

**NEW YORK CITY  
BOARD OF CORRECTION**

**May 12, 1999**

MEMBERS PRESENT

John R. Horan, Acting Chair  
Stanley Kreitman  
David Lenefsky  
Richard M. Nahman, O.S.A.  
David A. Schulte

Excused absences were noted for Members Canute C. Bernard, M.D., Louis A. Cruz and Barbara A. Margolis.

DEPARTMENT OF CORRECTION

Bernard B. Kerik, Commissioner  
William S. Fraser, Chief of Department  
Tom Antenen, Deputy Commissioner  
Roger Jefferies, Deputy Commissioner  
Robert Davoren, Chief of Custody Management  
Christy Sanchez, Assistant Chief  
Elizabeth Loconsolo, Esq., General Counsel  
John Antonelli, Assistant Commissioner  
Leasa McLeish, Assistant Commissioner  
Roger Parris, Assistant Commissioner  
Assistant Deputy Warden Gerald O'Gara  
Captain Darryl Harrison  
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

Maddy deLone, Prisoners' Rights Project, Legal Aid Society  
Katherine E. Finkelstein, *New York Times*  
John Graham, NYC Comptroller's Office  
Ashley Normand  
Michael Skrak, NYC Comptroller's Office  
Dale Wilker, Prisoners' Rights Project, LAS

Acting Chair John R. Horan called the meeting to order at 1:05 p.m. He called for an Executive Session to discuss staff salary adjustments, a Freedom of Information request, and DOC investigations affecting the security of the institutions. The Members went into Executive Session at 1:07 p.m. At 1:15 p.m., DOC Commissioner Bernard Kerik and his staff, together with BOC staff, joined the Executive Session.

The public meeting resumed at 1:40 p.m. The minutes from the April 15, 1999 Board meeting were approved without opposition.

Acting Chair Horan reported that on May 11<sup>th</sup> he and Member David Lenefsky, accompanied by BOC staff, visited the Mental Health Punitive Segregation Unit at the George R. Vierno Center (GRVC). He said the Board was looking into the way inmates with mental health problems who are segregated in the unit, are managed. Acting Chair Horan then called for Members' reports.

Board Member David A. Schulte reported on his recent visit to Elmhurst Hospital. He said that he went to a room where a male prisoner, suffering from diabetes, who was described as an escape risk, was "outposted". Mr. Schulte said he was told that the inmate deliberately refuses to take his medication. This exacerbates his symptoms, requiring a hospital visit to stabilize him. Security costs for the prisoner's hospital stay are \$1,650 per day because a correction officer and a captain are required for three tours per day. Mr. Schulte suggested that instead of returning the prisoner to Rikers Island, he should be sent to the Manhattan Detention Center. If he again refuses to take his medication, he should be brought to the Bellevue Hospital prison ward. Chief of Department William Fraser said he would look into Mr. Schulte's suggestion. Mr. Schulte said that the Elmhurst psychiatric ward, which was spotless and well-managed, contained fourteen beds staffed by thirty-nine officers. Mr. Schulte noted that on the day of his visit, ten beds were empty. He suggested that DOC seek an agreement with Elmhurst authorities to house, in the psychiatric ward, female prisoners with medical cases (excluding obstetrics). This would save money spent on "outposting" and make shackling unnecessary. Finally, Mr. Schulte said there should be a locked prison ward to house pregnant female prisoners immediately before, during and after giving birth. This would eliminate the need to shackle.

Board Member Father Richard Nahman reported that he had spoken to people in the Fresh Start program who told him that the reduction of social workers was affecting their ability to arrange for social security cards and birth certificates that inmates need upon release to obtain housing and jobs. Father Nahman said that, according to some chaplains with whom he spoke, this situation frustrates expectations developed in the program. Assistant Commissioner Leesa McLeish said that Fresh Start is not run by DOC, although DOC pays a community-based organization to do so. Father Nahman responded that Fresh Start is a Rikers Island program which assists City prisoners. He said that the difficulties he described were due to the Department's shortage of social workers. Commissioner Kerik said he would look into the matter.

Board Member Stanley Kreitman noted that, even though arrests have increased, there currently are 6,000 fewer inmates in City custody than there were eight years ago. He asked for an explanation. Commissioner Kerik said that the length of stay is "pretty low". He noted that in 1994, there were 103,000 new admissions; this year new admissions will exceed 130,000. Executive Director Richard Wolf said that in 1991 the system was receiving many cases relating to the crack epidemic. He added that, at the time, approximately 1,500 City prisoners were housed in two facilities operated by the State near the Canadian border, two barges, two ferries, two homeless shelters (Forbell and Wards Island). Mr. Schulte suggested that desk appearance tickets, in lieu of arrests, are used more frequently than in the past.

Mr. Wolf began the staff report by asking for a report on the suicide that occurred on early on May 9, 1999. Assistant Commissioner Roger Parris reported that the decedent was a high-security inmate who was discovered by the officers at 3:05 a.m. Her had tied a belt around his neck and affixed it to the bars of his cell. Officers began CPR; medical staff responded, and thereafter Emergency Medical Services. In response to a question from Mr. Wolf, Assistant Commissioner Parris said that the medical staff arrived at approximately 3:25 a.m. He said that investigation was continuing to determine when the initial telephone call was made to medical staff. Mr. Schulte asked about the decedent's classification. Commissioner Kerik said the decedent had been convicted of one murder, had a second murder charge pending, and had also been convicted of rape.

Mr. Schulte said that he recently had visited the housing area in the North Infirmary Command where the suicide occurred. He described it at approximately twelve "dead-end" cells, and noted that the correction officer sits outside the area. Mr. Schulte said it is impossible for the officer to know what is occurring in the rear cells unless the officer gets up and walks to the end of the area. He suggested that the officer's post should be moved inside the area to deter suicides. Commissioner Kerik responded that DOC may employ inmate suicide prevention aides (observation aides) in the area.

Mr. Lenefsky asked where the medical personnel were coming from. Assistant Commissioner Parris said they came from the Infirmary, which is outside the building, approximately 100 yards away. Mr. Lenefsky said that a twenty minute response time is excessive, as is even five minutes. He asked how DOC will look into the matter. Mr. Parris said he will check with DOC's Investigation Division, which will be reviewing log book entries. He added that DOC and St. Barnabas had agreed to conduct mock drills, to give staff practice in responding to emergencies. He said that staff are not told it is a drill. Mr. Lenefsky asked what time the officer says he called the medical personnel. Mr. Parris said he did not know. Mr. Lenefsky said he continue the discussion at next month's meeting. Ms. Potler, who responded to the suicide early Sunday morning, said that there were nine inmates in the housing area. She said that the area was another in which officers might be required to conduct inspections more than once every thirty minutes, as is the general requirement throughout the Department. Mr. Schulte asked what is the staffing of the medical office at 3 a.m. Mr. Parris said there is medical coverage 24-hours per day, and that a doctor was on duty.

Mr. Wolf asked about DOC's plans to prohibit smoking in the jails. Commissioner Kerik said he had a meeting scheduled with the Criminal Justice Coordinator, the Corporation Counsel, and the Office of Labor Relations to address unresolved issues. He said a teletype recently had been sent out reminding staff of existing policies that prohibit smoking in many locations within the jails.

Acting Chair Horan asked Mr. Lenefsky to chair the balance of the meeting. Acting Chair Horan left the meeting.

Commissioner Kerik distributed photographs of a mechanism developed by DOC to prevent inmates from throwing things out of cells through food slots in the doors. He said the device has been tested successfully on a particularly difficult inmate. Commissioner Kerik, Chief Fraser and several other DOC staff left the meeting.

Mr. Lenefsky asked Michael Tannenbaum, Correctional Health Services' (CHS) Chief Operating Officer, if he had brought documentation of the decision approving of CHS' former Director of Risk Management going to work for St. Barnabas Hospital as Director of Risk Management for the HHC contract. Mr. Tannenbaum said he would provide the document within forty-eight hours. Mr. Wolf asked why the document could not have been produced forty-eight hours earlier, inasmuch as it was requested at last month's meeting. Mr. Tannenbaum said that BOC should have requested the information from HHC, which issued the approval, and that he was acting as an intermediary to obtain the information for the Board.

Mr. Lenefsky asked for the results of CHS' investigations into two suicide attempts he mentioned at the April Board meeting. On March 7 and on March 16, two inmates who had saved their daily medication doses ingested large quantities at once. Mr. Tannenbaum said the information is confidential. Mr. Lenefsky said he was not asking for information about the specific incidents, but for findings regarding the dispensing of medication. He asked what is being done to prevent inmates from hiding and accumulating medication. Mr. Tannenbaum said that the issue of medication distribution was addressed initially in a November 1998 St. Barnabas directive. He said the procedure is to give inmates liquid or crushed medications under direct observation, to insist that the inmate drink a liquid after ingesting the medication, and for staff to have a conversation thereafter with the inmate to ensure that the medication is not being concealed in the inmate's mouth.

Mr. Tannenbaum reported that several new protocols are now in place, including mental health protocols on special observation, suicide observation, inmate observation aide program, CDU enhanced suicide observation, follow-up use of tri-cyclic medication over objection, and other suicide protocols.

Mr. Lenefsky said that yesterday at the GRVC Mental Observation Punitive Segregation Unit, an inmate told him that pills and a cream were dispensed to him through an opening between the cell door and the floor. He said this account was inconsistent with the protocols for

direct observation of medication ingestion. Mr. Lenefsky said that the protocol is not practiced on an ongoing, consistent basis by St. Barnabas, nor is it monitored by CHS. Mr. Tannenbaum asked Mr. Lenefsky if, based on the inmate's report to him, the credibility of what Mr. Tannenbaum said was undermined. Mr. Wolf said that BOC staff received from an inmate who was hoarding his medications approximately one dozen pills, including one thiorazine pill and many mellaril pills. He said the pills demonstrate that hoarding is occurring, and the question is: why doesn't CHS know? Mr. Tannenbaum said he had received a full report on the incident involving passing medication under the door, which revealed that the door slot was stuck and the officer was having difficulty opening it. The inmate asked for his skin cream, and the pharmacy technician agreed to pass it under the door. However, before he could do so, the door slot opened, so the ointment was not passed under the door. Mr. Tannenbaum said that he will look into the report presented by Mr. Wolf. He said his investigation will include determining whether the inmate has the opportunity to barter for the medications. Mr. Lenefsky said that if one inmate traded his medications for another inmate's medications, the situation is even worse. Mr. Wolf said that Mr. Tannenbaum's comment suggests a lack of familiarity with the procedures inside the Mental Observation Punitive Segregation Unit. Mr. Wolf said each inmate is isolated, and the observation aides cannot pass medications because they are required to wear heavy mittens which prevent them from picking up and holding anything. Mr. Wolf said that unless DOC staff are passing medications along, there is no way for an inmate to obtain medication other than from pharmacy staff. Mr. Schulte asked where are the CHS monitors that were promised. Mr. Tannenbaum said that if the practice of dispensing crushed and liquid medications was violated, it will be revealed by CHS' investigation. Mr. Wolf said that had there been CHS monitors in the area, the monitors would have seen what BOC staff saw. He reported that at a recent visit, six of the sixteen cell door windows were blocked by the inmate with a towel or picture. This made directly-observed therapy impossible and impaired suicide prevention efforts. Ms. Potler said that BOC staff have been in the housing unit and watched as medications were distributed without observation as to whether inmates are taking their medications.

Mr. Tannenbaum said that if an inmate does not take the crushed or liquid medications, protocols are in place for the "practice of forced meds (medications)", and there have been "instances of forced meds". Mr. Tannenbaum said that an inmate may be force medicated one dose. If the inmate continues to refuse medication, the inmate is sent to the hospital. Mr. Lenefsky asked if the policy was not limited to circumstances where the inmate is a threat to himself or to others. Mr. Tannenbaum agreed. Mr. Lenefsky asked who makes the declaration that the inmate is a threat to himself or to others. Mr. Tannenbaum said the clinical staff did so. Mr. Wolf asked for the position of the clinical staff who may make the declaration. Mr. Tannenbaum said he did not know. Mr. Wolf asked about the nature of the documentation which documents the decision and records the fact that medications are forcibly given. Mr. Tannenbaum said he would find out and let the Board know. Mr. Wolf said that the forced medication situations under discussion involve DOC staff being called upon to hold down an inmate who is given an injection by St. Barnabas staff. He added that the Board's Mental Health Minimum Standards require that, before an inmate may be forcibly medicated, an emergency

situation must exist and the inmate must present a "clear and present danger to himself or to others". Mr. Lenefsky said he was told by an inmate that there have been a number of forced medication incidents in the GRVC Mental Observation Punitive Segregation Unit. Ms. Potler asked Mr. Tannenbaum and Assistant Chief Sanchez to provide to the Board a list of every inmate who was forcibly medicated in the past three months.

Mr. Lenefsky said that since the February BOC meeting, CHS has represented that it will be "up to speed" on May 1 with on-site monitoring on Rikers Island. He said the Board was eager to hear about CHS' plans and to see documentation. Mr. Tannenbaum said that he first heard the May 1<sup>st</sup> date from Mr. Lenefsky. He said CHS is continuing to monitor effectively, and is expanding upon its efforts. He said that for purposes of HHC's contract with the Department of Health (DOH), a comprehensive monitoring plan was submitted on time to HHC Central Office. Mr. Tannenbaum said he expects the plan will become part of the DOH/HHC contract. He said it describes current monitoring efforts, and plans for the future. Mr. Lenefsky asked for the document. Mr. Tannenbaum said he could not release it, and suggested that the Board request the monitoring plan from the HHC President's Office.

Mr. Schulte asked when monitoring would begin. Mr. Lenefsky said that Mr. Tannenbaum said at Board meetings in February, March and April that in the month of May CHS would present to the Board its description of the monitoring plan it had in place on Rikers Island. Mr. Tannenbaum said he did not recall making the statement. Mr. Lenefsky asked if it is CHS' position that it has not upgraded since February its on-site monitoring program on Rikers Island. Mr. Tannenbaum said CHS has submitted its plan. Mr. Lenefsky asked Mr. Tannenbaum to summarize the plan. Mr. Tannenbaum said the plan has several facets, and that he did not bring the plan with him. Ms. Potler said that she had called Mr. Tannenbaum to remind him that the Board expected him to discuss the plan at this meeting. Mr. Tannenbaum said there are several elements to the plan: performance indicators and CHS' evaluation of compliance with those indicators; survey teams that examine environmental areas, clinic staffing and operations (including waiting times); and a chart review component. Mr. Lenefsky asked how many people are on Rikers Island on any given tour monitoring the St. Barnabas contract. Mr. Tannenbaum said CHS moved its central office operation to Rikers Island, including the entire clinical component of central office. Mr. Tannenbaum said it was difficult to give an exact number of monitors in the jails, because of rotating schedules. Mr. Lenefsky asked to see the schedules. He said the Board was entitled to see them as part of a full briefing on the entire monitoring system.

Mr. Lenefsky said that it had come to his attention that Mr. Tannenbaum had invited three BOC Members - Dr. Bernard, Father Nahman and Mr. Schulte - to meet privately with CHS personnel. He said he took great exception to this, noting that anything Mr. Tannenbaum has to say regarding Correctional Health Services should be said to the entire Board of Correction. Mr. Lenefsky said that he asked Father Nahman and Mr. Schulte not to attend a private meeting, and they agreed. He asked Mr. Tannenbaum to tell the Board now, in full session, what he would tell the three Members in private. Mr. Tannenbaum said that at the last

BOC meeting, Dr. Bernard expressed interest in the area of crushed and liquid medications, and alternative medications, and offered to help. He said he believed that Dr. Bernard and others had a particular interest in that subject, and that he wished to discuss the issue in a way that could improve the delivery of medications. Mr. Tannenbaum said he would be willing to meet with all Board members to discuss the issue, and that CHS is anxious to take Dr. Bernard up on his offer. He added that he would have the appropriate clinical staff at the meeting. Mr. Schulte asked if the meeting was on, or off. Mr. Tannenbaum expressed the hope that the meeting could occur as soon as possible. Mr. Lenefsky said the meeting will be rescheduled.

Mr. Schulte said that the policy of not monitoring what St. Barnabas is doing is an invitation to disaster, and that something may happen. Mr. Lenefsky said something has happened: the number of serious medical complaints received by the Board from inmates, St. Barnabas employees and from correction officers has increased. He said complaints in the first four months of 1999 increased to 66, from 40 during the same period in 1998. Mr. Lenefsky added that at moments yesterday, conditions in the Mental Observation Punitive Segregation Unit brought to mind an eighteenth-century insane asylum. He said that some of the inmates housed on the unit have serious mental health problems, and are not receiving adequate mental health treatment. Mr. Lenefsky added that St. Barnabas had reduced hospital runs and stays for mental health cases as it had for medical cases. He noted that some inmates on the unit would belong, after serious evaluation, in a hospital setting. Mr. Lenefsky urged Mr. Tannenbaum to visit the unit. Mr. Tannenbaum said the correctional health system involves over 800,000 encounters, and these inevitably generate some complaints, which CHS thoroughly investigates and from which CHS learns. He called for a "sense of proportion". Mr. Lenefsky said the intensity and complexity of complaints under St. Barnabas is greater than under Montefiore. He said that when BOC brought complaints to Montefiore, they were addressed - unlike the situation today. Mr. Lenefsky said that recent memoranda from Mr. Tannenbaum responding to BOC complaints noted that the matters were under investigation. He said that when CHS does not provide information or documentation, it raises the inference that CHS "is hiding something". Mr. Tannenbaum said that if there is no final review by the Acting Medical Director, it is Mr. Tannenbaum's obligation to communicate the status of the matter at CHS. Mr. Wolf responded that Mr. Tannenbaum was describing CHS' internal procedure, and that CHS had not filled the position of Medical Director. He said that HHC's Vice-President for Medical Affairs was in no position to attend to every complaint raised by the BOC. Mr. Wolf added that many of the complaints are uncovered by Board staff in the jails, where CHS does not have a monitoring presence.

In response to questions from Mr. Lenefsky, Mr. Tannenbaum said CHS had not yet hired a Medical Director. He said an HIV Director had been identified, and would begin work soon. The position of Director of Clinical Field Monitoring has not been filled, nor has that of Mental Health Director. The analyst position who will work with the CHS Executive Director has not been filled. Mr. Tannenbaum said that the following positions have been filled: coordinator of discharge planning services, director of LINK Program, and the Director of Risk Management.

Mr. Lenefsky said that CHS had provided its evaluation of the second quarter of the contract. Mr. Tannenbaum said that no evaluation was done of the first quarter. Mr. Lenefsky added that he expected CHS to provide its third-quarter evaluation. Mr. Tannenbaum said that in the first quarter of 1999, CHS monitoring efforts revealed adjustments to be made to the contract performance indicators.

Mr. Schulte asked whether there are CHS monitors in the jails. Mr. Tannenbaum said there are people who do monitoring exclusively, and others who perform monitoring as part of their overall duties. Mr. Schulte asked how many people do monitoring exclusively. Mr. Tannenbaum said he did not want to give an incorrect number. Mr. Tannenbaum said that BOC staff met with HHC central office staff and a document was reviewed which detailed percentages of time that various people spent on monitoring functions. Mr. Wolf said that at that meeting, the HHC central office officials said that the document was not responsive to the Board's inquiries about field monitoring, as the document addressed desk audits and chart reviews. Mr. Wolf added that the officials said a different analysis would have to be done. Mr. Tannenbaum said that the monitoring plan indicates that there is a major field monitoring component, but also a component that reviews data submitted by St. Barnabas. Mr. Lenefsky asked Mr. Tannenbaum to show it to the Board.

Ms. Potler raised several DOC-related issues with Assistant Chief Sanchez regarding the mental health bing at GRVC. She said that the area was very unsanitary, particularly fungus in the shower area and food on the floor outside of the cells. She said that a comprehensive clean-up had occurred after BOC staff's earlier visit. Ms. Potler added that mice were a significant problem, according to correction officers in the area.

The meeting was adjourned at 2:50 p.m.