



PROTECTING KIDS. PROVIDING HOPE.

December 15, 2020

Jennifer Jones Austin, Chair  
Margaret Egan, Executive Director  
New York City Board of Correction  
One Centre Street  
New York, NY 10007

Re: Limited Six (1) Month Variance Requests from Minimum Standard §1-02 Regarding Commingling Young Adults (19-21 Years Old) with Adults (22 Years Old and Older)

Dear Chair Jones Austin, Board Members, and Ms. Egan:

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

We urge the Board to deny today's variance request just as the Board denied the variance request at last month's meeting.

First, the Department fails to mention any plan for complying with the Board's denial of the variance at the November 10, 2020 meeting.

Second, the eight criteria for commingling that the Department lists are overly broad and could easily be applied in any situation. For example, the third criteria authorizing the Department to commingle if the young adult "[h]as engaged in actions that threaten the safety and security of the facility"<sup>1</sup> allows too much discretion to staff.

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<sup>1</sup> December 15, 2020 Limited One (1) Month Variance Request to Board of Correction Minimum Standards Section 1-02 Regarding Commingling Young Adults (19-21 Years Old) with Adults (22 Years Old and Older) at p. 1.

Third, the Department states that “fewer than forty-five (45) young adults would be considered for commingling.”<sup>2</sup> Given the reduced population on Rikers, this seems like a small number of young adults who can be housed separately and apart.

Fourth, the Department states that young adults will be “temporarily commingled in quarantined new admission housing.”<sup>3</sup> It is not clear what amount of time this entails, or why young adults cannot be separated from older adults during this time.

Fifth, the Department asserts that it “*will* provide individual support plans and access to young adult programming and supports for all commingled young adults, as well as access to the . . . PEACE Center for all young adults who can be safely commingled” at RNDC.<sup>4</sup> This suggests that the Department is just now adopting this practice, when there is no reason it could not have been in place all along.

Finally, we urge the Board to find out from the Department if this request will simply be renewed each month. We ask because the Department states in the final paragraph: “Despite significant efforts to rehouse all commingled young adults, the Department is unable to fully comply with Minimum Standard §1-02(c)(1) without a serious risk of harm to the population and staff.”<sup>5</sup>

This seems like an end run around the Board’s oversight as exercised at the November meeting.

Sincerely,



Daniele Gerard  
Senior Staff Attorney



Tobin Kassa  
Paralegal

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<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*, emphasis added.

<sup>5</sup> *Id.* at p. 2.