



May 8, 2017

*Via E-Mail*

Martha King, Executive Director  
Acting Chair and Members  
New York City Board of Correction  
1 Centre Street  
Room 2213  
New York, NY 10007

**Re: Six Month Limited Variance Request to Maintain the Secure Unit**

Dear Executive Director King, Acting Chair Cephas and Board Members:

The Children's Defense Fund-New York (CDF-NY) is writing to restate our concerns with the Secure Unit and to urge the Board to use this variance opportunity to seek further details from the DOC on the operation of this unit and its relationship to the Young Adult Strategy Plan. Especially considering the Department now writes that they "began to pursue rulemaking"<sup>1</sup> we ask that the Board continue to place strong conditions on the use of Secure, and to limit the expansion of and monitor the use of currently existing restrictive housing for the young adult population.

We remain worried by several unaddressed pieces of the DOC variance request, and we outline our concerns below. Thank you for your consideration of our comments.

*I. Indefinite Stay*

Since the unit's inception we have asked that the Board not allow for people to be held in Secure for an unlimited period of time. We still ask for public reporting of the minimum, maximum, median and average length of stay in Secure as a whole, and in Phase I, Phase II, and Phase III of the unit dating back to its opening in July 2016. Most importantly, we ask that the Board include time restrictions for placement in each of the three phases of the Secure Unit as well as the total time spent in all phases of the unit. According to this new limited variance request, 31 young adults have been placed in the unit and only ten have completed all three phases. As the unit now approaches a full year of operation, we ask for additional clarity on the longest period of stay for a young adult in this unit and justification for such a stay.

*II. 28 Day Review*

Movement should not be limited by a 28-day time frame. We again ask that the Board reject the 28 days between each review and instead impose a condition allowing for the continuous review—or at a minimum more frequent review—of young adults placed in the Secure Unit to better allow for their immediate removal to the least restrictive environment within a time period that is less than 28 days.

*III. Education Access*

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<sup>1</sup> New York City Department of Correction. (May 2, 2017). *Variance Letter*. Retrieved from <http://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2017/May-9-2017/DOC%20Six-month%20Limited%20Variance%20Renewal%20Request%20-%20Secure%20Unit%20for%20Young%20Adults%205.2.17.pdf>.

The Department writes that during the period of September 2016 through March 2017, 18 young adults enrolled and participated in school. The limited variance states:

*Young adults' behavior and actions within the unit will directly impact their progress through the phases. During each phase, an individual must demonstrate consistent satisfactory behavior for a minimum of 28 days in order to be considered for advancement to the next phase and ultimately for discharge to appropriate housing.*

It is imperative that the Board ensures young adults are provided access to services that allow them to exhibit whatever criteria of behavior grants passage through the phases and tiers toward the least restrictive environment. To draw from the Board's recent ESH report, "Individuals in ESH expressed concern that they would never be released from ESH if they did not participate in programming. Others complained that they have participated but are still not advancing to less restrictive ESH levels."<sup>2</sup> We ask for clarity on how young adult participation in schooling has affected their length of stay in Secure, and what barriers or disincentives exist for participating in schooling, such as young adult's perception of the use of restraint desks in the classroom of Secure.

#### *IV. Relationship to Other Restrictive Housing*

It has been consistently written by the Department "each of the young adult housing options and the interplay among them must be considered as we move forward."<sup>3</sup> We would appreciate clarification on what exactly this "interplay" is among them, and what are the options for movement across all restrictive units. We ask that the Department identify the criteria that differentiate between placement in Secure, Second Chance (SCHU), Transitional Restorative Unit (TRU), and the Enhanced Supervision Housing (ESH) Entry Unit and ESH.

Thank you again for your consideration.

Sincerely,

Charlotte Pope  
Youth Justice Policy Associate  
Children's Defense Fund-New York

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<sup>2</sup> New York City Board of Correction. (April 2017). An Assessment of Enhanced Supervision Housing. Retrieved from [http://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/FINAL-BOC-ESH\\_Assessment-Adults-2017.04.26.pdf](http://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/FINAL-BOC-ESH_Assessment-Adults-2017.04.26.pdf).

<sup>3</sup> New York City Department of Correction. (May 2, 2017). *Op. Cit.*