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Defending America's  
Abused and Neglected Kids

Derrick D. Cephas, Chair  
NYC Board of Correction  
51 Chambers Street, Room 923  
New York, NY 10007

November 13, 2017

Re: Six (6) Month Limited Variance Renewal Request to BOC Minimum Standards: Use of Enhanced Supervision Housing (ESH) Section 1-16(c)(1)(ii) for Young Adults (18 to 21 years old)

Dear Mr. Cephas and Board Members:

Children's Rights is a national advocate for youth in child welfare and juvenile justice systems and a member of the New York Jails Action Coalition. Since 1995, Children's Rights has served as a national watchdog organization, fighting to protect and defend the rights of young people, because we believe that children have the right to the best possible futures. Our experience with adolescents and young adults in foster care and juvenile justice systems often brings us in contact with adult corrections, as our clients are disproportionately represented in that setting. We are very concerned about the welfare of young adults at Rikers.

We do not support the Department's current practice of using restraint desks on young adults in Enhanced Supervision Housing (ESH) and the Secure Unit at Rikers. We also do not support the placement of young adults in the Entry Unit – only to be followed by placement in ESH Level 1—without sufficient due process. We believe these practices pose a grave threat to the ongoing reform of punitive segregation approved by the Board in January 2016.

As part of the variance request, the Department purports to offer ESH as a secure housing unit that offers rehabilitative programming within a secure structure. However, the Department's improper and harmful use of restraints within ESH is contrary to the rehabilitation of the young adults, and inconsistent with the stated purpose of both of those restricted housing units. The improper use of these restraints inflicts trauma on the young adults and compounds their individual treatment needs.<sup>1</sup>

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<sup>1</sup> Janice LeBel et al., *The Dollars and Sense of Restraints and Seclusion*, 1 J. Law Med. 73-81 (2012).

First, we ask the Board to end the use of restraint desks on young adults in school on Rikers. There is no evidence that restraint desks serve an educational or rehabilitative purpose or improve behavior in school settings. In fact, some studies show that the use of restraints, and forms of seclusion contribute to unsafe environments for both those subject to restraints, and those who impose them.<sup>2</sup>

Second, we are concerned that young adults linger in ESH Entry Unit and Level 1 for long periods of time without sufficient status reviews. During the time they are confined to these restricted housing units, young adults are shackled at the ankles, and bolted to restraint desks, at times without due process. As the Board has 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.”<sup>3</sup>

According to some young adults and others housed in these units, no notice regarding their placement in restrictive housing units is provided. Instead, as a blanket policy, young adults are sent to these restrictive housing units, and subject to restraints without being afforded the opportunity to be heard in a meaningful time and meaningful manner. Potential procedural due process violations occur in the absence of “sufficient status reviews” in ESH. At least one person in ESH claimed to have completed all of the program requirements, yet was languishing in ESH for a year. According to him, he did not receive a status review during that time.

We are also concerned about the quality of the adjudication hearings and placement reviews when they do take place. The fact that young adults do not have advocates representing them during hearings calls into question whether their procedural due process rights are being protected.

We appreciate your consideration of these concerns, and your continued commitment to making Rikers a safer place that consistently protects the rights of the young adults housed there.

Sincerely,



Catherine Frizell  
Staff Attorney  
Children’s Rights

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<sup>2</sup> Charles G. Curie, *Special Section on Seclusion and Restraint: Commentary: SAMHSA’s Commitment to Eliminating the Use of Seclusion and Restraint*, 56(9) *Psychiatric Services* 1139-1140 (2005).

<sup>3</sup> *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)).