

**NEW YORK CITY
BOARD OF CORRECTION**

June 9, 1999

MEMBERS PRESENT

John R. Horan, Acting Chair
Canute C. Bernard, M.D.
Louis A. Cruz
Stanley Kreitman
David Lenefsky
Barbara A. Margolis
Richard M. Nahman, O.S.A.
David A. Schulte

DEPARTMENT OF CORRECTION

Bernard B. Kerik, Commissioner
Gary Lanigan, First Deputy Commissioner
Tom Antenen, Deputy Commissioner
Robert Ortiz, TITLE
Christy Sanchez, Assistant Chief
Elizabeth Loconsolo, Esq., General Counsel
Leasa McLeish, Assistant Commissioner
Roger Parris, Assistant Commissioner
Captain John Picciano
Ron Greenberg, Inspection and Compliance Division

HEALTH AND HOSPITALS CORPORATION - CORRECTIONAL HEALTH SERVICES

Michael Tannenbaum, Chief Operating Officer
Tania Gordon

OTHERS IN ATTENDANCE

Betsy Collins, Office of First Deputy Mayor
R.J. Colon, State Commission on Correction
Maddy deLone, Prisoners' Rights Project, Legal Aid Society
Hilda Diaz, Prisoners' Rights Project, Legal Aid Society
Joy Fallek, Prisoners' Rights Project, Legal Aid Society
Robert Ludlum, University of Connecticut
Tracie Lucas, State Commission on Correction
Deborah Mantell, Prisoners' Rights Project, Legal Aid Society
Ashley Normand, Researcher
Jessica Pena, Prisoners' Rights Project, Legal Aid Society
Michael Skrak, NYC Comptroller's Office

Acting Chair John Horan called the meeting to order at 1:10 p.m. Minutes from the May 12, 1999 meeting were approved without objection. Mr. Horan requested that the Board meet in executive session at the conclusion of the public meeting, to discuss a litigation matter.

Board Member Father Richard Nahman presented his report. He said that upon his arrival at the George R. Vierno Center (GRVC) on May 19, he was obliged to remain outside the facility as an inmate from the mental health unit was moved. All other inmate movement ceased during this time, angering and frustrating the other inmates. Father Nahman said that he went to the mental health area and learned that the inmate was causing much frustration for the officers. He asked the St. Barnabas head of the mental health unit whether the inmate had been evaluated for possible admission to Bellevue Hospital's mental health area, and received a lengthy response about what had gone on for the past several months.

Executive Director Richard Wolf said he would not mention the inmate's name, but that DOC representatives knew his identity. He said the situation was an example of good collaboration between DOC and the Board. He said that the inmate had been involved in 18 uses of force during his several months' incarceration at GRVC, accounting for 37% of the facility's reported violence during his stay. Mr. Wolf reported that after the unit head's vague response, Father Nahman and BOC staff urged a clinic captain to initiate a mental health referral, through channels. This was done. Several days later, Mr. Wolf raised the matter at a meeting with Chief of Department William Frazer. Within four hours, the inmate was on his way to Bellevue for a psychiatric assessment. Mr. Wolf said that the inmate assaulted a civilian staff member at Bellevue, fracturing his nose. A 730 examination was ordered. The inmate was found incompetent to proceed with his case, and was sent to a State psychiatric facility. Mr. Wolf said that during Father Nahman's visit, it became clear that little progress was being made in handling the inmate's mental health symptoms. He said the matter raises issues about the appropriateness of the level of care available at the mental health unit.

Board Member David Lenefsky said that the case points out inadequacies in the mental health treatment provided by St. Barnabas. He said he was concerned that St. Barnabas was doing in mental health what it had done in medical cases, that is cutting back on hospital runs to save money. Mr. Lenefsky cited the presence of Board Member Stanley Kreitman, and said he would conclude his remarks.

Board Member David Schulte asked whether St. Barnabas or DOC makes the determination of whether an inmate can be treated on Rikers Island or needs to be treated elsewhere. DOC Commissioner Bernard Kerik said that the determination is made by mental health personnel, but that when Mr. Wolf brought the situation to its attention, DOC ordered that the inmate be evaluated, in collaboration with mental health. Acting Chair Horan said that this evaluation was DOC's initiative, and Commissioner Kerik agreed.

Father Nahman then discussed an issue he raised last month regarding DOC social workers. He said he had apologized to Assistant Commissioner Leasa McLeish for his

comments at last month's meeting. He said he heard that some DOC representatives were concerned that he was "stirring up the troops". He said that he reported on problems so they could be addressed, not creating the problems. Father Nahman said that 130,000 people pass through DOC each year. To address pre-screening of clients to determine level of counseling needed, discharge planning to income maintenance centers, job placement, alcohol services, family crisis, marriages, funeral visits, preparing data and reports, coordinating co-defendant visits and telephone calls, providing individual and group counseling, and many other tasks he listed, Father Nahman said in 1995 there were 130 counselors. Today there are nine - one for every 14,444. Father Nahman said that he calculated that each person could receive eight and one-half minutes of counseling time, if counselors worked non-stop "in assembly-line fashion". He said staff with whom he consulted spoke highly of Commissioner McLeish's efforts, but that people are being given impossible tasks. Commissioner Kerik responded that throughout City government, agencies are doing more with less resources. He said he would look at the issue with Assistant Commissioner McLeish, but added that he felt DOC was doing a good job on the many tasks mentioned by Father Nahman.

Mr. Schulte presented his report, beginning with Elmhurst Hospital where he noted DOC has four populations. He said male medical emergencies should be sent to Bellevue's prison ward, eliminating the need to assign extra officers to outposts. He said DOC had informed him that it would cost \$450,000 to create a unit for female obstetrics and medical cases. Mr. Schulte said the money would be recouped very quickly in saved salary for outposted officers. He then reported on a recent visit to the Correctional Institution for Men (CIFM), at which he learned that no one in DOC is responsible for obtaining necessary papers, such as social security cards, for inmates who are about to be released. Mr. Schulte said that a second issue is that prisoners are released at 2 a.m., 3 a.m. or 5 a.m. He said he was told this was done for the convenience of the Department. Mr. Schulte said this was not convenient for the public, because people are released without papers in the early morning hours when all aid agencies are closed. This situation does not facilitate rehabilitation. He said prisoners should be released when agencies are open, despite the inconvenience to DOC. Commissioner Kerik replied that, following Father Nahman's comments at last meeting, DOC was ensuring that application forms are available for inmates to apply for needed papers. Regarding time of release, Commissioner Kerik said that DOC has many tasks to accomplish each morning, including transporting inmates to courts, hospitals and clinics. He added that DOC currently is reviewing its morning procedures, including releases, and will be making some decisions within the next month. Mr. Schulte suggested that some of the profits from leasing bed space to other jurisdictions could be used to hire additional social workers. Commissioner Kerik said that DOC is not permitted by law to make a profit.

Board Member Barbara Margolis expressed her satisfaction at the tenor of the meeting, and said she looks forward to continued cooperation between the Board and DOC.

Mr. Kreitman asked about DOC's use of and plans for electronic stun technology. Commissioner Kerik said that electronic stun shields are used for cell extractions when necessary. He added that DOC had researched the stun belt which is the subject of a recent

Amnesty International report, but that DOC had no intention of using the belt at this time. Commissioner Kerik said DOC reported 96 violent incidents for the fiscal year that ends on June 30th. He said that when he came to DOC, the Department was averaging 150 reported incidents per month. There were 229 reported incidents in fiscal year 1998.

Acting Chair Horan reported that yesterday he returned to the Mental Observation Punitive Segregation Unit (MOPSU) at GRVC, which he toured in May. He said the Unit's physical environment appeared much improved, although all of the cell doors must be opened manually, which would be unsafe in an emergency situation. He added that the area was quite hot, but that fans had been brought to the Unit. Acting Chair Horan noted that he also visited the Rose M. Singer Center (RMSC) infirmary, and said he will make a return visit. Commissioner Kerik said that DOC senior facility staff had been reminded to have cold water and ice, and fans brought to housing areas during heat waves, and to provide extra showers to inmates wherever possible. Mr. Wolf said that at GRVC, where the temperature in some cells in MOPSU was 90 degrees, Mr. Horan was told that a "hot list" had been prepared, listing inmates whose medication regimen could cause the inmate to have adverse reactions to extreme heat. Mr. Wolf said that psychotropic medications were mentioned as a particular concern. He said that in MOPSU, several inmates are taking psychotropics, and plans to move them from upper tier cells to slightly less-hot lower-tier cells might not adequately address the problem. He asked the Commissioner to consider moving these MOPSU inmates if temperatures rose further, and that if this were not possible, to require staff to follow specific procedures to provide enough water and fans.

Mr. Wolf asked about DOC's plans to ban smoking in the jails. Commissioner Kerik said that he spoke with Corporation Counsel and the Commissioner of the Office of Labor Relations (OLR). The Law Department is reviewing DOC's plan, and will make recommendations in consultation with OLR. Commissioner Kerik described DOC efforts as an ongoing process that will not be resolved in the next few weeks. Board Member Louis Cruz said that in his visits to the jails, he observed less smoking than in the past. Commissioner Kerik said this was because DOC was enforcing already-existing directives banning smoking in certain areas.

Deputy Executive Director Cathy Potler reported that on May 27th at 7:30 a.m., a male detainee, age 30, was found hanging from a ceiling pipe in the bathroom of a dormitory of the Anna M. Kross Center (AMKC). She said that the decedent had tied a shoelace around the pipe and his neck. He was found during the change of tour. Ms. Potler noted that this was the third suicide of calendar year 1999. Commissioner Kerik said that there was no known mental health history, that the inmate had spent some time in the Central Punitive Segregation Unit (CPSU), that he recently had been sentenced, and had been visited by his wife and children the evening before the suicide. Commissioner Kerik said that DOC is examining whether the lines of sight into the bathroom areas might be improved while maintaining some privacy. Correctional Health Services (CHS) Chief Operating Officer Michael Tannenbaum said the death was under investigation, and findings would be submitted to the Corporation's Quality Assurance

Committee.

Mr. Wolf asked whether DOC had clarified the ambiguity about medical personnel's response to the suicide that occurred on May 9th at the North Infirmary Command (NIC). Assistant Commissioner Roger Parris said that DOC's investigation determined that the response team arrived in 10 minutes, rather than 25 minutes as reported at the Board's May meeting. St. Barnabas conducts mock drills, and recent drills recorded responses of five and nine minutes. Mr. Parris said that reductions in response time occur due to coordination between DOC and St. Barnabas. Mr. Wolf asked how the response times for NIC compare with response times at other facilities. Mr. Parris said he would find out. In response to a question from Mr. Schulte, Mr. Parris said that on the "off tours", the medical response to the main NIC building comes from the clinic in the Annex, approximately 100 yards away. Ms. Potler noted that the 20-25 minute response time reported at the May meeting was taken from DOC's logbooks. She asked Mr. Parris to explain how the Department resolved the discrepancy between the times reported in the logbook entries and the investigation's findings. Mr. Parris said he would look into it and report his findings to the Board. Commissioner Kerik said that in response to Mr. Schulte's suggestion, DOC has assigned "SPAs" (inmate observation aides) to housing areas on all three shifts, and is surveying the jails to determine where else they might be assigned. Commissioner Kerik said he would identify for the Board which NIC housing areas were now covered.

Mr. Wolf said that there was an attempted suicide on May 28th which was not reported until June 1st, despite DOC requirements that such incidents be reported within one hour of occurrence. Assistant Chief Christy Sanchez said that medical staff often do not write "attempted suicide" on an injury report, and instead refer the inmate to mental health, which may determine that an attempted suicide occurred. He said this may have caused the lapse. Mr. Wolf said the incident involved a CPSU inmate who was sent to Elmhurst as an emergency to be stabilized, and was thereafter sent to the Bellevue psychiatric ward. Commissioner Kerik said DOC will provide the Board with the pertinent information.

After the Members unanimously approved a renewal of existing variances, Mr. Kreitman left the meeting.

Dr. Bernard presented a report of his visit to RMSC. He began by noting that he was pleased to hear about reduced smoking in the jails, but observed inmates smoking in the "step down" dorm adjacent to the RMSC infirmary. Although a general population area, this dormitory houses inmates who have been discharged from, or are awaiting entry into, the infirmary. Commissioner Kerik said he would look into the matter. Dr. Bernard said he earlier had written to Dr. Dunn, outlining problems as he saw them. Dr. Bernard said he wished to meet with CHS and St. Barnabas medical staff to address issues directly. He said he had met with the new OBGYN physician, who told Dr. Bernard that the unit needed a fetal heart monitor. The new physician also told Dr. Bernard that he required a female chaperone. Dr. Bernard said that a second physician was needed, preferably a female who would eliminate the need for a chaperone.

He also suggested that improved efforts to educate inmates about OBGYN procedures should be undertaken, perhaps in the form of educational, information packets. Dr. Bernard said these were examples of the types of matters he wishes to discuss with Dr. Dunn, and that if he could do so on an ongoing basis, issues could be resolved as they arise. Dr. Bernard said he had been able to put the senior physician at ease, so that she could comfortably discuss issues with him. He said there should not be an adversarial tone to his meetings with physicians, but that clinic physicians seem to be fearful of repercussion if they speak with Dr. Bernard. He urged that this be addressed and overcome, because the system will only benefit from observations coming from all sources, including Dr. Bernard and the Board. Dr. Bernard said that he was impressed that the new OBGYN seems capable and practical. Dr. Bernard offered another suggestion: since inmates frequently use aliases, fingerprints should be used to identify inmates and track their medical records. This would enable medical providers to know the medical histories of the inmate/patients they must diagnose and treat.

Mr. Lenefsky raised the issue of inmates attempting suicide by hoarding medication and then ingesting large quantities at once. He said CHS has not taken full responsibility for monitoring this situation, and that the Board had not received responses to its request for information about two attempts on March 7th and March 16th. Mr. Tannenbaum said that a report is being prepared for review by Dr. Dunn, and that he will check with Dr. Dunn to learn when the report will be ready. Mr. Lenefsky said that since Mr. Tannenbaum knew what issues would be raised today, he should have checked with Dr. Dunn beforehand. Mr. Schulte asked about liquid equivalents and about crushed medications. Commissioner Kerik said he recommended that CHS look into liquid medications, and that he has learned it is very costly. He said liquid medications are being considered for inmates in mental observation areas. He added that he was told that crushing medications can affect when the medication is released into a patient's system. Commissioner Kerik said DOC staff will be more involved in being vigilant that inmate's take medication given to them. Mr. Tannenbaum said there was a procedure with Montefiore Hospital, going back to 1994 to use liquid medications, which "fell into disuse" at the onset of the St. Barnabas contract. Mr. Tannenbaum said that CHS, with the support of DOC, will be notifying St. Barnabas that liquid medications are to be used, despite the additional cost. Mr. Cruz asked if St. Barnabas agreed to the new policy in writing. Mr. Tannenbaum said it had not. He added that the policy would affect special-population inmates. Ms. Potler asked if the policy would apply to all inmates who are taking psychotropic medications, many of whom are in general population. Mr. Tannenbaum said that initially, the policy will apply to punitive segregation and mental observation areas, and that liquid medications will replace all non-liquid medications, psychotropics and other medicines.

Mr. Tannenbaum said that CHS had issued seventeen procedures, directives and policies dealing with attempted suicides, and that he would share the list and the documents with BOC staff. Mr. Lenefsky asked about on-site monitoring. Mr. Tannenbaum said that he reviewed his notes and found that he had referred several times in past meetings to a May 1st date, which he described as being the date by which a monitoring plan was to be completed for the new HHC contract with the Department of Health (DOH). He said the plan was required before the new

contract could be registered, and that he had sent the plan to the Board yesterday. Mr. Lenefsky asked him to discuss it. Mr. Cruz asked whether any revelations would be risky to divulge publicly. Mr. Tannenbaum said he intended to discuss the plan in detail at Thursday's meeting between BOC and CHS. (At this point Commissioner Kerik and some senior DOC staff left the meeting.) Mr. Lenefsky asked why it was necessary to discuss the monitoring plan for a \$347 million three year contract at a private meeting, instead of at a public meeting. Mr. Tannenbaum said he would discuss the plan now, although there might be some modifications.

Mr. Lenefsky said that the Board was receiving complaints from some St. Barnabas personnel on Rikers Island that there are shortages of medical personnel, and that the problem is increasing due to summer vacations. He said that the Board would like to learn how CHS is monitoring the situation. Mr. Tannenbaum said that CHS does quality assurance monitoring, gathering information on performance improvements, risk management, credentialing, data from the vendor on managing the environment and on infection control, and this information is reported to the HHC Board on a quarterly basis. He said a second monitoring component is new admission chart reviews, focusing on clinical and performance indicators for chronic illnesses. Infirmity chart reviews are done to detect clinical management issues in the 46 units. Chart documentation is examined, looking for physician supervision of physician assistants, medication protocols and diagnostic testing. Mr. Tannenbaum said that the plan, in contrast to the system in place under Montefiore, requires that borough facilities be held to the same standards as Rikers Island facilities and will be subject to the same monitoring by CHS. He said that HIV case chart reviews is another important component of monitoring, as is ancillary medical clinic support review. Mr. Tannenbaum said that this encompasses diagnostic activity, labs, radiology, turnaround time for tests, notification of positive results, rate of poor specimen samples and inconclusive tests. He said that mental health chart reviews are another component.

Mr. Schulte asked about personnel who will be monitoring in the jails, as the Board staff does, to seek out and to address complaints. Mr. Lenefsky said that in recent visits, he saw CHS monitors on site. He added that he does not know how many people are engaged in this activity, and what their credentials are. Mr. Lenefsky asked whether CHS verifies St. Barnabas' monthly planned staffing schedules. He asked whether CHS verified in April St. Barnabas' March staffing plan to determine whether it was followed. In response, Mr. Tannenbaum displayed a "Monitoring Survey Form" which requires the surveyor to identify staff present and observed in the clinic. Mr. Lenefsky asked Mr. Tannenbaum to share the data, noting that the names could be redacted. Mr. Tannenbaum said that Dr. Bernard had encountered at RMSC a clinical team, one that goes beyond a basic monitoring survey form.

Mr. Lenefsky said that the number of deaths in facilities in which St. Barnabas provides health services has increased substantially from January 1 through May 31st this year over last year. In 1998, there were five medical deaths. This year there have been twelve. Mr. Lenefsky said that this one indicator does not accurately measure success, even though St. Barnabas used it in the past. He said this is one important reason why the Board wants to know about monitoring. Mr. Lenefsky asked if CHS' third quarter review of St. Barnabas' performance had been

completed. Mr. Tannenbaum said that it had not been completed. Mr. Lenefsky asked if there had been any recent new hires by CHS. Mr. Tannenbaum said that a medical director has been hired, and will begin before the end of the month. He said that a mental health director has been identified, and hopefully will be on-board by mid-July. An HIV director is on staff, an upgrade from an existing position. Mr. Tannenbaum said that CHS continues to advertise for analyst positions.

Mr. Schulte asked if any of the monitors seen by Mr. Lenefsky were physicians. Mr. Tannenbaum said that one was a physician, the director of risk management. Mr. Schulte asked if the Board could see a copy of their report. Mr. Tannenbaum said he would check. Mr. Lenefsky said the Board was looking for full disclosure. Mr. Tannenbaum said that regarding deaths, CHS and St. Barnabas conduct mortality reviews. He said that in the past, the reviews looked at deaths as isolated, episodic cases, but now they are being reviewed to see if they reveal systemic issues. Dr. Bernard said that the Board used to participate in such reviews. Mr. Wolf said that the Board used to convene a Prison Death Review Board, but that CHS announced that it would no longer participate because the issues raised involved quality assurance. Thus, he said, the Prison Death Review Board fell into disuse.

Mr. Wolf asked Mr. Tannenbaum to describe for the Board the qualifications of CHS monitors and the activities they perform in addition to the various chart reviews already described. Mr. Tannenbaum said that current staff positions have been "re-engineered", so that positions include, as part of the duties, a field monitoring component. Mr. Wolf asked how many positions are involved. Mr. Tannenbaum said that approximately thirty clinicians and administrative managers have monitoring as one component of their duties and responsibilities. He has begun keeping a list of who goes where, and when. Mr. Lenefsky asked to see the list. Mr. Lenefsky asked that the information be made available at the Thursday meeting. Father Nahman asked about the agenda for the meeting. Mr. Tannenbaum said that a draft agenda will be provided.

At 2:40 p.m., the public meeting was adjourned. The Board then went into executive session to discuss a pending litigation matter. The executive session concluded at 2:55 p.m.