

(Unofficial) Results of the Board of Correction's Vote
on
Proposed Changes to the Minimum Standards for New York City Jails

The good news:

- The Board **voted down the proposal to increase overcrowding.**
- The Board **voted down the proposal to increase the use of 23 hour lock-in.**
- The Board **voted down the proposal to reduce translation service requirements.**
- The Board **voted to add statements that prisoners shall not be discriminated against on the basis of gender identity or disability, and that visits shall not be interfered with based upon a prisoner or visitor's gender identity or disability.**

The bad news:

- The Board **voted to allow surveillance of phone calls and mail without a warrant.**
- The Board **voted to deny contact visits during the first 24 hours of a prisoner's incarceration.**
- The Board also **approved the requirement that prisoners wear uniforms**, with some changes to the language they had originally proposed.

More details:

Section 1-01 ("Non Discriminatory Treatment")

Subheading (a)

- The Board added the words "gender" and "disability" to the sentence that currently says "Prisoners shall not be subject to discriminatory treatment based upon race, religion, nationality, sex, sexual orientation, age or political belief." They emphasized that "gender" is meant to include gender identity, as specified in the City Human Rights Law.

Subheading (c)(1)

- The Board rejected the proposal that would have removed the requirement that each institution "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." That language will remain in the Minimum Standards.

Subheading (d)(3)

- The Board voted to approve language saying that "procedures shall be employed to ensure that non-English-speaking prisoners understand all written and oral communications from facility staff members," as in their initial proposal. They emphasized that this was intended to ensure that prisoners who speak languages other than Spanish would also be included.

Section 1-02 (“Classification of Prisoners”)

Subheading (b)(1) and (b)(2)

- The Board voted to approve the proposed changes. The new language allows sentenced and detained prisoners to be housed together in punitive segregation, medical housing, mental health centers and observation cell areas, close custody, and the nursery. It also lowers the age at which prisoners are considered adults by two years.

Section 1-03 (“Personal Hygiene”)

Subheading (b)(2)

- The Board approved the change allowing prisoners to be denied daily access to showers for certain infractions. They added an exception for hot weather and for women who have their period.
- A proposal to require daily cleaning of the shower areas was rejected as being out of order.

Subheading (c)(1) and (c)(2)

- Language specifying that prisoners shall be allowed hot water sufficient to enable them to shave “with care and comfort” was added back in to the Standards.
- The Board approved the rest of the changes, which allow denial of daily shaves for misconduct as in Subheading (b)(2).

Subheading (g) (“Clothing”)

- The Board approved the change requiring uniforms for all prisoners. They changed the proposed amendment to require separate uniforms for detainees and sentenced prisoners. They also changed the language to require that the uniforms be “seasonally appropriate.” They did not address other concerns of the Coalition, such as spelling out what “suitable footwear” means (suitable for vigorous outdoor exercise, we proposed) and providing clothing sufficient for the extremes of temperature within the facilities.
- The Board considered and rejected changes that would have allowed exceptions to the uniform policy for family visits, for all court appearances (rather than just for trial) and also rejected language that would have specified that clothing be gender-identity appropriate. Some of those who voted against the requirement that clothing be “gender identity appropriate” emphasized that they did so because they felt it would be addressed later by the Department of Correction.

Subheading (h) (“Laundry/Clothing Services”):

- The Board approved the provision requiring laundry service sufficient to provide prisoners with a clean change of clothing twice a week, and requiring the Department to establish and operate a laundry system that will do so and a storage and retrieval system for personal clothing. The Board did not adopt or discuss the Coalition’s proposed revisions to set standards for this system. The Coalition’s proposal to require that the system be demonstrated to the Board to be adequate was proposed but somehow not voted on.

Subheading (j) (“Housing areas”)

- The Board approved language that exempts prisoners from cleaning duties when “contraindicated by medical staff.”

1-04 (“Overcrowding”)

- The Board unanimously rejected the proposals that would have increased overcrowding by reducing the square footage for each prisoner and increasing the number of prisoners who could be kept in a single dormitory area.
- They also unanimously rejected the proposal that would have reduced the number of sinks required per prisoner.
- They approved the other changes in this section, that change the requirement for “a locker or drawer that can be closed” to “a closable storage container” and that grandfather-in some cells without required dayroom space.

1-05 (“Lock-in”)

- The Board unanimously rejected the change that would have exempted prisoners in close custody from the requirement that time spent locked in cells be kept to a minimum and required only when necessary for safety and security.

1-06 (“Recreation”)

Subheading (a)

- The Board approved adding a statement that “Recreation is essential to good health and contributes to reducing tensions within a facility.”

Subheading (d)

- The Board approved adding a statement that the facility shall provide prisoners upon request with “appropriate outer garments” for outdoor recreation, and added a statement that those must be in “satisfactory condition” and include a hat, coat and gloves.

Subheading (e-1)

- The Board approved adding a statement that the Department shall not be required to provide an indoor recreation area for prisoners in the contagious disease units.

Subheading (g)

- The Board approved adding a statement that “A prisoner’s access to recreation may be denied for up to five days only for misconduct on the way to, from or during recreation.” They added language specifying that misconduct means conviction for an infraction as in the section on showers and shaves.

1-07 (“Religion”)

Subheading (c)

- The Board approved limitations on congregate religious activities for prisoners in the contagious disease units, but emphasized that this was not intended to limit personal counseling.

Subheading (d)

- The Board unanimously rejected the requirement that religious advisers be approved by the Department’s Executive Director of Ministerial Services.

Subheading (i)

- The Board also unanimously rejected a requirement that prisoner requests to exercise the beliefs of new religious groups or organizations be approved by the Deputy Commissioner for Programs.

1-08 (“Access to Courts and Legal Services”)

Subheading (b) and (d)

- All changes in these sections were approved, including requirement of teleconferencing for codefendants, if available.

Subheading (f)(2)

- The Board approved a change to the minimum hours that law libraries are required to be open, to allow the counting of up to two hours during which the law library is open while general population prisoners are locked in. The Board emphasized that this was for the benefit of prisoners in close custody. (This is a change from the initial proposal, which simply removed the requirement that law libraries be open for a minimum period of time during lock-out hours.)

Subheading (f)(4-a)

- The Board approved a statement that prisoners in the contagious disease units may be denied access to the law library, and that an alternative method of access to legal materials must be provided.

Subheading (f)(7)

- The Board rejected the change that would have removed a requirement that the Department report to the Board on the resources available at each law library. Instead, the Board changed the requirement to an annual report.

Subheading (g)

- The Board approved a change to require access to “dedicated word processors” rather than just “typewriters” and approved the removal of “carbon paper” as a material that must be made available for purchase.

1-09 (“Visiting”)

Subheading (d)

- The Board voted to deny contact visits during the first 24 hours after an individual’s admission to the facility.

Subheading (f)

- The Board approved language that contact visits are not required for prisoners in contagious disease units.

Subheading (g)

- The Board approved a change to specify that the department may require a visitor to secure property in a locker, but added language to the effect that “a visit may not be delayed or denied because a working locker is not available.” This change was proposed by the Coalition.

Subheading (h)

- The Board approved a change to specify that visiting rights may not be denied based on disability or gender or gender identity, in addition to the other categories specified in Subheading (h)(1).

1-10 (“Telephone Calls”)

Subheading (h)

- The Board approved the proposal for warrantless surveillance of telephone calls, with some changes. Details will have to follow when the Board releases the final text.

- Language was added to mirror language in the section about laundry, to specify that calls may be monitored only upon the Department’s implementation of proper procedures.
- The phrase “treating physicians” was changed to “treating physicians and clinicians” so as to include mental health workers and others.
- Language was added to require that notice to prisoners be “legally sufficient.”
- The very detailed alternative proposal of the Coalition for substantive and procedural safeguards was not discussed; the amendment as approved will allow surveillance at will of non-privileged conversations.

1-11 (“Correspondence”)

Subheading (a)

- The Board approved the proposal for restriction of correspondence and package privileges for safety or security reasons, with some changes. Details will have to follow when the Board releases the final text.
- The Board added language to require general notice for prisoners.

1-13 (“Publications”)

Subheading (a)

- The Board approved censorship of publications when there is a “substantial” (rather than “reasonable”) belief that it is necessary to protect public safety or maintain facility order and security.

Subheading (c)

- The Board approved changes allowing censorship of “other material that may compromise the safety and security of the facility.” The Coalition’s proposal to substitute specific language such as is used in the state prisons’ “media review” guidelines was not discussed.

1-15 (“Variances”)

- The Board rejected proposed changes to the rules for granting variances from the Standards, which would have allowed a new and poorly defined category of “best practice” variances.

Other

- All other smaller changes (substitution of “facility” for “institution” and the like) were approved by the Board.