



PROTECTING KIDS. PROVIDING HOPE.

February 11, 2019

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 for BOC Minimum Standard §1-16(c)(1)(ii) Use of Enhanced Supervision Housing (ESH) for Young Adults (18 to 21 years old) and BOC Minimum Standard §1-02(c)(1) Regarding Co-mingling Young Adults (19-21 years old) with Adults (22 years old and older); Young Adult Plan Update February 2019

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 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 and Horizon.

We have questions about the two requested variances. We respectfully request the Board of Correction (the "Board") ask the Department of Correction (the "Department"):

- If the Department has a deadline for ending incarceration of young adults in ESH in compliance with minimum standards.
- If there is a deadline for ending the use of restraint desks.
- If there is a timeline for ending co-mingling of young adults with persons 22 and older.

We refer the Board to our previous testimony at the Board's October 9 and November 13, 2018 hearings, some of which is reiterated below.

Minimum Standard §1-16(c)(1)(ii) Use of Enhanced Supervision Housing (ESH) for Young Adults (18 to 21 years old)

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 young people under age 25 need developmentally appropriate services and connections with community.¹ Young adults placed in ESH have few opportunities to build or rebuild enduring relationships with family and caring adults. These youth are cut off from beneficial contacts, including the few existing normalizing activities available in detention.

The variance 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. But it is alarming that the Department insists on continuing to use restraint desks in ESH.

We urge the Board to deny this variance request. In the alternative, we request that the Board set a deadline for the discontinuance of the use of restraint desks and a deadline for the discontinuance of the use of ESH for any young adults at Rikers.

Minimum Standard §1-02(c)(1) Regarding Co-mingling Young Adults (19-21 years old) with Adults (22 years old and older)

We urge the Board to deny this variance request. We ask that the Board instead require the Department to set a firm timeline for ending co-mingling and for providing access to young adult housing, programming, and services for all young adults. There is no evidence that reductions in violence are caused by the practice of co-mingling. As we have testified regarding this variance in the past, Children's Rights believes that there are more effective, long-term methods to reduce violence, including more age-appropriate programming, more services, and continued better training for officers.²

Placing young adults in co-mingled housing units effectively cuts off young adults' regular access to key programs and services. This could stunt the progress of young adults housed with adults 22 years old and older.

We urge the Board to request that the Department provide research that finds that co-mingling young adults with older adults causes a reduction in violence and increases safety. We would also like the Board to ask why the Department is capable of ensuring safety for the 18-year olds housed separately, but relies on co-mingling 19- to 21-year olds to ensure their safety.

Additional concerns with this variance request are outlined in the next section.

Young Adult Plan Update February 2019

The February Young Adult Plan Update (the "Update") underscores many roadblocks to full implementation of the Young Adult Plan. Our overarching concern relates to the absence of benchmarks regarding the data the Department provides. We cannot determine if the Department has benchmarks

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

² See October 7, 2018 testimony submitted by Children's Rights.

that indicate success. We cannot determine how long the Department believes it will take to fully implement the Young Adult Plan as initially designed.

First, the Update lacks specific uniform processes regarding admission to Rikers. The Department only states that it “aspires” to house all young adults with their peers. Pages 1,7. It does not present detailed plans to do so. In fact, there seems to be co-mingled housing in many adult facilities. The Department states it:

will make appropriate effort to house young adult male inmates ages 19-21 in young adult only housing unless after a case-by-case determination it is determined that a young adult inmate has engaged in violent or assaultive behavior towards staff or other individuals in custody, or engaged in actions that threaten the safety and security of the facility, and would be more safely housed in comingled housing.

Page 1. It is unclear how these “case-by-case determinations” are made. We believe these incredibly important housing decisions must be made based on a set protocol or evidence-based tool, and not left to the individual determinations of intake staff.

Second, there is no benchmark for the percentage of young adults the Department will keep in young adult only housing. The Board’s July 2018 [variance](#) required that the Department develop a plan to house “substantially all young adults (18-21) in young adult housing, consistent with Minimum Standard 1-02(c).” But in the Update, the Department concedes that “substantially all” means only “no less than 50%.” Page 1. Although the Department is to be congratulated for increasing the number of young adult males in pure young adult housing units from 52 percent to 67 percent, a third of young adults at Rikers remain in adult units, with no discernible plan to move them or to create more young adult-only housing. Page 2.

Third, the Update maintains that the Department offers “5 hours of programming in the majority of [general population] housing areas.” Page 5. It is unclear if this “majority” is also limited to “no less than 50%” of the housing areas. As noted above and in our previous testimony, however, providing age-appropriate programming is critical for ALL young adults. Providing age-appropriate programming for half of general population housing areas where young adults reside is simply not sufficient. Instead of setting benchmarks for providing age-appropriate programming for all young adults, the Department seems to rely only on its intention to “better match individuals with their programmatic needs.” Page 4.

In addition, it is not clear if 19- to 21-year olds have access to the same programming offered to 18-year olds, or if there are enough programming slots available to every young adult who wants to participate. For example, it seems that the most popular programs in Appendix A for comingled young adults include CBT, Life Skills, and Healthy Relationships—are enough of these classes available, or do young adults get put on a waiting list? Furthermore, neither Appendix A or B to the Update provides programming data specific to the 18-year olds at RNDC.

Fourth, regarding education, the Update mentions only that the Department “installed additional DOE posts in GRVC’s main school to accommodate the increased numbers of young adults housed” there. Page 4. This does not address educational opportunities for young adults housed in the other general population units. The Department does not indicate how many young adults are placed in facilities

without access to Department of Education services. The Department does not indicate how long transfers based on education access issues typically take. In addition, the Department does not state how many young adults are currently housed in “Success House” placements. Pages 4-5.

Fifth, the Department does not indicate the percentages of young adult staff that have received trainings, such as Motivational Interviewing, Non-Coercive Approaches to Resolving Conflict, and Dialectical Behavior Therapy, or how often training is or should be repeated. The Department does not indicate the target date by which all young adult staff will have received all the trainings. It seems several trainings have not been provided since 2016. Page 6.

Finally, the Update does not include a Department statement on what a successful implementation of the Young Adult Plan would encompass. The lack of specific benchmarks does not bode well for young adults at Rikers.

We urge the Board to require the Department to set specific benchmarks and timelines for meeting the goals of the Young Adult Plan. Otherwise, we fear that continued variance requests like the ones before you today will constitute the actual implementation, or lack thereof, of the Young Adult Plan.

Sincerely,



Daniele Gerard
Staff Attorney



Meghan Kacsmar
Paralegal