



February 26, 2021

Jennifer Jones-Austin, Chair
Margaret Egan, Executive Director
New York City Board of Correction
1 Centre St., Room 2213 New York, NY 1007
Sent via email

Re: DOC's Emergency Variance Declaration for the Use of Young Adult Enhanced Supervision Housing

Dear Chair Jones-Austin, Executive Director Egan and Members of the Board,

The Department of Correction (“Department” or “DOC”)’s recent “emergency” variance declaration makes a mockery of the Board of Correction (“the Board” or “BOC”)’s emergency variance process and should be denounced. In the notices issued on February 22, 23, 24 and 25, 2021, the Department consistently fails to provide any explanation for its claim that the present circumstances constitute an “emergency.” Instead, the Department’s portrayal is nothing but a farce in an effort to flagrantly evade this Board’s Minimum Standard § 1-16(c)(1)(ii).

Alongside directly impacted people and their advocates, including the Legal Aid Society and the NYC Jails Action Coalition, we urge the Board of Correction to issue a Notice of Violation for the Department’s egregious abuse of the Minimum Standard § 1-16(c)(1)(ii) and the emergency variance declaration process.

Six years ago, this Board voted to end the practice of solitary confinement for young people, recognizing that the practice amounted to torture imposed on developing minds. Nonetheless, almost immediately, the Department sought to circumvent the letter and the spirit of the Board’s rule. Over the strong objection of impacted people and advocates, the same Board that initially rejected solitary confinement for young people approved variances that allowed the Department to develop a comparable practice by a different name, now termed Young Adult Enhanced Supervision Housing. Despite the Department’s protestations, the facts are clear: ESH is where young people are caged in cells, allowed out for limited amounts of time, and –in ESH Level 1— are chained to desks. These practices are inhumane, humiliating and have no place in New York City.

Despite countless efforts to cast light on the horrors young people face in ESH, this Board allowed the Department to bypass your own minimum standards and continue this harmful practice for years. That is until recently. A few weeks ago, we applauded when you denounced the practice and

finally refused to allow the DOC to blatantly violate people's human rights by refusing to continue the variance. Now, DOC seeks yet another path to sidestep the Board's authority.

Alarming, the Department seems content to continue the horrific practice, without hesitation, in total contradiction to this Board's instruction and DOC's own responsibility to New Yorkers, both those inside the City jails and in our communities. To add further insult, the Department of Correction, a New York City agency, failed to adhere to basic professional norms – such as using letterhead and signing notices – when informing the BOC of its intention to continue the inhumane practice. The brazen disrespect the Department shows towards people in custody and this Board is indisputable.

The Board must firmly uphold the Minimum Standards, reject any Department measure to place young adults in ESH and file a Notice of Violation against the Department of Correction immediately. We call on this Board to exert your independence over the Department and send a message – young people will no longer be tortured by isolation in NYC. The lives of Young Adult New Yorkers depend on it.

Sincerely,

/s/ Kelsey DeAvila

Kelsey DeAvila

Project Director, Jail Services

Brooke Menschel

Director, Civil Rights and Law Reform