

# BOARD OF CORRECTION



## **MINIMUM STANDARDS FOR NEW YORK CITY CORRECTIONAL FACILITIES**

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SECTION 626 OF THE CITY CHARTER, EFFECTIVE JANUARY 1, 1977, EM-powered the Board of Correction to set minimum standards governing all of the City's correctional facilities. After a lengthy process, the enclosed 16 standards were adopted by the Board on February 14, 1978. Pursuant to the Variance standard, the Board has granted delays in some of the effective dates. Additional standards are being prepared to meet the concerns of all relevant constituencies. Prisoners and correctional personnel should direct comments and questions concerning the standards to the Board representative in their institution. For more information, contact Dan Pochoda, Director of the Minimum Standards Unit.

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#### Section 1.1 *Policy*

Prisoners shall not be subject to discriminatory treatment based upon race, religion, nationality, sex, sexual orientation, age or political belief.

#### Section 1.2 *Equal Protection*

(a) Prisoners shall be afforded equal protection and equal opportunity in all decisions including, but not limited to, work and housing assignments, classification, and discipline.

(b) Prisoners shall be afforded equal protection and equal opportunity in being considered for any available programs including, but not limited to, educational, religious, vocational, recreational, or temporary release.

(c) Each institution shall provide programs, cultural activities and foods suitable for those racial and ethnic groups with significant representation in the prisoner population, including Black and Hispanic prisoners.

(d) Nothing contained in this Part shall prevent the Department from utilizing rational criteria for a particular program or opportunity.

#### Section 1.3 *Hispanic Prisoners and Staff*

(a) Each institution shall have a sufficient number of employees and volunteers fluent in the Spanish language to assist Hispanic prisoners in understanding, and participating in, the various institutional programs and activities, including use of the law library and parole applications.

(b) Bilingual prisoners in each housing unit should be utilized to assist Spanish-speaking prisoners in the unit and in the law library.

(c) Communications on any significant matter from correctional personnel to prisoners, including, but not limited to, orientation, legal research, institutional programs, medical procedures, minimum standards and disciplinary code shall be in Spanish and English.

(d) Communications on any significant matter from correctional personnel to outside individuals or organizations regularly involved with New York City prisoners shall be in Spanish and English.

(e) Spanish-speaking prisoners shall be afforded opportunities to read publications and newspapers printed in Spanish, and to hear radio and television programs broadcast in Spanish. Institutional libraries shall contain Spanish language books and materials.

**Section 1.4 *Different Languages***

(a) Prisoners shall be permitted to communicate with other prisoners and with persons outside the institution by mail, telephone, or in person, in any language, and may read and receive written materials in any language.

(b) Provisions shall be made by the Department to assist in assuring prompt access to translation services for non-English speaking prisoners.

**Section 1.5 *Effective Date***

This Part shall take effect May 1, 1978.

**PART 2—CLASSIFICATION**

**Section**

- 2.1 Policy
- 2.2 Categories
- 2.3 Civil Prisoners
- 2.4 Limited Commingling
- 2.5 Security Classification
- 2.6 Effective Date

**Section 2.1 *Policy***

Consistent with the requirements of this Part, the Department shall establish a classification system for prisoners.

**Section 2.2 *Categories***

(a) Prisoners serving sentence shall be housed separate and apart from prisoners awaiting trial or examination.

(b) Within these two categories, the following groupings shall be housed separate and apart:

- (i) male adults, ages 21 and over;
- (ii) male minors, ages 16 to 20 inclusive;
- (iii) female adults, ages 21 and over;
- (iv) female minors, ages 16 to 20 inclusive.

**Section 2.3 *Civil Prisoners***

(a) Prisoners who are not directly involved in the criminal process as detainees or serving sentence and are confined for other reasons including civil process, civil contempt or material witness, shall be housed separate and apart from other prisoners and, if possible, located in a different structure or wing. They must be afforded at least as many of the rights, privileges and opportunities available to other prisoners.

(b) Within this category, the following groupings shall be housed separate and apart:

- (i) male adults, ages 21 and over;
- (ii) male minors, ages 16 to 20 inclusive;
- (iii) female adults, ages 21 and over;
- (iv) female minors, ages 16 to 20 inclusive.

**Section 2.4 *Limited Commingling***

Nothing contained in this Part shall prevent prisoners in different categories or groupings from being in the same area for a specific purpose, including, but not limited to, entertainment, classes, contact visits or medical necessity.

**Section 2.5 *Security Classification***

(a) The Department shall design a system of classification to group prisoners according to the minimum degree of surveillance and security required. The proposed system must be submitted to the Board for approval within 90 days after the effective date of this Part.

(b) The system of classification shall meet the following requirements:

(i) It shall be in writing and shall specify the basic objectives, the classification categories, the variables and criteria used, the procedures used and the specific consequences to the prisoner of placement in each category.

(ii) It shall include at least two classification categories.

(iii) It shall provide for an initial classification upon entrance into the corrections system. Such classification shall take into account only relevant factual information about the prisoner capable of verification.

(iv) It shall provide for involvement of the prisoner at every stage with adequate due process.

(v) Prisoners placed in the most restrictive security status shall only be denied those rights, privileges and opportunities that are directly related to their status and which cannot be provided to them at a different time or place than provided to other prisoners.

(vi) It shall provide mechanisms for review of prisoners placed in the most restrictive security status at intervals not to exceed four weeks for detainees and eight weeks for sentenced prisoners.

(c) Pending the design and adoption of a classification system, all prisoners shall be "general population" except those placed in "administrative segregation" pursuant to the procedures provided in existing court orders. In accordance with these orders, prisoners in "administrative



segregation" shall not be denied any of the rights, privileges or opportunities available to the "general population" although they may be provided at different times and places. Nothing contained herein shall affect prisoners in punitive segregation.

#### Section 2.6 *Effective Date*

This Part shall take effect May 1, 1978.

### PART 3—OVERTIME

#### Section

- 3.1 Policy
- 3.2 Involuntary Overtime
- 3.3 Consecutive Hours of Work
- 3.4 Turnaround
- 3.5 Effective Date

#### Section 3.1 *Policy*

Involuntary correctional officer overtime shall be limited and adequate time between shifts provided.

#### Section 3.2 *Involuntary Overtime*

A correctional officer shall not work more than one full shift of overtime during any work week unless he or she consents to do so.

#### Section 3.3 *Consecutive Hours of Work*

A correctional officer shall not work more than two consecutive shifts.

#### Section 3.4 *Turnaround*

Upon the completion of two consecutive shifts of work, at least one of which is involuntary, a correctional officer must be afforded at least ten hours before returning to duty, unless he or she consents to return after one shift.

#### Section 3.5 *Effective Date*

This Part shall take effect September 1, 1978.

### PART 4—PERSONAL HYGIENE

#### Section

- 4.1 Policy
- 4.2 Showers
- 4.3 Shaving
- 4.4 Haircuts
- 4.5 Hair Styles
- 4.6 Personal Health Care Items
- 4.7 Clothing
- 4.8 Laundry
- 4.9 Bedding
- 4.10 Housing Areas
- 4.11 Effective Date

#### Section 4.1 *Policy*

Each institution shall provide for and maintain reasonable standards of prisoner personal hygiene.

#### Section 4.2 *Showers*

Showers with hot and cold water shall be made available to all prisoners daily. Consistent with institutional health requirements, prisoners may be required to shower periodically. The shower area shall be cleaned at least once each week.

#### Section 4.3 *Shaving*

(a) All prisoners shall be permitted to shave daily. Upon request, necessary shaving items shall be provided at Department expense and shall be maintained in a safe and sanitary condition.

(b) Hot water sufficient to enable prisoners to shave with care and comfort shall be provided.

#### Section 4.4 *Haircuts*

(a) Hair shall be cut by persons capable of using barber tools. Such persons include, but are not limited to:

- (i) licensed barbers;
- (ii) institution staff members; and
- (iii) prisoners.

(b) Barber tools shall be maintained in a safe and sanitary condition.

#### Section 4.5 *Hair Styles*

(a) Consistent with the requirements of this Section, prisoners shall be permitted to adopt hair styles, including facial hair styles, of any length.

(i) Prisoners assigned to work in areas where food is stored, prepared, served or otherwise handled may be required to wear a hairnet or other head covering.

(ii) The Department may determine that certain work assignments constitute a safety hazard to those prisoners with long hair or beards. Prisoners unwilling or unable to conform to the safety requirements of such work assignment shall be assigned elsewhere.

(iii) Should examination of a prisoner's hair reveal the presence of vermin, medical treatment should be initiated immediately. The cutting of a prisoner's hair is permissible under these circumstances pursuant to a physician's written order and under the direct supervision of the physician.

(b) When the growth or removal of a prisoner's hair, including facial hair, creates an identification problem, a new photograph may be taken of that prisoner.

#### Section 4.6 *Personal Health Care Items*

(a) Upon admission to an institution, all prisoners shall be provided at Department expense with an issue of personal health care items, including but not limited to:

- (i) soap;
- (ii) toothbrush;
- (iii) toothpaste or tooth powder;
- (iv) drinking cup;
- (v) toilet paper;
- (vi) towel; and
- (vii) aluminum or plastic mirror, unless this is permanently available in the housing area.

(b) In addition to the items listed in subdivision (a) of this Section, all women prisoners shall be provided at Department expense with necessary personal hygiene items.

(c) Towels shall be exchanged at least once per week. All other personal health care items issued pursuant to subdivisions (a) and (b) of this Section shall be replenished or replaced as needed.

#### Section 4.7 *Clothing*

(a) By September 1, 1978, all prisoners shall be entitled to wear clothing provided by the Department as needed. Such clothing shall be laundered and repaired at Department expense and shall include, but is not limited to:

- (i) one shirt;
- (ii) one pair of pants or one skirt for women, as the prisoner wishes;
- (iii) one pair of pants for men;
- (iv) two sets of undergarments;
- (v) two pairs of socks;
- (vi) one pair of suitable footwear; and
- (vii) one sweater or sweatshirt to be issued during cold weather.

(b) The Department may require sentenced prisoners to wear institutional clothing. Such clothing shall be provided, laundered and repaired at Department expense.

(c) Detainees shall be permitted to wear non-institutional clothing. Such clothing may include items:

- (i) worn by the prisoner upon admission to the institution; and
- (ii) received by the prisoner after admission from any source. This clothing, including shoes, may be new or used.

(d) Prisoners shall be permitted to wear all items of clothing that are generally acceptable in public and that do not constitute a threat to the safety of an institution. Women shall be permitted to wear pants and slacks. Women and men shall be permitted to wear short pants and short-sleeve shirts during the warm weather months.

(e) Prisoners engaged in work assignment or outdoor recreation requiring special clothing shall be provided with such clothing at Department expense.

#### Section 4.8 *Laundry*

By September 1, 1978, laundry services sufficient to provide all prisoners with a clean change of clothing at least twice per week shall be provided at Department expense.

#### Section 4.9 *Bedding*

(a) By September 1, 1978, upon admission to an institution, all prisoners shall be provided at Department expense with an issue of bedding, including but not limited to:

- (i) two sheets;
- (ii) one pillow;
- (iii) one pillow case;
- (iv) one mattress;
- (v) one mattress cover; and
- (vi) sufficient blankets to provide comfort and warmth.

(b) Prior to being issued, all bedding items shall be checked for damage and repaired or cleaned, if necessary.

(c) Pillowcases and sheets shall be cleaned at least once each week. Blankets shall be cleaned at least once every three months. Mattresses shall be cleaned at least once every six months.

(d) Mattresses must be constructed of fire retardant materials. Mattress covers must be constructed of materials both water resistant and easily sanitized.

(e) All items of clothing and bedding stored within the institution shall be maintained in a safe and sanitary manner.

#### Section 4.10 *Housing Areas*

(a) Prisoners shall be provided at Department expense with a supply of brooms, mops, soap powder, disinfectant, and other materials sufficient to properly clean and maintain housing areas.

(b) The Department shall develop a plan for the regular cleaning of all housing areas, including cells, tiers, dayrooms and windows, and for the extermination of rodents and vermin in all housing areas. Such plans shall be submitted to the Board within 90 days of the effective date of this standard.

(c) All housing areas shall contain at least the following facilities in sufficient supply to meet reasonable standards of prisoner personal hygiene:

- (i) sink with hot and cold water;
- (ii) flush toilet; and
- (iii) shower with hot and cold water.

#### Section 4.11 *Effective Date*

This Part shall take effect May 1, 1978.

### PART 5—OVERCROWDING

#### Section

- 5.1 Policy
- 5.2 Single Occupancy
- 5.3 Multiple Occupancy
- 5.4 Effective Date

#### Section 5.1 *Policy*

Prisoners shall not be housed in cells, rooms or dormitories unless adequate space and furnishings are provided.

#### Section 5.2 *Single Occupancy*

(a) A cell or room designed or rated for single occupancy shall house only one prisoner.

(b) Each single cell shall contain a flush toilet, a wash basin with drinking water and, at a minimum, the following furniture:

- (i) a single bed; and
- (ii) by September 1, 1978, a locker or drawer that can be closed.

(c) A single-cell housing area shall contain table or desk space for each occupant that is available for use at least 12 hours per day.

#### Section 5.3 *Multiple Occupancy*

(a) A multiple occupancy area shall contain a single bed for each occupant, a locker or drawer that can be closed for each occupant, and by September 1, 1978, table or desk space for each occupant that is available for use at least 12 hours per day.

(b) Multiple-occupancy areas for detainees shall provide a minimum of 75 square feet of floor space per person in the sleeping area.

#### Section 5.4 *Effective Date*

This Part shall take effect May 1, 1978.

### PART 6—LOCK-IN

#### Section

- 6.1 Policy
- 6.2 Involuntary Lock-In
- 6.3 Optional Lock-In
- 6.4 Schedule
- 6.5 Effective Date

#### Section 6.1 *Policy*

The time spent by prisoners confined to their cells should be kept to a minimum and required only when necessary for the safety and security of the institution.

#### Section 6.2 *Involuntary Lock-In*

(a) No prisoner shall be required to remain confined to his or her cell except for the following purposes:

- (i) At night for count or sleep, not to exceed eight hours in any 24-hour period;
- (ii) During the day for count or required institutional business that can only be carried out while prisoners are locked in, not to exceed two hours in any 24-hour period. This time may be extended if necessary to complete an off count.
- (iii) Within 60 days of the effective date of this standard, the Department shall submit to the Board its list of institutions, if any, that require more than two hours of lock-in during the day because of unique problems. Pursuant to Part 16, the Board shall determine if any variance from the requirement of Section 6.2(ii) is necessary.

#### Section 6.3 *Optional Lock-In*

Prisoners shall have the option of being locked in their cells during lock-out periods. Prisoners choosing to lock in at the beginning of a lock-out period of two hours or more, shall be

locked out upon request after one-half of the period. At this time, prisoners who have been locked out shall be locked in upon request.

#### Section 6.4 *Schedule*

Each institution shall maintain and distribute to all prisoners or post in each housing area its lock-out schedule, including the time during each lock-out period when prisoners may exercise the options provided by Section 6.3.

#### Section 6.5 *Effective Date*

This Part shall take effect May 1, 1978.

### PART 7—RECREATION

#### Section

- 7.1 Policy
- 7.2 Recreation Areas
- 7.3 Recreation Schedule
- 7.4 Recreational Equipment
- 7.5 Recreation within Housing Area
- 7.6 Recreation for Prisoners in Segregation
- 7.7 Effective Date

#### Section 7.1 *Policy*

Prisoners shall be provided with adequate indoor and outdoor recreational opportunities.

#### Section 7.2 *Recreation Areas*

By September 1, 1978, indoor and outdoor recreation areas of sufficient size to meet the requirements of this part shall be established and maintained by each institution. An outdoor recreation area must allow for direct access to sunlight and air.

#### Section 7.3 *Recreation Schedule*

Recreation periods shall be at least one hour; only time spent at the recreation area shall count toward the hour. Recreation shall be available five days per week in the outdoor recreation area, except in inclement weather when the indoor recreation area shall be utilized. By September 1, 1978, such recreation shall be available daily.

#### Section 7.4 *Recreational Equipment*

The Department shall make available to prisoners an adequate amount of equipment during the recreation period. A list of the equipment available at each institution shall be submitted to the Board within 30 days of the effective date of this standard.

#### Section 7.5 *Recreation Within Housing Area*

(a) Prisoners shall be permitted to engage in recreation activities within cell corridors and tiers, dayrooms and individual housing units. Such recreation may include but is not limited to:

- (i) table games;
- (ii) exercise programs; and
- (iii) arts and crafts activities.

(b) Recreation taking place within cell corridors and tiers, dayrooms and individual housing units shall supplement, but not fulfill, the requirements of Section 7.3.

#### Section 7.6 *Recreation for Prisoners in Segregation*

Prisoners confined in administrative or punitive segregation shall be permitted recreation in accordance with Section 7.3.

#### Section 7.7 *Effective Date*

This Part shall take effect May 1, 1978.

### PART 8—RELIGION

#### Section

- 8.1 Policy
- 8.2 Exercise of Religious Beliefs
- 8.3 Congregate Religious Activities
- 8.4 Religious Advisors
- 8.5 Celebration of Religious Holidays or Festivals
- 8.6 Religious Dietary Laws
- 8.7 Religious Articles
- 8.8 Exercise of Religious Beliefs by Prisoners in Segregation
- 8.9 Recognition of a Religious Group or Organization
- 8.10 Limitations on the Exercise of Religious Beliefs
- 8.11 Effective Date

#### Section 8.1 *Policy*

Prisoners have an unrestricted right to hold any religious belief, and to be a member of any religious group or organization, as well as to refrain from the exercise of any religious beliefs. A prisoner may change his or her religious affiliation.

#### Section 8.2 *Exercise of Religious Beliefs*

(a) Prisoners are entitled to exercise their religious beliefs in any manner that does not constitute a clear and present danger to the safety or security of an institution.

(b) No employee or agent of the Department or of any voluntary program shall be permitted to proselytize or seek to convert any prisoner, nor shall any prisoner be compelled to exercise or dissuaded from exercising any religious belief.

(c) Equal status and protection shall be afforded all prisoners in the exercise of their religious beliefs except when such exercise is unduly disruptive of institutional routine.

### Section 8.3 *Congregate Religious Activities*

(a) Consistent with the requirements of Section 8.1, all prisoners shall be permitted to congregate for the purpose of religious worship and other religious activities.

(b) Each institution shall provide all prisoners access to an appropriate area for congregate religious worship and other religious activities. Consistent with the requirements of subdivision (a) of Section 8.2, this area shall be made available to prisoners in accordance with the practice of their religion.

### Section 8.4 *Religious Advisors*

(a) As used in this Part, the term "religious advisor" shall mean a person who has received ecclesiastical endorsement from the relevant religious authority.

(b) Religious advisors shall be permitted to conduct congregate religious activities permitted pursuant to Section 8.3. When no religious advisor is available, a member of a prisoner religious group may be permitted to conduct congregate religious activities.

(c) Consistent with the requirements of subdivision (a) of Section 8.2, prisoners shall be permitted confidential consultation with their religious advisors during lock-out periods.

### Section 8.5 *Celebration of Religious Holidays or Festivals*

Consistent with the requirements of subdivision (a) of Section 8.2, prisoners shall be permitted to celebrate religious holidays or festivals on an individual or congregate basis.

### Section 8.6 *Religious Dietary Laws*

Prisoners are entitled to the reasonable observance of dietary laws or fasts established by their religion. Each institution shall provide prisoners with food items sufficient to meet such religious dietary laws.

### Section 8.7 *Religious Articles*

Consistent with the requirements of subdivision (a) of Section 8.2, prisoners shall be entitled to wear and to possess religious medals or other religious articles, including clothing and hats.

### Section 8.8 *Exercise of Religious Beliefs by Prisoners in Segregation*

(a) Prisoners confined in administrative or punitive segregation shall not be prohibited from exercising their religious beliefs, including the opportunities provided by Sections 8.4, 8.5, 8.6 and 8.7.

(b) Congregate religious activities by prisoners in administrative or punitive segregation shall be provided for by permitting such prisoners to attend congregate religious activities with appropriate security either by themselves or with other prisoners.

### Section 8.9 *Recognition of a Religious Group or Organization*

(a) A list shall be maintained of all religious groups and organizations recognized by the Department. This list shall be in Spanish and English and shall be distributed to all incoming prisoners or posted in each housing area.

(b) Each institution shall maintain a list of the religious advisor, if any, for each religious group and organization, and the time and place for the congregate service of each religion. This list shall be in Spanish and English and shall be distributed to all incoming prisoners or posted in each housing area.

(c) Prisoner requests to exercise the beliefs of a religious group or organization not previously recognized shall be made to the Department.

(d) In determining requests made pursuant to subdivision (c) of this Section, the following factors among others shall be considered as indicating a religious foundation for the belief:

- (i) whether there is substantial literature supporting the belief as related to religious principle;
- (ii) whether there is formal, organized worship by a recognizable and cohesive group sharing the belief;
- (iii) whether there is an informal association of persons who share common ethical, moral, or intellectual views supporting the belief; or
- (iv) whether the belief is deeply and sincerely held by the prisoner.

(e) In determining requests made pursuant to subdivision (c) of this Section, the following factors shall not be considered as indicating a lack of religious foundation for the belief:

- (i) the belief is held by a small number of individuals;
- (ii) the belief is of recent origin;
- (iii) the belief is not based on the concept of a Supreme Being or its equivalent; or
- (iv) the belief is unpopular or controversial.

(f) In determining requests made pursuant to subdivision (c) of this Section, prisoners shall be permitted to present evidence indicating a religious foundation for the belief.

(g) The procedure outlined in Sections 8.10(a) and 8.10(c) shall apply when a prisoner request made pursuant to Section 8.9(c) is denied.



### Section 8.10 *Limitations on the Exercise of Religious Beliefs*

(a) Any determination to limit the exercise of the religious beliefs of any prisoner shall be made in writing and shall state the specific facts and reasons underlying such determination. A copy of this determination, including the appeal procedure, shall be sent to the Board and to any person affected by the determination within 24 hours of the determination.

(b) This determination must be based on specific acts committed by the prisoner during the exercise of his or her religion that demonstrate a serious and immediate threat to the safety and security of the institution. Prior to any determination, the prisoner must be provided with written notification of the specific charges and the names and statements of the charging parties, and be afforded an opportunity to respond.

(c) Any person affected by a determination made pursuant to this Section may appeal such determination to the Board.

(i) The person affected by the determination shall give notice in writing to the Board and the Department of his or her intent to appeal the determination.

(ii) The Department and any person affected by the determination may submit to the Board for its consideration any relevant material in addition to the written determination.

(iii) The Board or its designate shall issue a written decision upon the appeal within 14 business days after it has received notice of the requested review.

### Section 8.11 *Effective Date*

This Part shall take effect May 1, 1978.

## PART 9—ACCESS TO COURTS

### Section

- 9.1 Policy
- 9.2 Judicial and Administrative Proceedings
- 9.3 Access to Counsel
- 9.4 Access to Co-defendants
- 9.5 Attorney Assistants
- 9.6 Law Libraries
- 9.7 Legal Documents and Supplies
- 9.8 Effective Date

### Section 9.1 *Policy*

Prisoners are entitled to access to courts, attorneys, legal assistants and legal materials.

### Section 9.2 *Judicial and Administrative Proceedings*

(a) Prisoners shall not be restricted in their communications with courts or administrative agencies pertaining to either criminal or civil proceedings.

(b) Timely transportation shall be provided to prisoners scheduled to appear before courts or administrative agencies. Vehicles used to transport prisoners must meet all applicable safety and inspection requirements and provide adequate ventilation, lighting and comfort.

### Section 9.3 *Access to Counsel*

(a) Prisoners shall not be restricted in their communication with attorneys. The fact that a prisoner is represented by one attorney shall not be grounds for preventing him or her from communicating with other attorneys. Any properly identified attorney may visit any prisoner with the prisoner's consent.

(i) An attorney may be required to present identification to a designated official at the central office of the Department in order to obtain an institutional pass. This pass shall remain in effect for a minimum of three years and shall permit the attorney to visit any prisoner under the custody of the Department.

(ii) The Department may only require such identification that is normally possessed by an attorney.

(b) The Department may limit visits to an attorney of record or an attorney with a court notice for prisoners undergoing examination for competency pursuant to court order.

(c) Visits between prisoners and attorneys shall be kept confidential and protected, in accordance with the provisions of Part 10. Legal visits shall be permitted at least eight hours per day between 8 a. m. and 8 p. m. During business days, four of those hours shall be 8 a. m. to 10 a. m., and 6 p. m. to 8 p. m. The Department shall maintain and post the schedule of legal visiting hours at each institution.

(d) Mail between prisoners and attorneys shall not be delayed, read, or interfered with in any manner, except as provided in Part 12.

(e) Telephone communications between prisoners and attorneys shall be kept confidential and protected, in accordance with the provisions of Part 11.

### Section 9.4 *Access to Co-defendants*

Upon reasonable request, regular visits shall be permitted between a detainee and all of his or her co-defendants who consent to such visits. If any of the co-defendants are incarcerated, the Department may require that an attorney of record be present.

### Section 9.5 *Attorney Assistants*

(a) Law students, legal paraprofessionals, and other attorney assistants working under the



supervision of an attorney representing a prisoner shall be permitted to communicate with prisoners by mail, telephone and personal visits, to the same extent and under the same conditions that the attorney may do so for the purpose of representing the prisoner. Law students, legal paraprofessionals and other attorney assistants working under the supervision of an attorney contacted by a prisoner shall be permitted to communicate with that prisoner by mail, telephone or personal visits to the same extent and under the same conditions that the attorney may do so.

(b) An attorney assistant may be required to present a letter of identification from the attorney to a designated official at the central office of the Department in order to obtain an institutional pass. A pass shall not be denied based upon any of the items listed in Section 10.8(a).

(c) The pass shall remain in effect for a minimum of one year and shall permit the assistant to perform the functions listed in Section 9.5(a). It may be revoked if specific acts committed by the legal assistant during a visit to an institution demonstrate his or her threat to the safety and security of that institution. This determination must be made pursuant to the procedural requirements of Section 10.8(b) (i), Section 10.8(d), and Section 10.8(e).

#### Section 9.6 *Law Libraries*

(a) Each institution shall maintain a properly equipped and staffed law library.

(i) By September 1, 1978, the law library shall be located in a separate area sufficiently free of noise and activity and with sufficient space and lighting to permit sustained research.

(ii) By September 1, 1978, the law library shall remain open for prisoner use at least eight hours per day during lock-out periods, including at least three hours between 6 p. m. and 10 p. m. on week-day evenings. Prisoners shall not be unreasonably denied access to the law library.

(iii) The law library hours for prisoners in punitive segregation may be reduced or eliminated, provided that an alternative method of access to legal materials is instituted to permit effective legal research.

(iv) Within 120 days of the effective date of this standard, the Department shall report to the Board detailing the resources available at the law library at each institution, including a list of titles and dates of all law books and periodicals and the number, qualifications and hours of English and Spanish-speaking legal assistants.

#### Section 9.7 *Legal Documents and Supplies*

(a) Prisoners shall have reasonable access to typewriters for the purpose of preparing legal documents. Legal clerical supplies, including pens, legal paper and pads and carbon paper shall be made available for purchase by prisoners. Such legal clerical supplies shall be provided to indigent prisoners at Department expense.

(b) Prisoners shall be permitted to purchase and receive an unrestricted number of law books and other legal research materials from any source.

(c) Reasonable regulations governing the keeping of materials in cells and the searching of cells may be adopted, but under no circumstances may prisoners' legal documents, books and papers be read or confiscated by correctional personnel without a lawful warrant. Where the space in a cell is limited, an alternative method of safely storing legal materials elsewhere in the institution is required, provided that a prisoner shall have regular access to those materials.

#### Section 9.8 *Effective Date*

This Part shall take effect May 1, 1978.

### PART 10—VISITING

#### Section

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#### Section 10.1 *Policy*

Prisoners are entitled to receive personal visits of sufficient length and number.

#### Section 10.2 *Visiting and Waiting Areas*

(a) By September 1, 1978, a visiting area of sufficient size to meet the requirements of this Part shall be established and maintained in each institution.

(b) The visiting area shall be designed so as to allow physical contact between prisoners and their visitors as required by Section 10.6.

(c) The Department shall make every effort to minimize the waiting time prior to a visit. Visitors shall not be required to wait outside an institution unless adequate shelter is provided and the requirements of Section 10.2(d) are met.

(d) All waiting and visiting areas shall provide for at least minimal comforts for visitors, including but not limited to:

- (i) sufficient seats for all visitors;
- (ii) access to bathroom facilities and drinking water throughout the waiting and visiting periods;
- (iii) by September 1, 1978, access to vending machines for beverages and foodstuffs at some point during the waiting or visiting period; and
- (iv) access to a Spanish-speaking employee or volunteer at some point during the waiting or visiting period. All visiting rules, regulations and hours shall be clearly posted in English and Spanish in the waiting and visiting areas at each institution.
- (e) The Department shall make every effort to utilize outdoor areas for visits during the warm weather months.

### Section 10.3 *Visiting Schedule*

(a) Visiting hours may be varied to fit the schedules of individual institutions but must meet the following minimum requirements for detainees:

(i) *Monday through Friday*. Visiting shall be permitted on at least three days for at least three consecutive hours between 9 a. m. and 5 p. m. Visiting shall be permitted on at least two evenings for at least three consecutive hours between 6 p. m. and 10 p. m.

(ii) *Saturday and Sunday*. Visiting shall be permitted on both days for at least five consecutive hours between 9 a. m. and 8 p. m.

(b) Visiting hours may be varied to fit the schedules of individual institutions but must meet the following minimum requirements for sentenced prisoners:

(i) *Monday through Friday*. Visiting shall be permitted on at least one evening for at least three consecutive hours between 6 p. m. and 10 p. m.

(ii) *Saturday and Sunday*. Visiting shall be permitted on both days for at least five consecutive hours between 9 a. m. and 8 p. m.

(c) The visiting schedule of each institution shall be available by contacting either the central office of the Department or the institution.

(d) Visits shall last at least one hour. This time period shall not begin until the prisoner and visitor meet in the visiting room.

(e) Prisoners are entitled to at least two visits per week with at least one on an evening or the weekend, as the prisoner wishes. By September 1, 1978, detainees shall be entitled to at least three visits per week with at least one on an evening or the weekend, as the detainee wishes. Visits by properly identified persons providing services or assistance, including lawyers, doctors, religious advisors, public officials, therapists, counselors and media representatives, shall not count against this number.

(f) There shall be no limit to the number of visits by a particular visitor or category of visitors.

(g) In addition to the minimum number of visits required by subdivisions (a), (b) and (e) of this Section, additional visitation shall be provided in cases involving special necessity, including but not limited to, emergency situations and situations involving lengthy travel time.

(h) Prisoners shall be permitted to visit with at least three visitors at the same time, with the maximum number to be determined by the institution.

(i) Visitors shall be permitted to visit with at least two prisoners at the same time, with the maximum number to be determined by the institution.

(j) If necessitated by lack of space, an institution may limit the total number of persons in any group of visitors and prisoners to four. Such a limitation shall be waived in cases involving special necessity, including but not limited to, emergency situations and situations involving lengthy travel time.

### Section 10.4 *Initial Visit*

(a) Each detainee shall be entitled to receive a visit within 24 hours after his or her admission to the institution.

(b) If a visiting period scheduled pursuant to Section 10.3(a) is not available within 24 hours after a detainee's admission, arrangements shall be made to ensure that the initial visit required by this Section is made available.

### Section 10.5 *Visitor Identification and Registration*

(a) Consistent with the requirements of this Section, any properly identified person shall, with the prisoner's consent, be permitted to visit the prisoner.

(i) Prior to a visit, a prisoner shall be informed of the identity of the prospective visitor.

(ii) A refusal by a prisoner to meet with a particular visitor shall not affect the prisoner's right to meet with any other visitor during that period, nor the prisoner's right to meet with the refused visitor during subsequent periods.

(b) Each visitor shall be required to enter in the institution visitors log:

(i) his or her name;

(ii) his or her address;

(iii) the date;

(iv) the time of entry;

(v) the name of the prisoner or prisoners to be visited; and

(vi) the time of exit.



(c) Any prospective visitor who is under 16 years of age shall be required to enter, or have entered for him or her, in the institution visitors log:

- (i) the information required in subdivision (b) of this Section;
- (ii) his or her age; and
- (iii) the name, address, and telephone number of his or her parent or legal guardian.

(d) The visitors log shall be confidential and information contained therein shall not be read by or revealed to non-Department staff except as provided by the City Charter or pursuant to a specific request by a legitimate law enforcement agency. The Department shall maintain a record of all such requests with detailed and complete descriptions.

(e) Prior to visiting a prisoner, a prospective visitor under 16 years of age may be required to be accompanied by a person 18 years of age or older, and to produce oral or written permission from a parent or legal guardian approving such visit.

(f) The Department may adopt alternative procedures for visiting by persons under 16 years of age. Such procedures must be consistent with the policy of Section 10(e), and shall be submitted to the Board for approval.

#### Section 10.6 *Contact Visits*

Physical contact shall be permitted between every prisoner and all of his or her visitors throughout the visiting period, including holding hands, holding young children, and kissing.

#### Section 10.7 *Visiting Security and Supervision*

(a) All prisoners, prior and subsequent to each visit, may be searched solely to ensure that they possess no contraband.

(b) All prospective visitors may be searched prior to a visit solely to ensure that they possess no contraband.

(c) Any body search of a prospective visitor made pursuant to subdivision (b) of this Section shall be conducted only through the use of electronic detection devices. Nothing contained herein shall affect any authority possessed by correctional personnel pursuant to statute.

(d) Objects possessed by a prospective visitor, including but not limited to, handbags or packages, may be searched or checked. Personal effects, including wedding rings and religious medals and clothing, may be worn by visitors during a visit.

(e) Supervision shall be provided during visits solely to ensure that the safety or security of the institution is maintained.

(f) Visits shall not be listened to or monitored unless a lawful warrant is obtained, although visual supervision should be maintained.

#### Section 10.8 *Limitation of Visiting Rights*

(a) Visiting rights shall not be denied, revoked, limited or interfered with based upon a prisoner's or prospective visitor's:

- (i) sex;
- (ii) sexual orientation;
- (iii) race;
- (iv) age, except as otherwise provided in this Part;
- (v) nationality;
- (vi) political beliefs;
- (vii) religion;
- (viii) criminal record;
- (ix) pending criminal or civil case; or
- (x) lack of family relationship.

(b) The visiting rights of a prisoner with a particular visitor may be denied, revoked or limited only when it is determined that the exercise of those rights constitutes a serious threat to the safety or security of an institution, provided that visiting rights with a particular visitor may be denied only if revoking the right to contact visits would not suffice to reduce the serious threat.

(i) This determination must be based on specific acts committed by the visitor during a prior visit to an institution that demonstrate his or her threat to the safety and security of an institution, or on specific information received and verified that the visitor plans to engage in acts during the next visit that will be a threat to the safety or security of the institution. Prior to any determination, the visitor must be provided with written notification of the specific charges and the names and statements of the charging parties and be afforded an opportunity to respond. The name of an informant may be withheld if necessary to protect his or her safety.

(c) A prisoner's right to contact visits as provided in Section 10.6 of this Part may be denied, revoked, or limited only when it is determined that such visits constitute a serious threat to the safety or security of an institution. Should a determination be made to deny, revoke or limit a prisoner's right to contact visits in the usual manner, alternative arrangements for affording the prisoner the requisite number of visits shall be made, including, but not limited to, non-contact visits.

(i) This determination must be based on specific acts committed by the prisoner while in custody under the present charge or sentence that demonstrate his or her threat to the

safety and security of an institution, or on specific information received and verified that the prisoner plans to engage in acts during the next visit that will be a threat to the safety or security of the institution. Prior to any determination, the prisoner must be provided with written notification of the specific charges and the names and statements of the charging parties and be afforded an opportunity to respond. The name of an informant may be withheld if necessary to protect his or her safety.

(d) Any determination to deny, revoke or limit a prisoner's visiting rights pursuant to subdivisions (b) and (c) of this Section shall be in writing and shall state the specific facts and reasons underlying such determination. A copy of this determination, including the appeal procedure, shall be sent to the Board and to any person affected by the determination within 24 hours of the determination.

(e) Any person affected by a determination made pursuant to subdivisions (b) and (c) of this Section may appeal such determination to the Board.

(i) The person affected by the determination shall give notice in writing to the Board and to the Department of his or her intent to appeal the determination.

(ii) The Department and any person affected by the determination may submit to the Board for its consideration any relevant material in addition to the written determination.

(iii) The Board or its designate shall issue a written decision upon the appeal within five business days after it has received notice of the requested review.

#### Section 10.9 *Effective Date*

This Part shall take effect May 1, 1978.

### PART 11—TELEPHONE CALLS

#### Section

- 11.1 Policy
- 11.2 Initial Telephone Call
- 11.3 Detainee Telephone Calls
- 11.4 Sentenced Prisoner Telephone Calls
- 11.5 Duration of Telephone Calls
- 11.6 Scheduling of Telephone Calls
- 11.7 Incoming Telephone Calls
- 11.8 Supervision of Telephone Calls
- 11.9 Limitation of Telephone Rights
- 11.10 Appeal
- 11.11 Effective Date

#### Section 11.1 *Policy*

Prisoners are entitled to make periodic telephone calls. A sufficient number of telephones to meet the requirements of this Part shall be installed in the housing areas of each institution.

#### Section 11.2 *Initial Telephone Call*

Upon admission to an institution, each detainee shall be permitted to make one completed local telephone call at Department expense. Requests to make additional telephone calls upon admission shall be decided by the institution. Long distance telephone calls shall be made collect, although arrangements may be made to permit the prisoner to bear the cost of such calls.

#### Section 11.3 *Detainee Telephone Calls*

Detainees shall be permitted to make a minimum of one telephone call each day. Three calls each week shall be provided to indigent detainees at Department expense if made within New York City. Long distance telephone calls shall be made collect or at the expense of the detainee.

#### Section 11.4 *Sentenced Prisoner Telephone Calls*

Sentenced prisoners shall be permitted to make a minimum of two telephone calls each week. These calls shall be provided to indigent sentenced prisoners at Department expense if made within New York City. Long distance telephone calls shall be made collect or at the expense of the sentenced prisoner.

#### Section 11.5 *Duration of Telephone Calls*

By September 1, 1978, all telephone calls may be at least six minutes in duration.

#### Section 11.6 *Scheduling of Telephone Calls*

In meeting the requirements of Sections 11.3 and 11.4, telephone calls shall be permitted during all lock-out periods. Telephone calls of an emergency nature may be made at any reasonable time.

#### Section 11.7 *Incoming Telephone Calls*

(a) A prisoner shall be permitted to receive incoming telephone calls of an emergency nature or a message shall be taken and the prisoner permitted to return the call as soon as possible.

(b) A prisoner shall be permitted to receive incoming telephone calls from his or her attorney of record in a pending civil or criminal proceeding or a message shall be taken and the prisoner permitted to return the call as soon as possible. Such calls must pertain to the pending proceeding.

#### Section 11.8 *Supervision of Telephone Calls*

Prisoner telephone calls shall not be listened to or monitored except as to time and cost, unless a lawful warrant is obtained.

#### Section 11.9 *Limitation of Telephone Rights*

(a) The telephone rights of any prisoner may be limited only when it is determined that the exercise of those rights constitutes a threat to the safety or security of the institution or an abuse of written telephone regulations previously known to the prisoner.

(i) This determination must be based on specific acts committed by the prisoner during the exercise of telephone rights that demonstrate such a threat or abuse. Prior to any determination, the prisoner must be provided with written notification of the specific charges and the names and statements of the charging parties, and be afforded an opportunity to respond. The name of an informant may be withheld if necessary to protect his or her safety.

(ii) Any determination to limit a prisoner's telephone rights shall be made in writing and state the specific facts and reasons underlying such determination. A copy of this determination, including the appeal procedure, shall be sent to the Board and to any person affected by the determination within 24 hours of the determination.

(b) The telephone rights provided in Sections 11.3 and 11.4 may be limited for prisoners in punitive segregation, provided that such persons shall be permitted to make a minimum of one telephone call each week.

#### Section 11.10 *Appeal*

(a) Any person affected by a determination made pursuant to this Section may appeal such determination to the Board.

(i) The person affected by the determination shall give notice in writing to the Board and the Department of his or her intent to appeal the determination.

(ii) The Department and any person affected by the determination may submit to the Board for its consideration any relevant material in addition to the written determination.

(iii) The Board shall issue a written decision upon the appeal within five business days after it has received written notice of the requested review.

#### Section 11.11 *Effective Date*

This Part shall take effect May 1, 1978.

### PART 12—CORRESPONDENCE

#### Section

- 12.1 Policy
- 12.2 Number and Language
- 12.3 Outgoing Correspondence
- 12.4 Incoming Correspondence
- 12.5 Inspection of Incoming Correspondence
- 12.6 Prohibited Items in Incoming Correspondence
- 12.7 Appeal
- 12.8 Effective Date

#### Section 12.1 *Policy*

Prisoners are entitled to correspond with any person.

#### Section 12.2 *Number and Language*

(a) There shall be no restriction upon incoming or outgoing prisoner correspondence based upon either the amount of correspondence sent or received, or the language in which correspondence is written.

(b) If a prisoner is unable to read or write, he or she may receive assistance with correspondence from other persons, including but not limited to, institutional employees and prisoners.

#### Section 12.3 *Outgoing Correspondence*

(a) Each institution shall make available to indigent prisoners at Department expense stationery and postage for all letters to attorneys, courts and public officials, as well as two other letters each week.

(b) Each institution shall make available for purchase by prisoners both stationery and postage.

(c) Outgoing prisoner correspondence shall bear the sender's name and the institutional post office box or street address in the upper lefthand corner of the envelope.

(d) Outgoing prisoner correspondence shall be sealed by the prisoner and deposited in locked mail receptacles.

(e) All outgoing prisoner correspondence shall be forwarded to the United States Postal Service at least once each business day.

(f) Outgoing prisoner correspondence shall not be opened or read except pursuant to a lawful search warrant.

#### Section 12.4 *Incoming Correspondence*

(a) Incoming correspondence shall be delivered to the intended prisoner within 24 hours of receipt by the Department unless the prisoner is no longer in custody of the Department.

(b) A list of those items that may be received in correspondence shall be established by the Department and submitted to the Board for approval within 60 days after the effective date of this standard. Upon admission to an institution, prisoners shall be provided a copy of this list or it shall be posted in each housing area.

### Section 12.5 *Inspection of Incoming Correspondence*

(a) Incoming correspondence shall not be read.

(b) By September 1, 1978, incoming correspondence shall not be opened except in the presence of the intended prisoner or pursuant to a lawful search warrant.

(c) Incoming correspondence may be manipulated or inspected without opening and subjected to any non-intrusive devices. A letter may be held for an extra 24 hours pending resolution of a search warrant application.

### Section 12.6 *Prohibited Items in Incoming Correspondence*

(a) When an item found in incoming correspondence involves a criminal offense, it may be forwarded to the appropriate authority for possible criminal prosecution. In such situations, the notice required by Section 12.6(c) may be delayed if necessary to prevent interference with an ongoing criminal investigation.

(b) A prohibited item found in incoming prisoner correspondence that does not involve a criminal offense shall be returned to the sender, donated or destroyed, as the prisoner wishes.

(c) Within 24 hours of the removal of an item, the Board and the intended prisoner shall be sent written notification of this action. This written notice shall include:

- (i) the name and address of the sender;
- (ii) the item removed;
- (iii) the reasons for removal;
- (iv) the choice provided by Section 12.6(b); and
- (v) the appeal procedure.

(d) After removal of an item, the incoming correspondence shall be forwarded to the intended prisoner.

### Section 12.7 *Appeal*

(a) Any person affected by the determination to remove an item from prisoner correspondence may appeal such determination to the Board.

(i) The person affected by the determination shall give notice in writing to the Board and to the Department of his or her intent to appeal the determination.

(ii) The Department and any person affected by the determination may submit to the Board for its consideration any relevant material in addition to the written determination.

(iii) The Board or its designate shall issue a written decision upon the appeal within 14 business days after receiving notice of the requested review.

### Section 12.8 *Effective Date*

This Part shall take effect May 1, 1978.

## PART 13—PACKAGES

### Section

- |      |                                       |
|------|---------------------------------------|
| 13.1 | Policy                                |
| 13.2 | Number                                |
| 13.3 | Outgoing Packages                     |
| 13.4 | Incoming Packages                     |
| 13.5 | Inspection of Incoming Packages       |
| 13.6 | Prohibited Items in Incoming Packages |
| 13.7 | Appeal                                |
| 13.8 | Effective Date                        |

### Section 13.1 *Policy*

Prisoners shall be permitted to receive packages from, and send packages to, any person.

### Section 13.2 *Number*

The Department may impose reasonable restrictions on the number of packages sent or received. Such restrictions must be submitted to the Board for written approval prior to implementation.

### Section 13.3 *Outgoing Packages*

The costs incurred in sending outgoing packages shall be borne by the prisoner.

### Section 13.4 *Incoming Packages*

(a) Incoming packages shall be delivered within 48 hours of receipt by the Department, unless the intended prisoner is no longer in custody of the Department.

(b) Packages may be personally delivered to an institution during visiting hours.

(c) A list of those items that may be received in packages shall be established by the Department and submitted to the Board for approval within 60 days after the effective date of this standard. Upon admission to an institution, prisoners shall be provided with a copy of this list or it shall be posted in each housing area.

### Section 13.5 *Inspection of Incoming Packages*

(a) Incoming packages may be opened and inspected.

(b) Correspondence enclosed in incoming packages may not be read. Such correspondence may not be opened except in the presence of the intended prisoner or pursuant to a lawful search warrant.



### Section 13.6 *Prohibited Items in Incoming Packages*

(a) When an item found in an incoming package involves a criminal offense, it may be forwarded to the appropriate authority for possible criminal prosecution. In such situations, the notice required by Section 13.6(c) may be delayed if necessary to prevent interference with an ongoing criminal investigation.

(b) A prohibited item found in an incoming package that does not involve a criminal offense shall be returned to the sender, donated or destroyed, as the prisoner wishes.

(c) Within 24 hours of the removal of an item, the Board and the intended prisoner shall be sent written notification of this action.

This written notice shall include:

- (i) the name and address of the sender;
- (ii) the item removed;
- (iii) the reasons for removal;
- (iv) the choice provided by Section 13.6(b); and
- (v) the appeal procedure.

(d) After removal of an item, all other items in the package shall be forwarded to the intended prisoner.

### Section 13.7 *Appeal*

(a) Any person affected by the determination to remove an item from an incoming package may appeal such determination to the Board.

(i) The person affected by the determination shall give notice in writing to the Board and to the Department of his or her intent to appeal the determination.

(ii) The Department and any person affected by the determination may submit to the Board for its consideration any relevant material in addition to the written determination.

(iii) The Board or its designate shall issue a written decision upon the appeal within 14 business days after receiving notice of the requested review.

### Section 13.8 *Effective Date*

This Part shall take effect September 1, 1978.

## PART 14—PUBLICATIONS

### Section

- 14.1 Policy
- 14.2 Number and Language
- 14.3 Incoming Publications
- 14.4 Appeal
- 14.5 Effective Date

### Section 14.1 *Policy*

Prisoners are entitled to receive new or used publications from any source, including family, friends and publishers. "Publications" are printed materials including soft and hardcover books, articles, magazines and newspapers.

### Section 14.2 *Number and Language*

There shall be no restriction upon the receipt of publications based upon the number of publications previously received by the prisoner, or the language of the publication.

### Section 14.3 *Incoming Publications*

(a) Incoming publications shall be delivered to the intended prisoner within 24 hours of receipt by the Department unless the prisoner is no longer in custody of the Department.

(b) Incoming publications may be opened and inspected pursuant to the procedures applicable to incoming packages.

(c) Incoming publications shall not be censored or delayed unless they contain specific instructions on the manufacture or use of dangerous weapons or explosives, or plans for escape.

(d) Incoming publications shall only be read to ascertain if they contain material prohibited by Section 14.3(c).

(e) Within 24 hours of a decision to censor or delay all or part of an incoming publication, the Board and the intended prisoner shall be sent written notification of such action. This notice shall include the specific facts and reasons underlying the determination and the appeal procedure.

### Section 14.4 *Appeal*

(a) Any person affected by a determination made pursuant to Section 14.3(c) may appeal such determination to the Board.

(i) The person affected by the determination shall give notice in writing to the Board and the Department of his or her intent to appeal the determination.

(ii) The Department and any person affected by the determination may submit to the Board for its consideration any relevant material in addition to the written determination.

(iii) The Board shall issue a written decision upon the appeal within five business days after it has received written notice of the requested review.

### Section 14.5 *Effective Date*

This Part shall take effect May 1, 1978.

## Section

- 15.1 Policy
- 15.2 Media Interviews
- 15.3 Limitation of Media Interviews
- 15.4 Effective Date

Section 15.1 *Policy*

Prisoners are entitled to access to the media. "Media" shall mean any printed or electronic means of conveying information to any portion of the public and shall include, but is not limited to, newspapers, magazines, books or other publications, and licensed radio and television stations.

Section 15.2 *Media Interviews*

(a) Properly identified media representatives shall be entitled to interview any prisoner who consents to such an interview. "Properly identified media representative" shall mean any person who presents proof of his or her affiliation with the media.

(b) The prisoner's consent must be in writing on a form that includes the following information in Spanish and English:

- (i) the name and organization of the media representative;
- (ii) notification to the prisoner that statements made to the media representative may be detrimental to the prisoner in future administrative or judicial proceedings;
- (iii) notification to the prisoner that he or she is not obligated to speak to the media representative; and
- (iv) notification to the prisoner that he or she may postpone the media interview in order to consult with an attorney or any other person.

(c) The Department may require the consent of an attorney of record prior to scheduling a media interview with a detainee undergoing examination for competency pursuant to court order.

(d) The Department may require the consent of an attorney of record or a parent or legal guardian prior to scheduling a media interview with a prisoner under 18 years of age.

(e) The name of the Department's media contact shall be published. Media representatives shall direct requests for interviews to this person.

(f) Interviews shall be scheduled promptly by the Department but not later than 24 hours from a request made between 8 a. m. and 4 p. m. The 24-hour period may be extended if necessitated by the prisoner's absence from the institution.

Section 15.3 *Limitation of Media Interviews*

(a) The Department may deny, revoke or limit a media interview with a media representative or a prisoner only if it is determined that such interview constitutes a threat to the safety or security of the institution.

(b) This determination must be based on specific acts committed by the media representative or by the prisoner during a prior visit that demonstrate his or her threat to the safety and security of the institution. Prior to any determination, the media representative or the prisoner must be provided with written notification of the specific charges and the names and statements of the charging parties and be afforded an opportunity to respond.

(c) Any determination made pursuant to subdivision (a) of this Section shall be made in writing and shall state the specific facts and reasons underlying such determination. A copy of this determination, including the appeal procedure, shall be sent to the Board and to any person affected by the determination within 24 hours of the determination.

(d) Any person affected by a determination made pursuant to this Section may appeal such determination to the Board.

(i) The person affected by the determination shall give notice in writing to the Board and to the Department of his or her intent to appeal the determination.

(ii) The Department and any person affected by the determination may submit to the Board for its consideration any relevant material in addition to the written determination.

(iii) The Board or its designate shall issue a written decision upon the appeal within five business days after it has received notice of the requested review.

Section 15.4 *Effective Date*

This Part shall take effect May 1, 1978.

## PART 16—VARIANCES

## Section

- 16.1 Policy
- 16.2 Variance Prior to Effective Date
- 16.3 Variance Application
- 16.4 Variance Procedure
- 16.5 Granting of Variance
- 16.6 Renewal of Variance
- 16.7 Emergency Variance After Effective Date
- 16.8 Emergency Variance Application
- 16.9 Granting of Emergency Variance
- 16.10 Effective Date

#### Section 16.1 *Policy*

The Department may apply for a variance from a specific Section or Part of these minimum standards when compliance cannot be achieved or continued. A "variance" is an exemption granted by the Board from full compliance with a particular Section or Part for a specified period of time.

#### Section 16.2 *Variance Prior to Effective Date*

(a) The Department may apply to the Board for a variance prior to the effective date of a particular Section or Part when:

- (i) despite its best efforts and the best efforts of other New York City officials and agencies, full compliance with the Section or Part cannot be achieved by the effective date, or
- (ii) compliance is to be achieved in a manner other than specified in the Section or Part.

#### Section 16.3 *Variance Application*

(a) An application for a variance must be made in writing to the Board by the Commissioner of the Department at least 45 days prior to the effective date and shall state:

- (i) the particular Section or Part at issue;
- (ii) the efforts undertaken by the Department to achieve compliance by the effective date;
- (iii) the specific facts or reasons making full compliance by the effective date impossible;
- (iv) the specific plans, projections and timetables for achieving full compliance;
- (v) the specific plans for serving the purpose of the Section or Part for the period that strict compliance is not possible; and
- (vi) the time period for which the variance is requested, provided that this shall be no more than six months.

#### Section 16.4 *Variance Procedure*

(a) Prior to a decision on a variance application, the Board shall consider the positions of all interested parties, including correctional employees, prisoners and their representatives, public officials and legal, religious and community organizations.

(b) In order to receive this input the Board shall publicize the variance application in its entirety in a manner reasonably calculated to reach all interested parties, including direct mail. This shall occur at least 30 days prior to the effective date of the Section or Part.

(c) The Board shall hold a public meeting or hearing on the variance application and hear testimony from all interested parties at least 21 days prior to the effective date.

(d) The Board's decision on a variance application shall be in writing and shall include the specific facts and reasons underlying the decision.

(e) The Board's decision shall be publicized in the manner provided by Section 16.4(b) at least 10 days prior to the effective date.

#### Section 16.5 *Granting of Variance*

(a) The Board shall grant a variance only if it is convinced that the variance is necessary and justified.

(b) Upon granting a variance, the Board shall state:

- (i) the time period of the variance and
- (ii) any requirements imposed as conditions on the variance.

#### Section 16.6 *Renewal of Variance*

An application for a renewal of a variance shall be treated in the same manner as an original application as provided in Sections 16.2, 16.3, 16.4 and 16.5. The Board shall not grant renewal of a variance unless it finds that, in addition to the requirements for approving an original application, a good faith effort has been made to comply with the Section or Part within the previously prescribed time limitation.

#### Section 16.7 *Emergency Variance After Effective Date*

The Department may apply to the Board for a variance after the effective date of a particular Section or Part when an emergency situation prevents continued compliance with the Section or Part.

#### Section 16.8 *Emergency Variance Application*

(a) A variance for a period of less than 24 hours may be declared by the Department or a designate when an emergency situation prevents continued compliance with a particular Section or Part. The Board or a designate shall be immediately notified of the emergency situation and the variance.

(b) An application for an emergency variance for a period of 24 hours or more, or for a renewal of an emergency variance, must be made by the Commissioner of the Department or a designate to the Board and shall state:

- (i) the particular Section or Part at issue;
- (ii) the specific facts or reasons making continued compliance impossible;
- (iii) the specific plans, projections and timetables for achieving full compliance; and
- (iv) the time period for which the variance is requested, provided that this shall be no more than five days.

#### Section 16.9 *Granting of Emergency Variance*

(a) The Board shall grant an emergency variance only if it is convinced that the variance is necessary and justified.

(b) A renewal of an emergency variance previously granted by the Board may be granted only if the requirements of Sections 16.7, 16.8(b) and 16.9(a) have been met.

(c) The Board shall not grant more than two consecutive renewals of an emergency variance.

Section 16.10 *Effective Date*

This Part shall take effect March 1, 1978.



**BOARD OF CORRECTION DETERMINATIONS  
ON DEPARTMENT OF CORRECTION REQUESTS FOR VARIANCES FROM  
MINIMUM STANDARDS EFFECTIVE MAY 1, 1978**

The Board of Correction received the attached variance requests on March 29, 1978. Most of these involved delays in the effective date of particular sections of the minimum standards. Three requests sought permanent changes in the standards.

Upon receipt, the requests were transmitted to forty interested individuals and organizations throughout New York City for their comments. These included the Correctional Employees Benevolent Association, and the Prisoners' Right Project of the New York City Legal Aid Society. Board staff independently investigated the factual bases of the requests.

The requests were formally considered by the Board of Correction at its meeting on April 17, 1978. The Board found that the need for additional personnel, as well as structural alterations, justified all of the requests for a delay in effective dates; the specific sections are listed below. The Board granted one of the permanent changes requested (Section 15.2), the other two permanent changes were granted provisionally pending receipt of additional evidence of their need from the Department and other interested parties.

**VARIANCE DECISIONS**

1. Sections 4.7(c) and (d) are delayed at the Adolescent Reception and Detention Center until September 1, 1978.
2. Section 5.3(a) is delayed at the Correctional Institution for Men until September 1, 1978.
3. Section 6.2 is delayed system-wide until July 1, 1978. Prior to that date, the Department shall present to the Board a detailed schedule for full compliance with this Section. Any requested variances must be fully documented.
4. Section 7.3 is delayed at the Queens House of Detention and the Adolescent Reception and Detention Center until September 1, 1978. During the period May 1, 1978 through September 1, 1978, recreation shall be provided at least twice a week for two hours at a time at the Queens House of Detention and twice a week for two and a half hours at a time at the Adolescent Reception and Detention Center.
5. Section 10.2(d) (ii) is delayed system-wide until September 1, 1978.
6. Section 10.3(a), (b) and that part of (e) that requires at least one visit per week to be on an evening or weekend are delayed system-wide until September 1, 1978.
7. Sections 10.3(e) and 10.6 are delayed at the Correctional Institution for Men until September 1, 1978.
8. Section 10.6 is delayed at the Queens House of Detention until September 1, 1978.
9. Sections 11.3, 11.4 and 11.6 are delayed at the Adolescent Reception and Detention Center, the Correctional Institution for Women, the Correctional Institution for Men, and C-71/95 until September 1, 1978.
10. Section 7.3 is delayed at the Correctional Institution for Men until September 1, 1978. During the period May 1, 1978 through September 1, 1978, prisoners shall be provided at least three recreation periods per week for a total of seven and a half hours. The Department's request for a permanent variance in Section 7.3 at the Correctional Institution for Men is denied. The evidence presented in support of this request was not sufficient.
11. Section 7.6 is amended system-wide to permit a denial of recreation to prisoners in punitive segregation for the first five days of their confinement in segregation. This amendment shall remain in effect from May 1, 1978 until September 1, 1978. During this period, all prisoners confined in segregation on one or more charges must, by the sixth consecutive day of such confinement, be afforded the recreational opportunities provided by Section 7.3. Further, during this period, all prisoners in punitive segregation must be afforded daily recreation outside of their cells by access to either an outdoor recreation area, an indoor recreation area, a tier area, or a dayroom. The Department's request for a permanent change in Section 7.6 is denied. The Department did not present sufficient justification including details of the routines of prisoners in punitive segregation.
12. Section 15.2 is permanently amended system-wide to allow the Department to require the consent of an attorney or a parent or legal guardian prior to scheduling a media interview with a prisoner under 18 years of age. The Board found that the legal problems of obtaining "consent" from prisoners under 18 years of age justified this amendment. It is particularly important since statements made by prisoners to media representatives may be used against them in later legal proceedings.

Dated: April 21, 1978.