



PROTECTING KIDS. PROVIDING HOPE.

November 12, 2018

Derrick D. Cephas, Chair
NYC Board of Correction
51 Chambers Street, Room 923
New York, NY 10007

Re: Limited Six (6) Month Variance Renewal Requests to BOC Minimum Standards Use of Enhanced Supervision Housing (ESH) §1-16(c)(1)(ii) for Young Adults (18 to 21 years old) and BOC Minimum Standards §1-05(b) Lock-in and §1-08(f) Access to Courts and Legal Services

Dear Mr. Cephas and Board Members:

Since 1995, Children's Rights has been a national advocate for youth in state systems. We are also a member of the Department of Correction's Adolescent and Young Adult Advisory Board and the New York Jails Action Coalition. Our experience with adolescents and young adults in foster care and juvenile justice systems often brings us in contact with young adult correction policy, as our clients are disproportionately represented in young adult correction facilities. We are concerned about the welfare of young adults at Rikers.

The New York City Department of Correction ("the Department") seeks to renew three six (6) month limited variances related to each of BOC Minimum Standards §1-16(c)(1)(ii), Use of Enhanced Supervision Housing (ESH), §1-05(b), "Lock-in," and §1-08(f), "Access to Courts and Legal Services." We are writing to request that the Board of Correction (the "Board") deny these variance requests. Instead, we urge the Board to require the Department to comply with existing minimum standards.

The ESH variance for 18 to 21-year olds has been extended by the Board five times since it was first approved on October 11, 2016, when ESH was introduced in response to the Department's phasing out of punitive segregation. Just as punitive segregation is harmful and inappropriate for adolescents and young adults, placement in ESH is also harmful and inappropriate for young adults. Social science and neurological research that guide best practices for working with older youth in foster care show that by the age of 25, young people need developmentally appropriate services and connections with community.¹ Young adults placed in ESH have few opportunities to rebuild or build enduring relationships with family and caring adults. These youth are cut off from beneficial contacts, including the few existing normalizing activities available in detention.

¹ See December 19, 2014 Public Comment submitted by Children's Rights

When the previous ESH variance was granted on May 17, 2018, the Board required that “[b]y September 11, 2018, the Department shall submit an update to its June 2017 Evaluation of Enhanced Supervision Housing for Young Adults. The update shall focus on outcomes and include progress updates on the issues the Department and the Board identified in their initial report.”² Although we are heartened by some of the progress the Department seems to have made, the September 11, 2018 update shows that the median number of days spent in ESH is 85—nearly three months. Some youth spend over a year in ESH. The Department notes in its November 5, 2018 variance request that “overall initial placements in ESH ha[ve] increased.”

The update does not address many of the concerns raised in the Board’s July 2017 report, “An Assessment of Enhanced Supervision Housing for Young Adults,” such as the use of restraint desks in ESH, visitation restrictions for adolescents and young adults, access to mental health services, physical conditions of recreation space, and more. We commend the Department’s discontinuance over the past year of the use of restraint desks in the Secure Unit. We would like to know the status of the use of restraint desks in ESH.

In addition, the September 11, 2018 update does not include a plan regarding how the Department will comply with §1-16(c)(1)(ii), which states that **as of January 1, 2016**, nearly three years ago, inmates ages 18 through 21 “shall be excluded from ESH placement.” It concludes only that “The Department remains committed to improving ESH broadly, and with regard to young adults in particular.”

The Department has also requested variance renewals regarding the “Lock-in” and “Access to Courts and Legal Services” minimum standards for the Secure Unit. These variances were first requested on May 10, 2016. Upon approving these variances for the eighth time since then, the Board stated that the “Department may provide young adults (ages 18 through 21) housed in Secure Units with a minimum lock-out time of ten (10) hours per day and access to law library services by means of a law library kiosk and typewriters in the Secure Units.”³

We remain concerned that young adults are spending too much time in their cells on the Secure Unit. As you know, with some exceptions, “No prisoner shall be required to remain confined to his or her cell” for more than eight to ten hours in a day. But young adults on the Secure Unit can spend 14 hours in their cells. This is too long for adults, and certainly too long for young adults. In addition, by not allowing the young adults in the Secure Unit to leave the unit to go to the law library, the Department confines them to the unit itself even when they are on lock-out.

We respectfully request that the Board address the following questions:

- Does the Department plan to exclude inmates ages 18 through 21 from ESH in accordance with Minimum Standard §1-16(c)(1)(ii)?
- When will the Department address the other concerns raised in the Board’s July 2017 report on ESH, particularly regarding restraint desks?
- When will the Department comply with existing minimum standards §1-05(b) and §1-08(f) for the Secure Unit?

² See Record of Variance Action at May 8, 2018 Public Meeting

³ See Record of Variance Action at May 8, 2018 Public Meeting

We appreciate your consideration of these concerns.

Sincerely,

Handwritten signature of Daniele Gerard in black ink.

Daniele Gerard
Staff Attorney

Handwritten signature of Meghan Kacsmar in black ink.

Meghan Kacsmar
Paralegal