

**NEW YORK CITY
BOARD OF CORRECTION**

March 18, 2004

MEMBERS PRESENT

Stanley Kreitman, Chair
John R. Horan, Vice Chair
John H. Banks III
Louis A. Cruz
Richard Nahman, O.S.A.
Michael Regan
Raul Russi
Hildy J. Simmons

An excused absence was noted for Member Jane Paley Price.

DEPARTMENT OF CORRECTION

Martin Horn, Commissioner
Tom Antenen, Deputy Commissioner for Public Information
Roger Parris, Deputy Commissioner for Programs
Thomas Tsotsoros, Deputy Warden, Inspectional Services & Compliance Division (ISCD)
Judith LaPook, Special Counsel
Elizabeth Myers, Director, ISCD

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Robert Berding, Director, Clinic Administration, Bureau of Correctional Health Services (BCHS)
George Axelrod, Director of Risk Management, BCHS
Dr. Ben Okonta, Acting Medical Director, BCHS

OTHERS IN ATTENDANCE

Amy Anderson, NYU
Don Doherty, Vice President, Prison Health Services (PHS)
Sara Goonan, Office of Management and Budget (OMB)
Michele Kalafer, City Council
Jeff Krupski, Mayor's Office of Operations
Dr. Trevor Parks, Medical Director, PHS
Graham Rayman, *Newsday*
Samuel Sexton, Clergy
Russell Unger, Legislative Counsel, City Council
Paul von Zielbauer, *New York Times*

Chair Stanley Kreitman called the meeting to order at 1 p.m. He welcomed new Board Members Hildy Simmons and Raul Russi.

A motion to approve minutes of the February 12, 2004 Board meeting passed without opposition.

Chair Kreitman asked DOC Commissioner Martin Horn for updates on two recent escapes. Commissioner Horn reported as follows:

On February 1, inmate Andrew Kaminsky was improperly supervised while being moved from Brooklyn Criminal Court pens to Rikers Island. He was moved through a non-secure area because an elevator was out of service. At some point, the inmate “evaded supervision” and exited through the court house. The officers on the bus failed to properly count and the inmate’s absence was not noted until the bus arrived at Rikers. Charges against several officers assigned to both the court pens and Transportation Division are pending. The inmate was back in custody after twelve hours.

Mr. Kreitman asked whether the inmate was properly cuffed. The Commissioner said the inmate slipped the cuffs, and the officers claim they cuffed him properly. Commissioner Horn added that as there were only six inmates on the bus, the escapee’s absence should have been noted before the bus departed. He then discussed the second escape, as follows:

The escape of Ivan Jones presents some similarities to the Kaminsky escape. Inmates are transported 300,000 times per year, and this is a vulnerable time. On February 20, Jones “slipped away” during the process of moving from the intake area of the Vernon C. Bain Center (VCBC) in the Bronx to the sallyport to board a bus for transportation to Rikers Island. Disciplinary charges are pending against several officers for allegedly failing to properly escort Jones, for leaving a group of inmates standing unattended in the sallyport outside the bus, and for failing to do a proper count. Jones slipped his cuffs and, it is believed, held onto the drive train on the undercarriage of the bus. The officer assigned to the exit sallyport admitted that she failed to search the underside of the bus by using the mirrors provided for that purpose.

There were numerous human failures that are attributable to complacency. Procedures have been changed. Inmates will be cuffed from behind with palms facing outward, and additional leg irons have been ordered. Jones was returned to custody last evening.

Board Member John Banks asked if additional training for transportation officers is planned. Commissioner Horn said yes, noted that management has been changed, and added that field supervisors must be present when inmates are loaded onto buses at Rikers Island and the courts.

Chair Kreitman said he understands that the Department’s FY05 budget reflects a shifting of resources. The Commissioner reported as follows:

The FY05 budget is \$823 million, down from the current year’s \$845

million. It includes \$11 million in cost savings, including anticipated reductions in telephone usage, substituting digital photography for hard-copy photography, increased revenue from SCAAP (State Criminal Alien Assistance Program), and accruals from layoffs in previous years. Most significantly, DOC is holding vacant a large number of civilian positions, eliminating 47 civilian positions and civilianizing 45 uniformed positions.

There is a budgeted 10% reduction in overtime (approximately \$5 million), and a projected \$5 million savings by moving up the hiring of a new correction officer academy class from July to March. The 400 new recruits will be available to work during the summer when vacation is at its peak. The budget includes an additional \$2 million for enhanced suicide watches, and \$5 million in additional overtime funds to cover the large number of staff on active military duty.

Anticipated new revenues include: \$43,000 in charges for inmate haircuts, which will cost \$2, and a small increase in inmate telephone charges to bring them in line with charges civilians pay.

Chair Kreitman asked Commissioner Horn to discuss the Rikers Island Discharge Enhancement program (“R.I.D.E.”). The Commissioner said the idea is to begin at intake to prepare inmates for release because 25% of inmates leave the system in three days or less, 53% leave in seven days or less, and 65% leave in fourteen days or less. He added that the average length of stay is 44 days. Commissioner Horn said that keys issues addressed by R.I.D.E. are sobriety, housing and employment. He said discharge-planning contracts totaling \$2.7 million, with community-based organizations including Samaritan Village, Osborne Association, and the Women’s Prison Association, have been redirected to include performance-based requirements that services must be provided post-release. He added that the City has signed a \$5 million contract with the Center for Employment Opportunity to provide transportation from Rikers Island to same-day employment for 5,000 inmates per year. Commissioner Horn said that DOC is gathering information at intake to assist in discharge planning for employment and resumption of benefits, such as Medicaid. He said that DOC is working to computerize the information so it will be available (subject to a confidentiality waiver) to the private-sector providers who work with the inmates. Additionally, the Commissioner said that web-cam technology is being introduced to enable private-sector staff to interview inmates without coming to Rikers Island. He said this already has begun with the Fortune Society.

Chair Kreitman called for a staff report. BOC Executive Director Richard Wolf asked about DOC’s plans to retrofit some cell doors with larger vision panels to enable officers to conduct constant supervision of two or more inmates on suicide watch without violating State Commission of Correction requirements. Commissioner Horn said the process is moving ahead, and DOC is identifying doors that can be hung on existing door systems. Board Member Raul Russi asked what is being done to manage inmates with identified mental health problems. Commissioner Horn said that approximately 20% of DOC’s inmates are in this category, and that they present unique challenges. He said that under the *Brad H.* case stipulation, the Department of Health and Mental Hygiene has primary responsibility for discharge planning for these inmates. He said that part of the problem of providing discharge planning services is that many of these inmates are discharged directly from court. The Commissioner added that additional funding is earmarked for additional discharge planning services for inmates with mental health problems. He noted that one major challenge is finding housing and treatment for the mentally

ill, and DOC is working with the Department of Homeless Services to create additional housing options. He said that approximately 3,000 people move back and forth between jails and homeless shelters, and to the extent that options other than shelters can be identified, a non-shelter placement may reduce the likelihood that the individual will return to jail. Mr. Russi asked whether the inmate population has increased or decreased during Mr. Horn's tenure as Commissioner. Commissioner Horn said today's population (13,785) is 1,800 fewer inmates than when he assumed office in January, 2003. He said that the budget presumes an average daily population of 14,700, so additional technical personnel savings will be realized if the census remains at current levels.

Board Member Father Richard Nahman asked whether the suicide smocks were being used. Commissioner Horn said that today, eleven of the nineteen inmates on suicide watch are wearing smocks. He said that since the last Board meeting, 172 inmates had been in and out of suicide watch. He added that inmates on suicide watch are receiving more focused attention, mental health plans are being implemented, and inmates are remaining on suicide watch for shorter periods of time. Commissioner Horn said that at this point last year, there already had been four suicides; thus far this fiscal year there have been none. He said DOC was using the State Commission's intake screening form, and inmates are being referred to mental health more promptly. He noted that DOC is retrofitting the air vents in cells housing new admission and mental observation inmates. Mr. Russi said he recalled from his experience on the State Commission's Citizens Policy and Complaint Review Council that two factors associated with suicides are the frequency of officer tours of housing areas, which should occur at least every half hour, and the discharge of inmates from mental health units to general population, particularly the first and second days following the transfer. Commissioner Horn said that SCOC now requires "direct observation" of inmates on suicide watch, 24-hours per day. Mr. Russi said he was referring to observations of general population inmates, adding that it often takes twenty minutes to commit suicide. Commissioner Horn agreed. Deputy Executive Director Cathy Potler asked why eleven of the suicide watch inmates are wearing smocks and eight are not. Commissioner Horn said that the eight are housed dormitories with inmates who are not on suicide watch so, pursuant to the terms of the variance, these suicide watch inmates do not wear smocks. He added that if they were housed in single cells they would all wear smocks. Board Member Michael Regan said the Board is pleased with the reduction in suicides, and commended DOC for its efforts.

Chair Kreitman turned to the fourth quarter performance indicators (PIs) for the Prison Health Services contract, noting that five indicators were not met, resulting in fines of \$33,000.

Robert Berding, Director of Clinic Administration for Correctional Health Services (BCHS), reported as follows:

Regarding the PI measuring "credentialing & re-credentialing", credentialing of medical staff has never been an issue, in that no medical provider is hired and cleared to work until credentials are reviewed and a background check is completed. Re-credentialing is required every two years, and has two elements. The first is an ongoing review by medical supervisors of provider staff performance, and this element is performed to CHS' satisfaction. The second element is a ministerial function, a requirement that updated documents regarding each provider's activities that occur during the two year period (such as continuing education) must be retained by Prison Health Services. CHS found less than 100%

compliance with this requirement, and therefore assessed the fine.

Generally, five unmet indicators is in the “low range”. The mental health documentation PI is often “not met”, but DOHMH and PHS agree it should be revised and are working to do so. Compliance continues to improve with mental health documentation and also with “intake history and physical”. Corrective action plans have been submitted by the vendor to improve performance of each “not met” indicator.

Noting that all new admission inmates receive intake physicals, Mr. Wolf asked in what way the PI was “not met”. CHS Director of Risk Management George Axelrod said that there is a requirement that the intake exam be completed within four hours. Mr. Russi asked who established the four-hour requirement. Mr. Axelrod explained that this is to ensure that DOC is able to house new admission inmates within 24-hours. Commissioner Horn noted that the 24-hour housing requirement used to be mandated by the *Benjamin* consent decree, and now was a requirement that DOC imposed upon itself. Mr. Axelrod said that if an intake exam is not completed within four hours, or if one of the 140 fields on the intake form is not completed, this is a “failure”. Mr. Banks asked how many of the five “not met” indicators had been unmet previously. Mr. Berding said that four of the five had been “not met” before, and the fifth is a new indicator. Mr. Axelrod noted that some PIs failed repeatedly because of how rigorously they are measured. Mr. Banks asked for the total amount of liquidated damages that have been assessed for chronic “not met” indicators. Mr. Berding said he will provide the information to the Board. Board Member Hildy Simmons noted that, putting aside the PIs that were “not met”, approximately two-thirds are only “substantially met” as opposed to actually “met”. Mr. Axelrod said that the standard is 100%, so if compliance is 99.5%, this is only “substantially met”. Ms. Simmons said she wanted to understand whether the “substantially met” standard provides a level of comfort that is acceptable. Mr. Berding said that even when liquidated damages are assessed, some of the PIs score “quite high”. He said that “substantially met” provides a good comfort level. Father Nahman asked for the demarcation between “substantially met” and “not met”. Mr. Axelrod said there are no “set percentages”, but to be “substantially met” the score must be very high.

Noting that the mental health documentation PI was again “not met”, Board Member Louis Cruz said that this is not surprising. He said months ago, he mentioned at a Board meeting that during his visits to the jail mental health clinics, he learned that psychiatrists have to work double and triple shifts. He said he would like to see this situation ameliorated. Mr. Berding said that DOHMH reviewed all psychiatrists’ overtime hours for the past six months. He said that the review disclosed that ten of the eighteen psychiatrists worked no overtime at all; four worked voluntary overtime only (pre-planned extra hours); and four worked a combination of voluntary and mandated overtime. Mr. Berding said that mandated (involuntary) overtime was necessary when another provider did not come to work. He said during the six month period, there were only five instances of mandated overtime: one provider performed mandatory overtime twice, and three providers performed mandatory overtime once each. He said the total number of mandatory hours worked during the six month period was between seven and eight, and described this as “negligible”. Mr. Berding said that the same general findings were made with respect to physicians generally. He said DOHMH audited nursing overtime during two weeks, one during which there was a snowstorm and another during which nurses were being trained in rapid HIV testing. He noted that during these high-overtime weeks, the average overtime was 1.5 nurses per shift for the entire system. He said that DOHMH does not consider these findings indicative of excessive reliance on overtime.

Chair Kreitman asked for an update on rapid HIV testing. Mr. Berding said that hundreds of inmates have taken advantage of the opportunity to be tested and to quickly learn the results. Ms. Potler asked how many inmates opted to be tested, and how many tested positive. Mr. Berding said approximately 1% tested positive. Ms. Potler asked at how many facilities inmates could obtain rapid HIV testing. Mr. Berding said three or four.

Mr. Wolf asked for an update on the RFP process for the correctional health services contract. Mr. Berding said that 35 packages have been requested, and four addenda were distributed. He said the RFP is due on April 1st, and the process should be completed by mid-May. Mr. Cruz asked whether any sealed bids had been received. Mr. Berding said he did not know. Mr. Cruz wondered whether the process was attracting qualified bidders. Mr. Berding said that the number of interested bidders who attended the bidders conference was quite large. Commissioner Horn said that no responsible bidder would submit before April 1 because it would use all available time to prepare the best possible bid. Mr. Berding said that the City has been contacted by all of the “large players” who provide correctional health services throughout the country.

The Department’s request for renewal of all existing variances was approved without opposition. The meeting was adjourned at 1:55 p.m.