether he can safely transition out of the Secure Unit and successfully reenter a general population unit, without continued risk of engaging in severe, violent behavior.

In addition, an essential component of this unit is the ability to maintain necessary separation between the young adults placed in the unit and young adults housed elsewhere. To facilitate this separation, the current Secure Unit is located at George R. Vierno Center (GRVC) with plans for a second unit to be established within the same facility. Additionally, all mandated services and programming will be conducted in the unit. As we have experienced in other units, adequate services can be provided within the unit by setting up law library kiosks and typewriters in the area. The Department is seeking a variance to §1-08(f) to allow for the provision of legal services and materials through alternative access, in the unit, that permits effective legal research while addressing safety and security concerns. This variance is necessary as the Department cannot otherwise effectively control, especially directly after an incident, continued violent activity in the law libraries, gang communication from being conducted, or protect other young adults and staff from those who would capitalize on potential opportunities to perpetuate additional violence.

The Department has made a good faith effort to comply with the noted provisions of the minimum standards within the six (6) months prescribed in the original variance but we cannot do so as additional time is needed for further unit assessment. It is imperative that we maintain the Secure Unit, as outlined herein, as we continue to evaluate the overall young adult plan, the Secure Unit, and the recent inclusion of ESH. Each of the young adult housing options and the interplay among them must be considered as we move forward.

Over the last two years, we have made thoughtful and substantial reforms in the management of young adults in our custody. The elimination of punitive segregation for the adolescents and young adults is a proud achievement, but it is not the end. It is the beginning of a new correctional phase in the history of the Department and one that requires the same deliberative action that has brought us to this point. We must be mindful of the lessons learned and work towards the adoption of a young adult plan that acknowledges and incorporates those lessons in a manner that fosters the needs of this population with the understanding that safety and security must always be paramount.

The Department appreciates the Board's consideration of this six (6) month limited variance renewal, which would allow for the reduction of out-of-cell time to a minimum of ten (10) hours per day and the provision of law library services within Secure Unit. We look forward to continuing to work together in the implementation of an unprecedented disciplinary model for the management of young adults within the correctional setting and to achieve compliance through future rulemaking.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joseph Ponte".

Joseph Ponte

cc: Martha King, Executive Director