



PROTECTING KIDS. PROVIDING HOPE.

January 13, 2020

Jacqueline Sherman, Interim Chair
New York City Board of Correction
One Centre Street
New York, NY 10007

Re: Renewal of Limited Six (6) Month Variance Requests from Minimum Standard §1-04(b)(2), "Overcrowding," Including Single Occupancy Wet Cells at Horizon Juvenile Center (HJC); Minimum Standard §1-08(f), "Law libraries" at HJC; and Minimum Standard §3-06(e)(5), "Nursery program" at HJC; Minimum Standard §1-11, "Correspondence" at HJC

Dear Interim Chair Sherman 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 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 and Horizon.

The New York City Department of Correction ("the Department") again seeks to renew four six-month limited variances related to each of the following BOC Minimum Standards: §1-04(b)(2) "Overcrowding"; §1-08(f) "Law Libraries"; §1-11 "Correspondence"; and §3-06(e)(5) "Nursery Program." All four of these variance requests were considered at the November 12, 2019 Board of Correction (the "Board") public meeting. The Department requested a six (6) month variance for each of these requests.¹ The Board granted limited, seven day variances.²

Because the Board will reconsider those variances on January 14, 2020, we are writing once again to request that the Board deny these variance requests. Instead, we urge the Board to require the Department to comply with existing minimum standards.

We note that three of the requested variances are based on inadequacies of the physical design and space limitations of Horizon itself. It is not clear what the Department or the Administration for Children's Services ("ACS") is considering for

¹ See November 7, 2019 Variance Requests for Renewal of Limited Six (6) Month Variance Requests from Minimum Standard §1-04(b)(2), "Overcrowding," Including Single Occupancy Wet Cells at Horizon Juvenile Center (HJC); Minimum Standard §1-08(f), "Law libraries" at HJC; Minimum Standard §3-06(e)(5), "Nursery program" at HJC; and Minimum Standard §1-11, "Correspondence" at HJC.

² See Records of Variance Action for November 12, 2019 Public Meeting granting seven day variances from Minimum Standard §1-04(b)(2), "Overcrowding," Including Single Occupancy Wet Cells at Horizon Juvenile Center (HJC); Minimum Standard §1-08(f), "Law libraries" at HJC; Minimum Standard §3-06(e)(5), "Nursery program" at HJC; and Minimum Standard §1-11, "Correspondence" at HJC.

long-term solutions, which we view as critical to meeting their obligations to youth at Horizon. We testified about this issue in June 2019 and again in November 2019, and still are not aware of concrete plans.

Regarding the requested variance from Minimum Standard §1-04(b)(2), the Department’s November 2019 audit reports show that “[w]hile an DYFJ Overnight Bathroom Logbook was located each hall, no entries related to requests for access to bathrooms and/or drinking water were recorded on some of the audit dates and, as a result, it could not be determined through a logbook review whether any requests for access to the bathrooms and/or drinking water were made in this hall.”³ Therefore, it is unclear if youth requested access and were denied or if no youth requested access. We are heartened to see that “ACS staff have been directed to complete an entry, in the event there were no requests during any given night, stating such,”⁴ and hope this requirement is strictly implemented. Children’s Rights remains concerned, however, about the use of dry cells at all, and the dignity of residents having to ask to use the bathroom, particularly in the case of female residents.

Regarding the requested variance from Minimum Standard §1-08(f), we renew our request that the Board require the Department to specify its plans to provide an actual law library for residents of Horizon.

Regarding the requested variance from Minimum Standard §3-06(e)(5), we again echo the concerns raised by advocates at at previous Board meetings. Regardless of whether it is “very improbable that a pregnant youth would give birth during [her] short stay” at Horizon, the Department should be prepared for this eventuality. We are glad to see that “ACS has contracted with Children’s Village to put in place a wrap-around model of support,” but this does not address where the mother and baby will be housed. Therefore, we urge the Board to deny this variance and require the Department to provide nursery program services at Horizon.

For all three of these requested variances, the proposed corrective actions seem designed as temporary fixes, and do not fully address the inadequacies of the physical design and space limitations of Horizon itself. It is not clear what the Department or ACS is considering for long-term solutions, which we view as critical to meeting the Department’s obligations to youth at Horizon.

Regarding the fourth requested variance we address, from Minimum Standard §1-11, the Department once again does not provide sufficiently specific criteria pursuant to which prohibitions on certain correspondents would be based, nor the rationale for such prohibitions. Children’s Rights believes there needs to be much greater clarity around this issue to the extent that it is beneficial to Horizon residents at all. Otherwise, the restrictions could very well end up being overbroad and punitive.

Sincerely,



Daniele Gerard
Staff Attorney



Meghan Kacsmar
Paralegal

³ <https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/DOC-Reports/nyc-doc-acshojc-dry-cells-audit-report-201911.pdf> at pp. 4, 5, 6

⁴ *Id.* at p. 7.