



January 8, 2018

Via E-Mail

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

Re: Variance Request to Continue Co-mingling

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

The Children's Defense Fund-New York (CDF-NY) is writing in regard to the December 20, 2017 six-month limited variance request from the Department of Correction (DOC), which seeks to renew the July 13, 2017 six-month variance¹ and continue the co-mingling of people ages 19-21 with people age 22 and over. With this new variance request the Department further asks that the Board initiate rulemaking that would allow for co-mingling.² We have been concerned by the lack of transparency regarding the impact of co-mingling on young adults, particularly its effect on the ability of young adults to access age-appropriate programming and services, and we urge the Board to revisit the original intention of the young adult plan.

In January of 2015 the Board revised the minimum standards with the reasoning that a new housing cohort for 18-21 year-olds would ultimately provide for age-appropriate programming and services,³ explicitly including a revision that "provides that housing for [young adults] must provide age-appropriate programming, and requires the Department to report on its efforts to develop such programming."⁴ DOC first requested a related variance in September 2015 to allow for more time to house all young adults in GMDC, as the January adopted rule required a deadline of October 15, 2015.⁵ We understand that the variance was granted in January 2016 for a duration of six months, and again in July 2016 for six additional months. In January of 2017, the Department testified that GMDC was undergoing some renovation, to which the Board asked whether young adults in the blended units would ultimately be moved back to GMDC.⁶ At that time the Department testified that given the robust programming available at GMDC, it would be beneficial to return young adults to GMDC, and that as young adults expressed interest in attending tailored, age-specific programming or school, the Department attempts to move them to GMDC.

The Department remained "committed" as of July 2017 to housing a majority of young adults in GMDC "once the maintenance work has been completed."⁷ At that time, DOC staff confirmed that young adults who, according to the DOC, do not want to go to school or participate in programming are prioritized for placement in the blended units as opposed to GMDC. **We would appreciate additional details on protocols or processes the Department utilizes for first determining and later following up on young adults' interest in participating in school or other programming.**

With this December 2017 variance the Department writes that "the intention is still to house a majority of young adults in one facility. Currently, George Motchan Detention Center (GMDC) is in the midst of several repairs, the result of which, over twelve (12) housing units remain closed."⁸ However, the city announced on January 2nd that it will close GMDC this summer as part of the Mayor's plan to close Rikers Island.⁹ **We ask that the Board seek clarity on the next steps of the young adult plan given this development.**

The Department writes in this variance that "within co-mingled units young adults are receiving programming through our adult programming division" but further details are limited.¹⁰ The "Young Adult Housing Monthly Progress Report" lists participation numbers for programs offered to young adults at GMDC, but has yet to

include the average number of participants for programming in comingled units. To draw from what is reported in the Enhanced Supervision Housing (ESH) for Young Adults Assessment, participation in programming, recreation, and mental health services has been particularly low for those young adults in blended ESH units.¹¹ To complicate this issue, “some young people have told Board staff that they fear being placed in blended ESH units with adults.”¹² That report included further gaps in young adult participation and Department reporting in blended ESH:

- Participation in programming appears to be higher in the ESH Entry Unit compared to participation reported for the ESH blended units.
- Board staff was unable to determine whether people participating in programming in ESH blended units were young adults from the data regularly provided to the Board in the Department’s 60-Day ESH reports. In general, program participation in ESH blended units appears to be very low.
- Other than the Brooklyn Public Library Book Distribution program, average participation in program offerings in blended ESH units has never exceeded an average of ~5 people per session in ESH Level 1 units (combined) or ~2 people per session for programming in ESH Levels 2 & 3 units (combined).

We are concerned that these co-mingling variance requests lead to conditions where young adults have limited access to the age-appropriate programming assurances built into the minimum standards. **We urge the Board to pursue greater transparency around conditions and access to programming for those young adults in comingled or blended units.**

Thank you again for your attention and consideration of our comments.

Sincerely,

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

¹ New York City Board of Correction. (2017, July 13). Record of Variance Action. Available at <http://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2017/July-11-2017/post/2017.07.11%20-%20Record%20of%20Variance%20Action%20co-mingling%20final.pdf>.

² New York City Department of Correction. (2017, December 20). Re: Limited Six (6) Month Variance Renewal Request to BOC Minimum Standards Regarding Co-mingling Young Adults (19-21 years old) with Adults (22 years old and older): Section 1-02. Available at <http://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2018/January-9-2018/NYC%20Department%20of%20Correction%20-%20Six%20Month%20Limited%20Variance%20Renewal%20Request%20Letter%20-%20Co-mingling%20Young%20Adults%20%2819-21%20years%20old%29%20with%20Adults%2012.20.17.pdf>.

³ New York City Board of Correction. (2015, January). Open Meeting. Available at [http://www1.nyc.gov/assets/boc/downloads/pdf/BOCMinutes%20\(1.13.15\).pdf](http://www1.nyc.gov/assets/boc/downloads/pdf/BOCMinutes%20(1.13.15).pdf).

⁴ New York City Board of Correction. (2015, January). Notice of Adoption of Rules. Available at http://www1.nyc.gov/assets/boc/downloads/pdf/boc_rules_governing_correctional_facilities_fr.pdf.

⁵ New York City Department of Correction. (2015, September 8). Re: Variance Request to BOC Minimum Standards Regarding Implementation of the Young Adult Plan: Section 1-02. <http://www1.nyc.gov/assets/boc/downloads/pdf/DOC%20Variance%20Request%20-%20Commingling%20of%20Young%20Adults%20and%20Adults%20-%20Implement.pdf>.

⁶ New York City Department of Correction. (2017, January). January 10, 2017 – Public Meeting Minutes. Available at <http://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2017/Jan-10-2017/January-10-2017-Board-Meeting-Minutes.pdf>.

⁷ New York City Board of Correction. (2017, July). July 11, 2017 Public Meeting Minutes. Available at http://www1.nyc.gov/assets/boc/downloads/pdf/july_11_2017_board_meeting_minutes_final.pdf.

⁸ New York City Department of Correction. (2017, December 20). See footnote 2.

⁹ Office of the Mayor of New York. (2018, January 2). New York City to Close First Jail on Rikers Island by Summer 2018. Available at <http://www1.nyc.gov/office-of-the-mayor/news/002-18/new-york-city-close-first-jail-rikers-island-summer-2018>.

¹⁰ *Ibid.*

¹¹ New York City Board of Correction. (2017, July). An Assessment of Enhanced Supervision Housing for Young Adults. Available at <http://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/2017.07.24%20-%20FINAL%20YA%20ESH%20Report%207.24.2017.pdf>.

¹² *Ibid.*