



PROTECTING KIDS. PROVIDING HOPE.

February 26, 2021

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

Re: Department of Correction's declaration of emergency variance from Minimum Standard 1-16(c)(1)(ii) Regarding the Use of Enhanced Supervision Housing (ESH) for Young Adults (18 to 21 years old)

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

We call on the Board to issue a Notice of Violation in response to the Department's emergency variance declaration to continue holding young adults in Enhanced Supervision Housing (ESH) in violation of Minimum Standard § 1-16(c)(1)(ii).

First, the declaration is an end run around the Board's oversight. On February 9, 2021 the Board refused to extend the current ESH variance. The Department's successive declarations of emergency are simply an attempt to further circumvent compliance with Minimum Standard 1-16(c)(1)(ii).

Second, the only emergency is the Department's failure to develop an effective strategy for managing young adults. Such a strategy involves the provision of age-appropriate services and programming of sufficient quality and in sufficient quantity; the social science and neurological research that guides best practices for working with older youth demonstrates that young people under age 25 need both developmentally appropriate services and connections with community.¹ Young adults in ESH are isolated from the few existing normalizing activities available in detention. The variance also ignores the Board's own concerns laid out in its July 2017 report, "An Assessment of Enhanced Supervision Housing for Young Adults."

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

The use of restraints and seclusion contribute to unsafe environments for those subject to restraints and those who impose them.² As Board staff have also observed, “[r]esearch has shown that individuals are more likely to cooperate with law enforcement when processes are fair and they perceive they have been treated fairly.”³

ESH is nothing more than solitary confinement for young adults. Shackling young adults to desks is barbaric.

We refer the Board to the letter from the Jails Action Coalition and the #HALTsolitary Campaign, which we support unequivocally, for a more in-depth examination of why the Board must forbid the Department from housing young adults in ESH.

Sincerely,



Daniele Gerard
Senior Staff Attorney



Tobin Kassa
Paralegal

² Charles G. Curie, *Special Section on Seclusion and Restraint: Commentary: SAMSHSA 's Commitment to Eliminating the Use of Seclusion and Restraint*, 56(9) *Psychiatric Services* 1139-1140 (2005). Moreover, some studies indicate that seclusion and restraint use leads to an increase in the behaviors that staff members are attempting to control or eliminate. See Jones RJ, Timbers GD. *An analysis of the restraint event and its behavioral effects on clients and staff*. *Reclaiming Children and Youth*. 2002;11:37-41.

³ An Assessment of Enhanced Supervision Housing, New York City Board of Correction 6 (2017) (citing Tom R. Tyler, *Why People Obey the Law* (2006) and Lorraine Mazerolle et al., *Procedural Justice, Routine Encounters and Citizen Perceptions of Police: Main Findings from the Queensland Community Engagement Trial (QCET)*, 8 *J. Experimental Criminology* 343 (2012)). http://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/FINAL-BOC-ESH_Assessment-Adults-2017.04.26.pdf