



June 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

The Children's Defense Fund-New York (CDF-NY) is writing to state our concerns with the Secure Unit and the June 5 variance letter in advance of the June meeting of the Board. We appreciate the Board's limitation of the May variance request to one month as well as the imposed conditions addressing the use of restraints in the Secure Unit.¹ We urge the Board to continue to use these variance discussion opportunities to publicly seek further details from the Department on the operation of Secure, and closely monitor the relationship between Secure and other growing restrictive housing options for the young adult population.

Restraints and Other Restrictions

It was announced by the Board at the beginning of the May 2017 public hearing that "At their most restrictive levels both Secure and ESH require that young adults are in restraints during all out of cell time"² and that in Secure Phase I people have both ankles and a non-dominant wrist restraint.³ The fact that the Department was utilizing three point restraints for young adults in the Secure Unit is disturbing and we ask that the Board revisit this conversation and the matter of an increasing number of people restrained in young adult restrictive housing placements.

We support the condition placed on the May 5 variance request requiring due process protections for the use of two point restraints in the Secure Unit. However, the Department's variance only refers to restraints through the brief mention of restraint desks, with the claim that "To date, pending finalization of these due process procedures, the Department has not adjudicated any young adult for placement in a restraint desk during out of cell time in the designated quad."⁴ We ask that the Board require the Department to also report on the use of any restraints, including but not limited to restraint desks, in all areas, including but not limited to a quad—such as the classroom.

Further, during the May 2017 public hearing, it was reported by the Department that of the 31 people in the unit as of May 8 "desks have been used for 8 young people who have tried to assault staff or

¹ Board of Correction City of New York. (2017, May 15). Record of Variance Action. Retrieved from <http://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2017/May-9-2017/2017.05.09%20-%20Record%20of%20Variance%20Action%20%28Secure%29.pdf>.

² NYC Board of Correction, "2017 05 09 Board of Correction meeting," Posted [May 11, 2017], YouTube video, See 15:09 <https://youtu.be/6943Sid0ITw?t=909>

³ See 15:15 <https://youtu.be/6943Sid0ITw?t=917>

⁴ New York City Department of Correction. (2017, June 5). *DOC Limited Variance Request to BOC Minimum Standards 1-05(b) (Lock-in) and 1-08(f) (Access to Courts and Legal Services, Including Law Library)*. Retrieved from <http://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2017/June-13-2017/DOC%20Six-month%20Limited%20Variance%20Renewal%20Request%20-%20Secure%20Unit%20for%20Young%20Adults%206.5.17.pdf>.

assaulted staff while on the unit”.⁵ We ask that the Board clarify whether those 8 young people have since been afforded due process, and the current status of the use of any restraints, including but not limited to restraint desks.

In the Department’s June 5 written variance request, it is stated that “Young adults’ behavior and actions within the unit will directly impact their progress through the phases and can also result in the imposition of additional restrictions.” We would appreciate greater clarity on the “additional” restrictive options being mentioned here as well as the determination process for imposing “additional restrictions”.

Indefinite Stay

We continue to ask that the Board not allow people to be held in Secure for an unlimited period of time. The Department’s monthly reports contain a length of stay calculation that includes “all young adults who were housed in Secure Unit, regardless of the reason for exit from a Phase.”⁶ Reports do not include calculations of length of stay for Secure as a whole, or disaggregate the reported days by the reason for release from the unit. Based on the Department’s monthly reports from November 1 to April 30, of the 18 people listed as released, the average stay has been 86.4 days, a median stay of 89 days, and a minimum and maximum stay of 1 and 185 days respectively. However, of the six people included in the monthly reports from November 1 to April 30 who are listed as completing all three phases, the average length of stay is much longer at 107.8 days, with a median stay of 97.5 days.

The Department writes, in phases two and three, “A young adult may be considered for phase progression prior to the twenty eight day period.” However, the maximum length of stay in phase two and three in the most recent reporting period has been 68 and 63 days respectively. In order to better understand operations and protocols in Secure, we would appreciate a report of the average length of stay in these phases for those who have not been released for reasons other than completion of the three phases, rather than the average of all people regardless of the reason for exit from the unit.

Thank you again for your consideration of these comments.

Sincerely,

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

⁵ See 17:48 <https://youtu.be/6943Sid0ITw?t=1068>

⁶ See footnote one <http://www1.nyc.gov/assets/boc/downloads/pdf/BOC-Secure-Unit-Report-May-2017.pdf>.