



**CITY OF NEW YORK
BOARD OF CORRECTION**

OPEN MEETING
January 13, 2015

MEMBERS PRESENT

Gordon Campbell, Chair
Jennifer Jones Austin, Esq.
Derrick D. Cephas, Esq.
Robert L. Cohen, M.D.
Honorable Bryanne Hamill
Michael Regan
Steven M. Safyer, M.D.

An excused absence was noted for Alexander Rovt, Ph.D., Vice Chair

DEPARTMENT OF CORRECTION

Joseph Ponte, Commissioner
James Dzurenda, First Deputy Commissioner
Martin Murphy, Acting Chief of Department
Erik Berliner, Deputy Commissioner
Peter Thorne, Deputy Commissioner
Winette Saunders-Halyard, Acting Deputy Commissioner for Youthful and Adult Offender Programs and
Assistant Commissioner for Community Partnerships and Program Development
Heidi Grossman, Esq., General Counsel
Shirvahna Gobin, Executive Director for Intergovernmental Affairs
Jeff Thamkittikasem, Chief of Staff
Sean Jones, Deputy Chief of Staff
America Canas, Senior Policy Advisor
Yolanda Canty, Assistant Chief
James Perrino, Acting Assistant Chief
Hazel Jennings, Acting Assistant Chief of Security
Shirvahna Gobin, Executive Director for Intergovernmental Affairs
Carleen McLaughlin, Director of Legislative Affairs and Special Projects
Michael Blake, Deputy Commissioner, Investigations Division
Sean Cussen, Deputy Director of Investigations
Robin Campbell, Admin. Public Information Specialist
America Canas, Senior Policy Advisor
Sean Jones, Deputy Chief of Staff
Marcia Dacosta, Deputy Director of Ministerial Services
Francis Torres, Director of Education

Pennye Jones, Warden
Raleem Moses, Warden
Kenneth Stukes, Warden
Robin Beaulieu, Deputy Warden
Michael Catuosco, Deputy Warden
Hon Pun Chan, Deputy Warden
Michele Clifford, Deputy Warden
Tony Durante, Deputy Warden
Deon Frazier, Deputy Warden
Terrence Graham, Deputy Warden
Rebecca Grayson, Deputy Warden
Damon Harris, Deputy Warden
Anastasia Henderson-Blackmon, Deputy Warden
Chantelle Johnson, Deputy Warden
Robert Kelly, Deputy Warden
Charlton Lemon, Deputy Warden
Karen Lewis, Deputy Warden
Melissa Matthews, Deputy Warden
Ronald Miller, Deputy Warden
Floyd Phipps, Deputy Warden
Ronnie Purvis, Deputy Warden
Anthony Toulon, Deputy Warden
Germaine Turnbull, Deputy Warden
Joseph Vasaturo, Deputy Warden
Kiesha Guillebeaux, Captain
Lennox Hackett, Captain
James Stanton, Correction Officer
Ana Billingsely, Urban Fellow

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Elizabeth Ford, M.D., Executive Director, Mental Health, Bureau of Correctional Health Services
Homer Venters, M.D., Assistant Commissioner, Correctional Health Services
Sonia Angell, M.D., Deputy Commissioner, Division of Prevention and Primary Care
George Axelrod, Chief Risk Officer
Sarah Glowa-Kollisch, Director of Policy and Evaluation
Dr. Sonia Angell, Deputy Commissioner, Division of Prevention and Primary Care
Patrick Alberts, Agency Attorney, Division of Prevention and Primary Care
Carolyn Bancroft, Project Manager
Lucia Caltagirone, Agency Attorney Intern
Nathaniel Dickey, Special Assistant
Jasmine Graves, Special Assistant to the Commissioner

OTHERS IN ATTENDANCE

Alex Abell, Urban Justice Center
Michael Appleton, NY Times Reporter
Amanda Becker, Jails Action Coalition (JAC)
John Boston, Legal Aid Society (LAS)
Gina Bull, Office of the Public Advocate
Barry Campbell, Fortune Society

Damien Cheatham, Correction Officers Benevolent Association (COBA)
Chin Ho Cheng, Department of Investigation (DOI)
Dylan Cohen, Public
David Condliffe, NYC Bar Association
Albert Craig, COBA
Mark Cranston, Warden, Middlesex County Department of Correction and Youth Services
Megan Crowe, Jails Action Coalition (JAC)
Brian Crow, City Council
Elizabeth Crowley, Member, City Council
Emily Daughtry, Department of Justice/USAO
Julia Davis, Children's Rights
Kelsey Deavila, JAC
Philip Desgranges, New York Civil Liberties Union (NYCLU)
Riley Evans, Brooklyn Defenders Services/JAC
Regina Gerhartt, Public
Susan Goodwillie, JAC
Sarah Gonzalez, Reporter, WNYC
Steven Goulden, NYC Law Department
Courtney Gross, Reporter, NY1 News
Thomas Hanish, Public
Richard Heflign, Public
William Hongach, City Council
Dashone Hughey, OMB, Senior Analyst
Elias Husamudeen, COBA
Karen Imas, Doctors Council
Jonathan Inoa, Reporter, NY1 News
Kenyatta Johnson, COBA
Jillian Jorgensen, Reporter, New York Observer
Deandra Kahn, NY Civil Liberties Union (NYCLU)
Martha King, Senior Policy Analyst
J.M. Kirby, International Women's Human Rights Clinic
Elena Landriscina, Disability Rights NY
V. Law, Public
Neil Leibowitz, M.D., Director, Mental Health, Corizon
Jennifer Levy, Public Advocate
Adam Libove DOI
Evelyn Litwok, JAC
Stephen Louis, NYC Law Department
Jeff Mailman, City Council
Nicolas Malinowski, Brooklyn Defender Services
Felix Martinez, Jr., BOC
Elizabeth Mayers, JAC
Matthew McKight, Reporter, The New Yorker
Barbie Melendez, BOC
Ilyssa Meyer, Team Member, Boston St. Johns
Toni Miller, Justice AC
Valentina Morales, Principal Attorney at Mental Health Legal Service
Five Mualimmak, JAC
Scott Paltrowitz, Correctional Association of New York
Jennifer Parish, Urban Justice Center/JAC
Melinda Parish-Miller, JAC

Chai Park, BOC
Amanda Parsons, Vice President of Community and Population Health at Montefiore Medical Center
Jake Pearson, Reporter, Associated Press
Shaquana Pearson, BOC
Johnny Perez, Urban Justice Center
Beth Powers, Children's Defense Fund
Imam John Pridgen, Ministerial
Raven Rakia, Reporter, The Nation
Celia Rhodes, NYC Law Department
Mark Riley, COBA
Skyler Dylan-Robbins, Reporter, The New Yorker
Dakem Roberts, JAC
Kathleen Rubenstein, NYC Law Department
Michael Schwartz, New York Times
Stefen Short, Disability Rights New York
Jane Stanicki, JAC
Marc Steier, COBA
Angela Tolosa, Council of State Governments Justice Center
Leila Vaezazizi, M.D., NYU/Bellevue
Gale Weiner, JAC
Michael Winerip, NY Times
Eisha Wright, NYC Council

The meeting commenced at 9:15 AM. A video recording of the meeting is available on the Board of Correction (BOC) website at www.nyc.gov/boc.

Without objection, the Board approved the minutes for the Board meeting of November 18, 2014.

Election of Vice-Chair

Board Chair Gordon Campbell stated that the Board had spent an inordinate amount of time focusing on rulemaking, and that it has reached a consensus to defer the election of a new Vice Chair to its February 2015 meeting. Chair Campbell explained that although the by-laws require that there be an election in January, the New York City Law Department has advised him that the Board may vote to defer the election of a new Vice Chair to a later date. Subsequently, without objection, the Board voted to defer the election to its February 2015 meeting.

Resolution to Increase the Frequency of Public Meetings

Chair Campbell next addressed the question of whether to increase the frequency of its public meetings. He thanked Board member Judge Bryanne Hamill for raising this issue several times in the past. He noted that the Board's by-laws indicate that there are to be six Board meetings per year, and that the resolution now before the Board is as follows:

The Board shall hold nine regular meetings each calendar year in January, February, March, May, June, July, September, October, and November. In addition, the Chair or a majority of the Board can call such additional meetings as may be necessary to discharge the duties of the Board.

Chair Campbell explained that the resolution, if passed, would add three new meetings to the Board calendar – one in February, June, and October. The resolution was adopted without objection.

Discussion of the Enhanced Supervision Housing and Punitive Segregation Draft Rule

Chair Campbell said the Board will explain the proposed rule that was previously before the Board during the 60-day CAPA rulemaking process, during which time the Board heard from many stakeholders including many who attended the hearing. He said the Board will also explain the differences between that version and the newer draft of the rule that currently is before the Board. Finally, Chair Campbell stated that before it proceeds to vote the Board will discuss the CAPA rulemaking process.

Acting Executive Director Amanda Masters stated that the Board received a tremendous volume of comments during rulemaking, many of which affected the redrafting of the rule. She said that the original proposed rule focused on two issues: (1) the creation of enhanced supervision housing (ESH) units and (2) punitive segregation reform. She explained that the original proposed rule included:

- Lock-in of 17 hours in ESH
- Limitations on recreation so that inmates would be taking recreation in cages like those used by inmates in punitive segregation
- A provision that limited access to religious services like it is for inmates in punitive segregation (PS). Ms. Masters emphasized that the Minimum Standards have provisions that make it clear that inmates in PS have access to congregate religious services
- Limitations on access to law library so that inmates in ESH would be treated like inmate in PS
- Limitations on access to visitors that would have imposed a blanket rule that all inmates in ESH may only have booth visits, and could only have visits with a pre-approved list of visitors
- A provision that inmates' mail would be read without notice to the inmate or notice to the sender of the correspondence, which would have constituted a departure from the Minimum Standards
- A provision that packages, such as books or clothing, could be sent to inmates only if they were bought directly from a seller or publisher
- A list of behaviors that would occasion a person to be eligible for ESH, which included being identified as a leader of, organizer of, or participant in a gang or substantially similar entity; committing a stabbing or slashing while in Department of Correction (DOC) custody; committing repeated assaults; seriously injuring another person while in custody; engaging in serious or persistent violence; instigating a riot; or otherwise presenting a significant threat to the safety and security of the facility
- A provision allowing an inmate being placed in ESH the option of asking for a hearing after placement in ESH.

Ms. Masters stated that the PS reform that was suggested in the original rule included provisions that:

- Mandated that PS would be a minimum of 20 hours of lock-in
- Mandated that 16- and 17-year-olds not be placed in PS
- Addressed the practice of owed time
- Imposed a requirement that DOC report to the Board on the status of its efforts to reduce its use of PS to a 30-day maximum.

She said that two months of discussion among Board members has yielded a new rule for consideration today. Ms. Masters said that the new rule has provisions that are different from and adds to those in the original proposed rule.

Ms. Masters stated that a significant addition in the new draft of the rule is that it creates a new housing cohort of 18- to 21-year-olds who will be housed together and provided with age-appropriate programming. She said this new provision would bring the Minimum Standards into compliance with federal and state law, noting that the Standards did not comply with the Prison Rape Elimination Act (PREA) because they required that 16-, 17-, and 18-year-olds be housed together.

Ms. Masters reported that the new draft also establishes ESH housing units, which are 17-hour lock-in units, continues to provide that access to law library is similar to that for PS inmates, and allows DOC to read inmate correspondence without notice or record-keeping.

Ms. Masters stated that there are significant changes to the manner in which contact visits are dealt with in the new draft. She said the Minimum Standards already contain provisions permitting DOC to look specifically at an individual inmate or an individual visitor and determine whether there is a security risk requiring that their visits be limited. She noted that the new rule makes clear that DOC should use those criteria and processes, look at each situation, make an individualized determination, and that this should happen in the context of a due process hearing.

She said the Board has added some language that is consistent with what the Mayor has stated: that ESH is supposed to promote rehabilitation, good behavior, and the physical and psychological well-being of inmates.

Ms. Masters further explained that in the new draft the criteria for placement in ESH have been modified, as follows: an inmate may be placed in ESH if he has committed a slashing or stabbing, or has been found in possession of a scalpel or a weapon that poses a level of danger similar to or greater than that of a scalpel while in DOC custody; inmates may be placed in ESH if they have engaged in serious or persistent violence while in current or previous DOC custody or while incarcerated in another system. Ms. Masters said inmates may be placed in ESH if they have engaged in repeated activity or behavior of a gravity or degree of danger similar to the other acts described earlier, such as stabbing, slashing, or rioting, as long that behavior has a direct, identifiable, and adverse impact on the safety and security of the facility.

She went on to explain that provisions in the new draft would allow DOC to place in ESH an inmate who has been identified as a gang leader and has demonstrated active gang involvement or perpetrated violent or dangerous gang-related activity.

Ms. Masters stated that the Board has included in the new draft rule some significant exclusions to both ESH and PS housing areas:

- Inmates under 18 years old
- Inmates who are between 18 and 21 years old, as long as they have not committed or actively participated in a Grade I infraction
- Inmates with serious mental or serious physical disabilities or conditions

Ms. Masters explained that the word “serious” is important, as it modifies both mental illness and physical disabilities or conditions. She noted that clinicians are to decide what is serious, and that “serious” is not limited to serious mental illness (SMI), which is a forensic term for some types of mental illness. Ms. Masters stated that the decision can be made at any time during a person’s incarceration, including at the person’s entry into the system, and not just immediately before the inmate is placed in ESH or PS.

Ms. Masters stated that there will be a maximum of 250 ESH beds. She said the Board contemplates that there will not be a backlog.

She also stated that conditions placed on inmates who are in ESH, such as restrictions on contact visits, mail, and so forth, must be made individually in the context of a due process hearing, and that specific reasons for restrictions must be articulated and shown to be necessary.

Ms. Masters said that by July 1, 2015, DOC will be required to provide to inmates in ESH voluntary and involuntary programming – programming which will be in- and out-of-cell, and which targets rehabilitation, addresses root causes of violence, and minimizes idleness. She stated that all inmates in ESH will be required to be seen once each day by medical staff.

Ms. Masters also stated that the provisions pertaining to staffing requirements in both ESH and PS housing units are new. She explained that the new draft rule requires that staff working in ESH and PS housing areas must have 40 hours of training specific to each type of unit, and that at least 25% of the correction staff who are assigned to ESH are to be assigned to steady posts. She noted that steady posts lead to more stability on the unit, less misunderstanding, and less violence.

She said that within 24 hours of being placed in ESH, inmates must receive a detailed notice explaining why they are there and offering them an opportunity to look at the evidence against them so that they may prepare for a due process hearing. Ms. Masters explained that the due process hearing must be held within three days, and that it cannot be adjourned unless the inmate requests the adjournment so that he or she may prepare for the hearing.

Ms. Masters also stated that the Board enumerated in the new draft rule what the hearing officer – who should be independent – must look at when determining whether to place someone in ESH. She said that the hearing must permit the inmate to participate in person, call witnesses, and present his or her own evidence. She added that in some circumstances inmates will be entitled to a hearing facilitator if they are illiterate or if they need help understanding the process. Ms. Masters stated that a written decision must be given to the inmate explaining the placement in ESH. She said that the Board added a requirement of a periodic review so that there is a way to get out of ESH, and that DOC will be required to conduct this periodic review every 45 days. Ms. Masters added that inmates will be allowed to submit written statements that should be considered by DOC, and that within seven days of the review, the inmate will be given a written report with the outcome of the review. She said that one of the factors DOC must look at when deciding whether someone may leave ESH is behavior and attitude while in ESH, including the inmate's participation in programming. She emphasized that DOC is required to provide programming for these inmates.

Ms. Masters said that DOC will be required to report to the Board every 60 days on implementation of ESH, and on programming and other services for ESH inmates. She noted that the Board also included a sunset provision that will allow the Board 18 months after ESH has been implemented to evaluate its effectiveness and whether it should continue.

With respect to PS reform, Ms. Masters stated that under the new rule, DOC will not be allowed to confine 16- and 17-year-olds in PS. She added that 18- to 21-year-olds will also be prohibited unless they committed a Grade I infraction. She noted that the new rule will prohibit DOC from housing inmates with mental illness or other disabilities in PS. Ms. Masters said the New York City Human Rights Law broadly defines “disability”, and the Board's intent is that this exclusion category be consistent with New York City law. She said it is the medical and mental health clinicians who make the decision about whether a person may appropriately be housed in PS, noting that the Board has made it clear that the medical service may remove from PS an inmate for whom such placement is medically contraindicated.

She added that this is consistent with existing Minimum Standards, and the Board believes it is important to emphasize who has the authority to do this. Ms. Masters stated that the Board has also made it clear that if a person is excluded from PS due to health status, mental health status, or their age, DOC does not have the authority to hold a hearing and sentence them to PS time that they must serve when they are older or going through a period of better health.

Ms. Masters stated that the Board has also included a provision stating that DOC may not confine an inmate in PS as punishment for a Grade 3 infraction. She noted that for the first time the Board includes in the Minimum Standards a requirement that there be a due process hearing before an inmate is placed in PS. She said that it has been the practice of DOC to do this, but the Board has codified the practice for the first time. Ms. Masters said that the Board has codified procedures pertaining to pre-hearing detention (PHD), explaining that PHD is imposed when an inmate has been deemed too dangerous not to immediately place him or her in PS. She stated that an inmate may be kept in PHD status for a maximum of seven days, after which they must be given a hearing. Ms. Masters said that the Board has also made it clear that the due process hearing for inmates in PS allows the inmate to appear in person, make statements, present evidence, and call witnesses. She stated that the new draft rule also requires that a hearing facilitator be provided for inmates who are illiterate or who need help with the hearing. She added that the rule makes it clear that DOC has the burden of proof in these disciplinary hearings.

Ms. Masters said that the new draft rule imposes a 30-day maximum time limit on PS sentences, a limitation imposed with the understanding that DOC's practice is to impose concurrent rather than consecutive sentences. She stated that an inmate who has been in PS for 30 days will receive a seven-day break before they are put back in PS, adding that no inmate will be placed in PS for more than a total of 60 days in any six-month period, with one exception: an inmate who is so persistently violent that it is not practicable to limit the inmate to 60 days in a six-month period. Ms. Masters stated that to trigger the exception, which the Board expects will occur rarely, the Chief of the Department must personally approve the extension of the PS placement, and DOC must immediately notify the Board and DOHMH of the extension and the reason for it. She said that if an extension is imposed, the inmate must be seen daily by mental health, and the daily rounds must be documented in writing.

Ms. Masters stated that inmates in PS for non-violent or Grade II infractions must be offered seven hours lock-out time every day.

With respect to the staffing requirements under the new draft rule, Ms. Masters said that correction staff assigned to PS will be required to have at least 40 hours of training that should include, but not be limited to, how to recognize and understand mental illness and distress, effective communication skills, and conflict de-escalation techniques. She went on to say that 25% of the correction staff assigned to PS housing areas must be assigned to steady posts.

Ms. Masters stated that time owed from previous incarcerations is no longer allowed under the new draft.

Ms. Masters stated that the draft rule makes a significant change to the Mental Health Minimum Standards, which previously required the health service to do a determination just prior to placement in PS as to whether the person was mentally capable of sustaining that sort of isolation. She stated that the new draft makes clear that the medical and mental health service may make a determination that the person should be excluded from PS at any time during his or her incarceration, and not just during or prior to the hearing.

Chair Campbell thanked Ms. Masters for the explanation, noting that the rulemaking process has been a lengthy journey that everyone in the audience had been a part of. He stated that over the years the Board has repeatedly expressed its concerns about PS. He stated that in April 2013 the Jails Action Coalition

(JAC) petitioned the Board to commence rulemaking on PS, and that in September 2013 the Board voted to do so.

Chair Campbell stated that the Board's goal was to ensure that it listens and engages in a thoughtful, purposeful, and deliberative process. He thanked Board members Judge Bryanne Hamill and Dr. Robert Cohen who chaired the adolescent and adult rulemaking committees on PS. Chair Campbell stated that they, along with other Board members, spent endless hours meeting, conferring, and consulting. He said that the Board also held a forum at CUNY Law School to hear from leading practitioners on reform. Chair Campbell stated that the Board commissioned a report on best practices around punitive segregation, and he thanked Board staff for all of their work, not only in terms of logistics regarding hearings and meetings, but also for looking at programming, training, and other efforts around the country. Chair Campbell extended a special thanks to Ms. Masters, the Acting Executive Director, and the Board's recently departed former Executive Director Cathy Potler. He stated that they made a difference in helping the Board get to this point.

Chair Campbell stated that the Board heard from DOC regarding the most violence-prone inmates – which led to DOC's request for ESH. He said that at the Board's November 2014 meeting it agreed to place DOC's proposal into rulemaking, at which time the Board made clear that it wanted to listen, and that there will be extensive changes, because this clearly was a deliberative process.

Chair Campbell said later Board efforts have been led by Members Jennifer Jones Austin and Derrick Cephas. He thanked them for their leadership, as well as Members Dr. Steven Safyer and Michael Regan. Chair Campbell stated that the Board received a large volume of written comments and heard a full day of testimony from interested parties. He said that the hearing was video-recorded and that the recording is available on the Board's website, as is a 420-page transcript of the hearing with word index. Chair Campbell said Board members found the testimonies of those members of the public who stayed until the end of the public hearing informative and moving. He noted that the regulations have undergone significant changes since the hearing.

Chair Campbell thanked all the stakeholders whose input during the rulemaking process was very helpful. He stated that the Board had the opportunity to work closely with DOC Commissioner Joseph Ponte and DOHMH Commissioner Dr. Mary Bassett, along with their respective teams. Chair Campbell also extended his gratitude to the Law Department for its assistance.

He explained that CAPA requires unanimous consent among Members if the Board were to go forward with the rule or amend the rule. If there is no unanimous consent, the Board would have to defer action on the rule. Chair Campbell added that it is his understanding that there is a motion to amend the rule posted on the Board's website on the evening of Friday, January 9th.

Motion to Amend the Draft Rule

Judge Hamill moved the Board to consider three substantive amendments to the final rule that was published on January 9th. With respect to ESH and the selection criteria, Judge Hamill moved the Board to add language that would essentially limit the look-back for out-of-custody activity to two years while the look-back for in-custody activity remains at five years. Judge Hamill read into the record the proposed change:

Where the Department is permitted to consider an inmate's activity occurring or actions committed at a time when the inmate was incarcerated, such activity or actions must have occurred within the preceding five years; but where the Department is permitted to consider an inmate's activity occurring or actions committed at a time when the inmate

was not incarcerated, such activity or actions must have occurred within the preceding two years.

Further, with respect to exclusions, in addition to inmates under the age of eighteen, the new amendment reads:

[A]s of January 1, 2016, inmates ages 18 through 21 years old [will be excluded from enhanced supervision] provided that sufficient resources are made available to the Department for necessary staffing and implementation of necessary alternative programming.

Judge Hamill said the language that is to be deleted is the exception for those who have committed or have actively participated in the planning of a Grade 1 infraction.

Judge Hamill further moved the Board to consider a similar amendment regarding the use of PS. She stated that the rule will continue to exclude inmates under the age of 18, and that the following new language will be effective January 1, 2016:

[I]nmates ages 18 through 21 [will be excluded] provided that sufficient resources are made available to the Department for necessary staffing and implementation of necessary alternative programming.

Judge Hamill emphasized that the exception for committing a Grade 1 infraction is deleted.

Lastly, with respect to time limits on PS, Judge Hamill moved the Board to include new language that provides that no inmate may be sentenced to PS for more than 30 days for any single infraction.

Mr. Cephas seconded Judge Hamill's motion. When asked whether any Board members would like to discuss the proposed amendments, Judge Hamill responded in the affirmative.

Judge Hamill said she had not been prepared to vote for the rule as it was written on Friday. She said Commissioner Ponte has convened an adolescent advisory board, which brings together all the stakeholders to work on the reforms he has started with respect to adolescents, and at the conclusion of yesterday's meeting, the Commissioner invited her to meet with him and his Chief of Staff to discuss possible amendments to the rules. Judge Hamill said that she and Commissioner Ponte agreed yesterday that the rulemaking process needed improved information-sharing and transparency. She said they agreed that no one under 21 years old should be in PS. Judge Hamill emphasized that the overwhelming neuroscience of young adults warrants their exclusion from any form of solitary confinement. She acknowledged Commissioner Ponte's reasonable concerns about the availability of funding for the program and resources. She added that they discussed the new housing cohort for 18- to 21-year-olds, which was initially suggested by Commissioner Ponte with the full support of the Mayor. Judge Hamill stated that she and Commissioner Ponte discussed how the creation of the new housing cohort of 18- to 21-year-olds, with program funding, would help enable DOC to eliminate the use of solitary confinement and ESH for young adults up to age 21.

Judge Hamill went on to say that they discussed that the Board's and DOC's intent was that the maximum sentence on all PS would be 30 days effective immediately, although the rule did not specifically say that. She explained that the rule provides that you may not serve more than 30 days, not that you cannot be sentenced to more than 30 days.

She stated that she and Commissioner Ponte also agreed that two years would be a sufficient look-back for ESH, provided that prior custody could look back to five years. She explained that this was so that the rule truly captures those inmates posing the greatest risk to the imminent safety and security of the jails. Judge Hamill noted that she and the Commissioner also discussed the substantive reforms that they hope to bring to the young adult housing cohort.

Judge Hamill said that based thereupon, she moves to make the substantive changes to the rule that was published on Friday. She explained that the changes would effectively exclude young adults, 18- to 21-years-old, from placement in PS or ESH effective January 2016, provided that sufficient funding is available for programming and resources to do so.

She stated that Commissioner Ponte and the Board are committed to actively pursuing funding or to review rulemaking to mandate it if necessary. Judge Hamill stated that she is also proposing that it is very clear that no more than 30-day maximum PS sentence can be imposed and that the look-back for ESH provisions will only be limited to two years for those out of custody, although those in custody could look back to five years. Judge Hamill stated that those are her bases for requesting these amendments to the final rule that was published on Friday, January 9th.

Dr. Cohen added that he wishes to speak in favor of the resolution. He commented that the process has not been good, and that the Board should not have been provided a rule two months ago that was ill-conceived and flawed and committed to increasing PS for additional prisoners on Rikers Island. Dr. Cohen said that he believes the Board has dramatically changed the original proposed rule, and he will vote for new draft rule. He remarked that while he will vote for the new draft, the Board's time should have been devoted to the real problem that we are facing now – the violence on Rikers Island. Dr. Cohen said that he does not believe that ESH will decrease violence on Rikers Island. He said that it will, however, create the opportunity to take people out of solitary confinement, which is something he knows Commissioner Ponte is committed to doing.

Dr. Cohen went on to say that every person who is to be placed in ESH is already segregated on Rikers Island. He asserted that it is a group that has committed violence in the past, but it is not a group that is committing violence now. Dr. Cohen added that the only way to decrease violence on Rikers Island is to recognize that violence is caused by Rikers Island, noting that this is what DOHMH has been saying time after time when they present data. Dr. Cohen asserted that violence results when you take persons and you put them in cages, humiliate them, and demonize them. He stated that there were 4,000 uses of force directed at prisoners in the past year and 93 slashings, which was too many. As a point of comparison, however, he noted that there were over 1,000 slashings 20 years ago. He said that the violence on Rikers Island is created by the conditions at Rikers Island.

Dr. Cohen then directed the audience's attention to two slides (attached hereto as Attachment A). He explained that the first slide includes stop and frisk data. He asserted that stop and frisk is not a random process, and that litigation showed that stop and frisk had to do with race. He went on to say that in a city that is 40% white, the chance of a white person being stopped is 9%. He emphasized that we are not talking about an abstract population; he was talking about a population that is stopped and frisked on the street and placed in jail. He stated that this is not about a general approach to violence in New York City; this is about a process that says that black and Hispanic lives do not matter, and that we will fill our jails with them. Dr. Cohen commented that there are 9,500 people on Rikers Island and that the number is too high.

Dr. Cohen said that we should work together to decrease violence on Rikers Island and help Commissioner Ponte establish this unit of inmates so that it will have fewer people in each unit, noting

that this will cost a lot of money. He said there should be 30 inmates in this unit, not 50 inmates. He said that there should be four officers, not two, in the unit.

Dr. Cohen characterized ESH as a punitive unit because inmates there will be required to spend an additional seven hours per day locked inside their 6' x 9' cells, instead of having 14 hours of daily lock-out time that the Board has established as a Minimum Standard. He noted that Commissioner Ponte has stated on a number of occasions that if he had a 25-bed unit instead of a 50-bed unit, and had the same number of officers he plans to have in ESH, the men in ESH could be provided 14 hours of daily lock-out time. Dr. Cohen stated that the Board is not approving that, and the City is not committing at this time to the level of decency which he hopes they will move toward in the future.

The Board unanimously approved amending the draft rule as presented by Judge Hamill. Mr. Cephas subsequently moved the Board to adopt the amended adopt rule. Mr. Regan seconded Mr. Cephas's motion. Chair Campbell opened the floor to discussion.

Discussion of the Amended Enhanced Supervision Housing and Punitive Segregation Draft Rule

Ms. Austin commented that the rulemaking was a lengthy and an appropriately exhaustive process. She said that the Board has labored to achieve multiple desires, ensuring to the greatest extent possible the safety of the inmates and working to advance their wellbeing, while at the same time ensuring the safety of correction officers on Rikers Island. Ms. Austin asserted that it has been a deliberative process, and that the Board still has much work to do. She went on to say that the Board aimed to get as far as it could at this particular point to achieve those several objectives.

Mr. Regan commented that he is in the twilight of his service on the Board and that he has been on the Board for the past 14 years. He stated that a lot of the reforms that have been discussed today were ones that the Board was unable to embrace in the last 14 years. He acknowledged Dr. Cohen's passion and commitment, and congratulated Commissioner Ponte for his work. Mr. Regan stated that he looks forward to voting affirmatively for the rule.

Mr. Cephas stated that the Board recognizes the great strides that were made from the original proposed rule to now. He said that many on the Board are happy with the progress that was made, and they understand that the current progress, while significant, is not enough. He added that the Board looks forward to addressing a range of additional issues in the coming months, including issues related to enforcement of the Board's rules and issues relating to further reductions in PS.

Mr. Cephas reiterated that the process is difficult, and that even so the Board has worked exceedingly well together, adding that the Board also worked very well with Commissioner Ponte and his office to reach a position today that is a significant departure from where the Board started a few months ago.

Dr. Safyer added that it will be very important, and the group is committed to having metrics that the Board can monitor over time to tell us whether this plan works. He emphasized that the Board needs a feedback loop that reassures the Board that it is going in the right direction. He stated that he knows that the Commissioner is committed to that because they had discussed this together.

Dr. Safyer stated that the second issue he wants to acknowledge is an issue that Dr. Cohen mentioned – the issue of adequate funding to make this plan successful. He said that the Board is committed to getting Commissioner Ponte the right resources to make his plans work, for a broader swath and not just the amendment. He said that there are many things here that will require money, and the plan also requires that the money be well spent.

Dr. Safyer said that the Board has listened to the science and the behavioral issues that have been well described here and, more importantly, are impossible to argue with in the scientific literature. He asserted that the Board would be guided by science when it deals with some of these issues, which should be the Board's lantern as it moves in the direction of reducing violence and recidivism. Dr. Safyer added that Dr. Cohen's slideshow demonstrates that it is a package, and he commented that it is shameful that we have such a situation. Dr. Safyer said this Mayor was elected with a commitment to the community to change that situation, adding that it is our job to make sure that we are successful throughout the whole criminal justice system.

Chair Campbell added that the whole Board, the City, DOC, and DOHMH are committed to metrics and monitoring. He went on to say that with respect to funding and resources, there are a myriad of issues and he hopes that all stakeholders will join with the Board in pursuing additional funding and resources.

Judge Hamill stated that the proposed rule that the Board will approve today certainly incorporates first steps in comprehensive segregation reform, excluding all 16- and 17-year-olds, 18- to 21-year-olds effective January 1, 2016, and ending owed time. The new rule will create a new housing cohort for 18- to 21-year-olds which will ultimately provide for age-appropriate programming, idleness reduction, skill-building, reentry services, and job training. She said that the majority of these inmates, as Dr. Cohen has stated, are young men of color who are presumed innocent under our laws because they are awaiting trial; they have been convicted of nothing. She emphasized that they are young men, and that the Board cannot discount the important advances in the science of brain development because 18- to 21-year-olds, according to everyone the Board has consulted, are much more similar to adolescents than to young adults. Judge Hamill acknowledged that they misbehave and test limits, and they certainly break the law, sometimes very seriously, but they are not necessarily bad. She went on to say, "The evidence shows that solitary confinement will not improve their future behavior but will reliably convert anger and frustration today into rage and violence tomorrow." She stated that the Board will be ending solitary confinement for them on January 1st and give them the future they deserve.

Judge Hamill said that as chair of the committee on adolescents and young adults, every independent qualified professional with whom the committee spoke or heard from in last two months said that even days in solitary confinement have a high probability of causing emotional, intellectual, academic, social, and physical harm to inmates under the age of 25. She noted that the New York State Advisory Committee to the U.S. Commission on Civil Rights called for the abolishment of solitary confinement and isolation for youth under the age of 25, and presented evidence in its report supporting their legal conclusion that DOC practices discriminate based on age and race and violate the youths' civil rights.

Judge Hamill said that the committee, prior to November, was prepared to recommend to the entire Board that solitary confinement in any form be excluded for everyone 21 years old and younger, and that the maximum sentence for punitive segregation for any inmate at Rikers should be 15 days in light of the harm that it is known to cause. She stated that given the harm created by extended solitary confinement, the Board has reached an agreement here to limit it initially – at this round of rulemaking – to 30 days maximum. Judge Hamill stated that more must be done to conform to international human rights standards, using solitary confinement only as a last resort, and for no more than 15 days.

Judge Hamill turned to ESH, noting that the unit sounds benign, perhaps even therapeutic, because of references to rehabilitation. She asserted, however, that as it is designed today, ESH may prove to be counterproductive. Judge Hamill said ESH resembles solitary confinement in that ESH inmates would only get seven hours of lockout, which is the same type of punitive segregation that the Board is authorizing as "punitive segregation lite" for Grade II infractions. She said that it is a new name, and that inmates will go directly from PS into ESH if they fit within the very broad criteria, since inmates will max out of PS at 30 days. Judge Hamill urged the City to lock-out 14 hours per day with a maximum of

25 inmates, as Dr. Cohen had described earlier. She emphasized that it can be done, and that it just costs more money. She stated that programming and a real chance for rehabilitation can then occur.

Judge Hamill said that the criteria for consigning inmates to ESH are broader and vaguer than the criteria now in place for PS, and could invite greater abuse of inmates “in the prevailing jail culture now of dominance and humiliation.” She stated that attorneys certainly would find the rules confusing, but attorneys play no role with respect to who would go into ESH. Judge Hamill added that her concern is that the process will strip inmates of their constitutional rights, thereby doubly depriving them of liberty: jail first and ESH next. She remarked that hasty drafting and voting today may in fact cause unintended consequences. She said that if you are accused of gang-related assaults in the last two years, you could be placed in ESH. She noted that if you decide to defend yourself against that placement, then that defense could infringe on your constitutional right to have counsel, to be presumed innocent, and to remain silent. She went on to state that, in fact, an inmate’s placement in ESH may well affect a judge’s determination with respect to bail applications and ultimately even prison sentence and location. She underscored her belief there will be unintended consequences that the Board has not considered and that ultimately it should review in the future as it agreed to do.

Judge Hamill further noted that the criteria are so broad that there is another category of inmates who can get caught up in it. She said that a few weeks ago in the young adult housing adult in GRVC, where the 19- to 21-year-olds are housed, there was an inmate disturbance involving 44 inmates, several of them who were later sentenced to solitary confinement. She stated that under the new rules, if you participate in an inmate disturbance – and participating could mean you were present because you have no place else you could go – it could lead to placement in ESH. Judge Hamill said that she takes Commissioner Ponte at his word that these are not the types of incidents that would lead to placement. She went on to say that she really believes DOC could easily reduce the incidents that lead to ESH placements by increased staffing now in general population, providing therapeutic programming, including community and skill building, and idleness reduction. She emphasized that it is a proven model, and that Commissioner Ponte is doing it right now with the adolescents in the Transitional Repair Unit (TRU) and Second Chance Housing.

Judge Hamill observed that there was one independent expert who testified in favor of ESH: the Commissioner of Correction from Connecticut. She said he conceded that ESH could only succeed in the presence of a close collaboration between mental health professionals and corrections. Judge Hamill noted that the Board heard from Dr. Selling at the hearing that there is no history of such collaboration at Rikers Island.

Judge Hamill went on to say that Chair Campbell did finally schedule a meeting between the Board and DOHMH last Wednesday, after Corporation Counsel had already drafted the rule. She said that based on that meeting, she could fairly represent that DOHMH believes that ESH looks punitive, not rehabilitative. The overly broad selection criteria cast a very broad net, and it may be difficult to identify the means for incentivizing good behavior by ESH inmate. She added that DOHMH and all the mental health professionals that the Board consulted in the last year, including Dr. Bandy Lee and Dr. James Gilligan, inform us that violence increases with the use of isolation, and that the implementation of therapeutic, non-punitive models are the most successful means for reducing jail violence. She said that this was proven in the CAPS unit, where some of the most violent inmates at Rikers were placed and are now receiving therapeutic programming, and where violence has decreased.

She thanked all of her colleagues on the Board who have worked collaboratively under very strict time constraints, especially the three new Board members who joined the Board too late to hear a lot of the testimony and speak to a lot of the people the Board has spoken to in the last year, many of whom are present in the room today. Judge Hamill said that she knows how deeply we all care about the inmates,

the officers, the staff that work out at Rikers, and the soul of the city that we all love. She went on to say that she trusts that the Board will continue rulemaking on these and other initiatives upon the completed staffing of the Board's Executive Director and Deputy Executive Director positions, whose support is critical to be able to do this work.

Judge Hamill further stated that she supports the exclusion from solitary confinement of 16- and 17-year-old inmates and 18- to 21-year-olds young adults, as well as those suffering serious mental and physical disabilities and conditions, and those with owed time. She said that while she also supports a new housing cohort for 18- to 21-year-olds with programming, she does not support locking in the ESH inmates 17 hours a day. She remarked that her preference to start the meaningful solitary confinement reform that the Board commenced a year ago feels to her like it was held hostage to the ESH units.

Judge Hamill stated that at this time she will take Commissioner Ponte and her colleagues on the Board at their word that they will continue to examine the root causes of the escalating violence, consider DOC's contributions to the culture of violence, and consider measures to address the culture of violence short of more isolation. She stated that she expects they will carefully monitor and evaluate the effectiveness and necessity of ESH for no more than 250 of the truly most dangerous inmates, as they continue comprehensive segregation reform and rulemaking.

Chair Campbell responded that they have reached out to DOHMH Commissioner Bassett, as the Board had indicated it would do after the hearing on December 19th, and that she was out of the country, which is why they were not able to meet her until last week. He also stated that Commissioner Bassett did indicate in the meeting that she applauded the Board for its efforts.

The Board voted unanimously to adopt the rule as amended.

Requests for Continuing Variances from DOHMH and DOC

Chair Campbell moved the discussion to the continuing variance requests. Ms. Masters began by noting that the Board had not received any opposition to the variance requests from interested parties. She began with DOHMH's requests and extended DOHMH the opportunity to explain their requests. Ms. Masters stated that the requests from DOHMH are three continuing variance requests that were previously granted by the Board.

Dr. Homer Venters explained the first request for the use of interferon blood tests for tuberculosis in place of the TST skin test. He said it is a very important innovation for DOHMH, and that the positivity rate continues to be around 4 to 4.5%. When asked whether DOHMH would like the Board to make it a rule, Dr. Venters responded that it is a very good idea, and that DOHMH will discuss it with Board members after the meeting.

Ms. Masters said this is the community standard and it allows for faster housing of inmates and more effective diagnosis. She further stated that arguably DOHMH could not comply with the Minimum Standards without subjecting patients to something that is less than the community standard. The Board voted unanimously to adopt the variance.

The second request concerns visitation cycles for people who are on psychotropic medications and who are stable. Dr. Venters stated that this concerns people who are found to be very stable, have left the mental observation area, and housed in general population. He stated that this mirrors community practices and only refers to the visitation cycle of psychiatrists concerning medications; it does not refer to clinician, social worker, or psychologist encounters.

Ms. Masters said this variance would authorize providers to write 28-day medication orders rather than 14 to conform to the community standard. The Board voted unanimously to adopt the variance.

Dr. Venters said that the third and final variance request concerns sharing a limited amount of clinical information with DOC as it relates to injuries that occur in jail so that they may assist DOC their investigative efforts. He explained the information would include the nature and extent of the injuries their patients sustained while in jail. Dr. Venters noted that the feedback from DOC's Investigation Division (ID) has been that the limited information-sharing that this variance allows, greatly assists ID in knowing quickly – within a day or two – whether to pursue an investigation and the direction it is going. Dr. Venters explained that patients may go to the hospital and not come back for some time, and the variance allows DOHMH to share with investigators on Rikers Island the extent and the nature of the injuries. He stated that it precludes them from having to wait or having to send their investigative staff to the hospital to search for that information.

Ms. Masters said the variance is important to DOC so that it may investigate employee conduct. She stated that arguably DOHMH could not comply with the Minimum Standards without reducing the ability of DOC to engage in very important investigations. The Board voted unanimously to adopt the variance.

Ms. Masters turned to DOC's requests for four continuing variances. She stated that the Minimum Standards do not allow comingling of sentenced and detained inmates. She went on to say that the first variance request that DOC seeks is necessary for them to comply with the federal consent decree that has been in place since 1989 under *Fisher v. Koehler*. She said that the consent decree requires DOC to have all special category inmates in EMTC in cells, and noted that EMTC consists mostly of dormitory housing. She said that in 1989, to help with the space dilemma, the Board allowed DOC to house special category adolescents in cell space in RNDC on the condition that the sentenced inmates are treated as detainees. She noted that the census was higher in 1989 than it is now. Ms. Masters stated that her understanding is that DOC cannot comply with the Minimum Standards without violating the federal consent decree.

Acting Chief of the Department Martin Murphy added that DOC wishes to continue housing sentenced adolescents with detained adolescents at RNDC for the reasons Ms. Masters stated. He said that EMTC does not have sufficient cell space to house high classification adolescents in cells. He added that by housing them at RNDC in cases where there are only one or two inmates who fit the criteria, DOC would be creating a form of isolation by having just one inmate in the housing area by himself. Therefore, he said, the variance enables DOC to house the individual with adolescent detainees and treat him or her with all the rights and privileges that come with being a detainee.

Ms. Masters added that at the Board's last meeting, this variance was not approved by the Board, and that the Board may therefore want to consider retroactive coverage of the two months that preceded this meeting. Chair Campbell suggested that Ms. Masters describe the remaining variance requests and that the Board can then vote on them later.

Ms. Masters stated that the second variance request from DOC requires inmates who are in PS housing areas to wear facility-issued clothing. The list of types of clothing in the variance is not identical to the list of types of clothing that are in the Minimum Standards right now, which was amended in 2008, subsequent to the initial granting of this variance. She noted that arguably DOC could comply with the regulations, but there would be an expense associated with giving inmates a uniform shirt and uniform pants rather than a one-piece jumpsuit or some other piece of clothing that is slightly different. She further stated that it is her understanding that among other arguments in support of this request, DOC has asserted that contraband may be hidden in waistbands.

Acting Chief Murphy added that DOC seeks this variance to curtail the introduction of contraband and to increase the detection of contraband in the PS units. He acknowledged that there is a variance to put all prisoners in uniforms, but DOC has not reached that goal yet. He said that until DOC gets to that point it will continue to request this variance.

Ms. Masters said that the third variance request concerns inmates who are at risk of suicide, and authorizes DOC to require them to wear suicide smocks rather than clothing that might be tied into a ligature, and to have sheets that cannot be formed into a noose. She said that arguably this variance saves lives that would not otherwise be saved without this variance.

Ms. Masters explained that the fourth variance requested would allow DOC to provide certain limited indoor recreation alternatives and appropriate outdoor recreation equipment for inmates who for medical reasons are confined in the Contagious Disease Unit (CDU). This variance allows inmates in the CDU to have different types of recreation opportunities than the rest of the population, and there may sometimes be fewer opportunities, for example, if the doctor did not feel that a particular type of equipment was suitable for the inmate given his illness. Ms. Masters said that arguably DOC cannot comply with the current regulation without running afoul of medical advice in such situations.

The Board then voted unanimously to grant each of the four above-described variances.

Transitional Repair Unit

Chair Campbell began discussion of the Transitional Repair Unit (TRU). He stated that DOC had requested a variance on December 19, 2014 and later withdrew the request. He explained that the Board and Commissioner Ponte have engaged in much discussion on this issue, and that the Board has questions for him about the history of the unit and DOC's plans going forward.

Commissioner Ponte began by noting that by the end of 2014, DOC stopped placing 16- and 17-year-olds in PS. He said DOC found itself in a difficult position as it transitioned from the old system, in which 16- and 17-year-olds were held in PS for hundreds of days, to a new treatment-focused model: during the transition, DOC needed to have something in place that would keep everyone safe while providing inmates proper oversight when they committed violent acts. Commissioner Ponte explained that DOC moved quickly, and that the transition from a system where DOC used PS to manage to a different model took place within a week or two.

The Commissioner explained that TRU evolved out of practices DOC looked at in Massachusetts, Maine, and other jurisdictions. He said that DOC has put together a committee to look at how to manage this population and give the Department insight on how to manage young adults. Commissioner Ponte asserted that DOC is on the right path, and that in the meantime it must have something in place that is non-punitive and will keep people safe. He went on to say that DOC has had great dialogue with its partners at DOHMH. With that, he turned to DOC Assistant Commissioner Winette Saunders.

Assistant Commissioner Saunders provided a brief update on the adolescent and young adult strategic plan and directed the audience's attention to her slideshow presentation (attached hereto as Attachment B). Assistant Commissioner Saunders stated that the first slide highlights many of the steps that DOC has taken from April through January 2015. She described the recent implementation of the next-of-kin program, where DOC's ombudsperson meets with youth within 48 hours of their arrival on Rikers so that they may ascertain their next-of-kin, parents, or support system. She explained that DOC may contact these people to discuss the youth's needs and help them navigate the system.

Assistant Commissioner Saunders also described the reduction in the office-to-inmate ratio, where DOC went from 33 youths to one officer on the floor in a housing area to a ratio of 15 to one. She next highlighted the integration of Safe Crisis Management curriculum into DOC's training academy. She explained that officers who work with this population are learning de-escalation techniques and learning about adolescent brain development, and noted that 304 correction officers have been trained thus far.

Assistant Commissioner Saunders reported on the elimination of cell study for adolescents. She explained that all adolescents on Rikers Island, ages 16 and 17, currently receive educational services at East River Academy. She added that a number of steps are in progress, including weekly advisory board meetings – comprised of DOC's colleagues at BOC, DOHMH, Urban Justice Center, Bronx Defenders, Legal Aid, Jails Action Coalition, and other entities. She stated that DOC cannot do this work alone, and that it values these partnerships. She further stated that DOC looks forward to working with its colleagues on developing proper policies and procedures as it moves forward with reform efforts.

Assistant Commissioner Saunders stated that DOC is also examining uses of force. Referring to one of the slides, she explained the different categories of use of force (UOF) and went reported that UOF-A incidents and serious injuries to inmates have remained low. She further asserted that the number of slashings and stabbings have also remained low. Assistant Commissioner Saunders stated that there has been a moderate increase in UOF-B and a significant increase in UOF-C. She explained that experts DOC consulted in April have advised DOC that there are a number of reasons for the uptick, including that when adolescents realize there is no PS consequence, they tend to “test the limits”. She said DOC staff need to use safe crisis practices, which they are now learning. She reported that adolescents are learning skills from Dialectical Behavior Therapy (DBT). Assistant Commissioner Saunders explained that some youths articulate their needs through aggression, and that they are now learning to articulate those needs through speech and communication skills. Assistant Commissioner Saunders asserted that the requisite skill-building will take some time.

She further stated that DOC is carefully analyzing what the uses of force look like and the people participating in them. She stated that at the beginning of December 2014, there were approximately ten adolescents who were on a waiting list for PS, and that those ten accounted for 19 uses of force in December. Assistant Commissioner Saunders said that there were an additional 14 adolescents that were not on the waiting list for PS but were involved in at least one UOF, and were responsible for 11 additional incidents. She asserted that if PS were an option, and they had been immediately moved to PS, DOC could have avoided 30 of those uses of force. Assistant Commissioner Saunders said that DOC is aware that there will be a learning curve and that they will possibly see a spike, but DOC is working to figure out how to move forward on these matters.

Assistant Commissioner Saunders next discussed TRU and Second Chance housing, and asserted that a key distinction between those units and PS is that PS was punitive and allows only one hour of lock-out, and mandated cell study. She asserted that Second Chance is non-punitive and allows for 14 hours of lockout. She stated that it also provides for enhanced and mandated services, and all children receive educational services at East River Academy. She went on to say that the staffing ratio was more robust with three officers to 15 adolescents.

Assistant Commissioner Saunders explained that TRU is non-punitive and is based on a therapeutic treatment model, allowing up to 14 hours of lockout. It has a de-escalation area where youth who are presenting unsafe behaviors might be placed for five to 30 minutes or longer if the youth is unable to display a calm demeanor. She went on to say that anytime a youth is going to be there for more than an hour, DOC is requesting mental health to come and do an evaluation.

Assistant Commissioner Saunders stated that adolescents in TRU received DBT, individualized mental health treatment, and group therapy. She emphasized that TRU uses an interdisciplinary approach, with a treatment team that discusses each youth. She said that each adolescent's profile is compiled from information from DOC, DOHMH, DOE, as well as other service providers. She said that adolescents in TRU receive enhanced and mandated services, and they attend East River Academy. She added that TRU has the most robust staffing ratio, with 1:1, when needed.

Assistant Commissioner Saunders said that some of the priorities for the adolescent and young adult workgroup include finalizing the TRU and Second Change Housing policies, expanding training for staff, and acquiring best practices from other jurisdictions, and further developing DOC's young adult strategy. With respect to training, she noted that DOC is now including different types of training such as the enhanced communication sanctuary model and mediation training for staff.

Focusing on the young adult strategy, Assistant Commissioner Saunders acknowledged that DOC's young adult strategy is not as developed as the adolescent strategy, and is a work in progress. She said that DOC is continuously expanding training for staff assigned at GMDC and GRVC, where this population is housed, and that so far 124 staff have been trained. She stated that cognitive behavioral therapy has been expanded since October 2014 for this population. She further stated that DOC established enhanced recreation centers in both GRVC and GMDC so that this population has access to video games, and other interactive group activities. Assistant Commissioner Saunders said that the young adults will be offered enhanced programming this month, including mentoring, parenting workshops, acting, and career and technical education offered by some of their partners such as SoBRO, DREAMS, Stella Adler, and Friends of Island Academy. She added that DOC recently received funding from the Mental Health Task Force to expand reentry services also known as I-CAN services. She stated that this would include 18-year-olds as part of the cohort that will be eligible if they are assessed to be medium risk or higher.

Judge Hamill commended Commissioner Ponte, Acting Deputy Commissioner Saunders, and Assistant Chief Perrino, Warden Scott, and the entire team at DOC. She said that although they are certainly concerned about the increase in use of force at RNDC, she has seen firsthand the very hard work that they have all undertaken to accomplish these significant reforms. She said that during her visit to TRU she has seen adolescents who had been locked up in solitary confinement for more than a year now attending school and engaging with the officers in a very positive way. She added that she also seen a big culture change in terms of the correction officers' morale and attitude, and that they have correction officers in the TRU who are steady and trained. And equally important, she commended DOC for bringing together the different stakeholders and perspectives in New York City regarding the treatment of adolescents. Judge Hamill expressed hope that these efforts continue and that the Board can consider continued rulemaking to codify some of these excellent policies as they tweak them and make them work for everyone.

Directing his statement at Commissioner Ponte, Dr. Cohen stated he understands DOC had not created all of the programs necessary to accommodate the rapid decommissioning of solitary confinement. He noted that if DOC wants to violate the Minimum Standards, and they have a reason, there is a chapter in the Minimum Standards that provides that if there is an emergency or there is a period of time during which DOC has to operate in a way that is inconsistent with the Standards, DOC can seek a variance. He asserted that the Minimum Standards permit DOC to come to the Board if wants to try something that is a good idea for a six-month period without having to go through rule-making.

Dr. Cohen emphasized that DOC should not ignore the Minimum Standards and create units that exist in clear violation of the Minimum Standards without first clearing it with the Board. He said that that is

what happened here and that it went on for a long period. Dr. Cohen asked Commissioner Ponte what instructions he has given his staff about respect for the Minimum Standards – which are law.

Dr. Cohen went on to say that it will be very difficult going forward if DOC just decides that it finds a particular Minimum Standard inconvenient and violate it for some extended period of time, as DOC had done in this situation. The Board wrote the Commissioner a letter stating that DOC is not allowed to put 16- and 17-year-old kids into a unit and lock them up for one or two days, in violation of the Minimum Standard requiring that inmates be locked out for 14 hours per day. Dr. Cohen further asserted that DOC ignored the Board's letter. He expressed his hope that this does not continue going forward, and he went on to say that he is confident that it will not. Dr. Cohen then asked Commissioner Ponte to explain what had happened.

Commissioner Ponte stated that he does not believe that DOC thought that it was in violation of the Minimum Standards. He said that they were working with adolescents that were long-term segregation cases. Commissioner Ponte asserted that TRU is not a unit that was created to put people in; it was how they were transitioning people out of segregation. Commissioner Ponte said that DOC always knew that without PS, it would have to have something else in place when somebody acts up. Commissioner Ponte stated that things moved quickly, and he conceded that DOC did get ahead of itself. He went on to say that DOC is now holding weekly meetings, where they discuss what is going on and what they are doing. He added that DOC is in step with DOHMH. Commissioner Ponte asserted that he believes DOC is in a much better position now.

He agreed that it is better to bring the stakeholders to the table to explain their plans than it is to explain later what DOC had done. Commissioner Ponte went on to say that he does not see that happening again in the future, and he again emphasized that this was a complex, difficult program to design and implement.

Commissioner Ponte explained that DOC is working with correction officers who were trained to do business only one way – and their only tool was PS – and now DOC is introducing a completely different model that requires “a lot of changing of minds.” Commissioner Ponte said that Chief Perrino and Warden Scott really have a lot of work to do.

Commissioner Ponte explained that things moved too quickly in some cases, and he apologized to the Board. He said it was never DOC's intent to do that.

Recent deaths of inmates Fabian Cruz and Victor Woods

Chair Campbell stated that the next item on the agenda is discussion of two recent deaths – Fabian Cruz and Victor Woods. Commissioner Ponte asked that the Board enter executive session to discuss the two deaths.

The public comment period may be viewed in full at www.nyc.gov/boc.

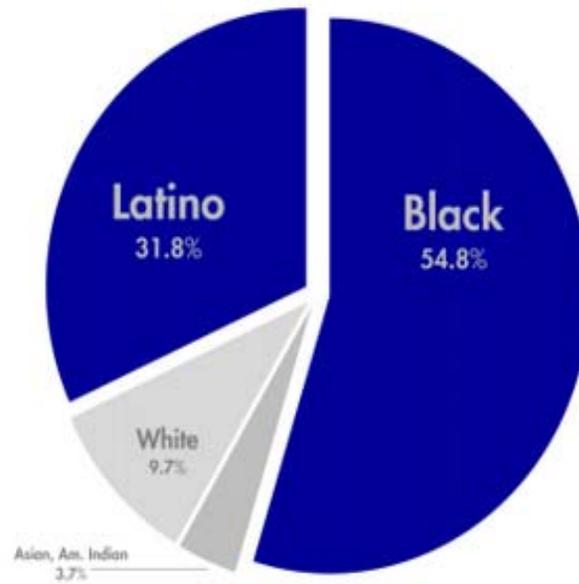
The public portion of the Board meeting concluded at approximately 11:35 AM, and the Board entered executive session.

ATTACHMENT A

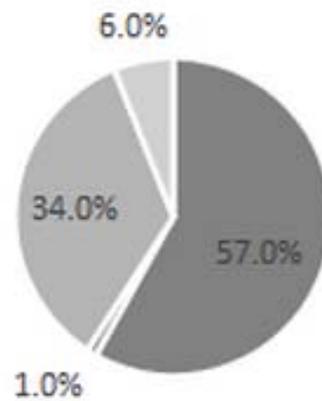
BLACK AND HISPANIC LIVES MATTER

Stop-and-Frisk 2012

Stops by Race



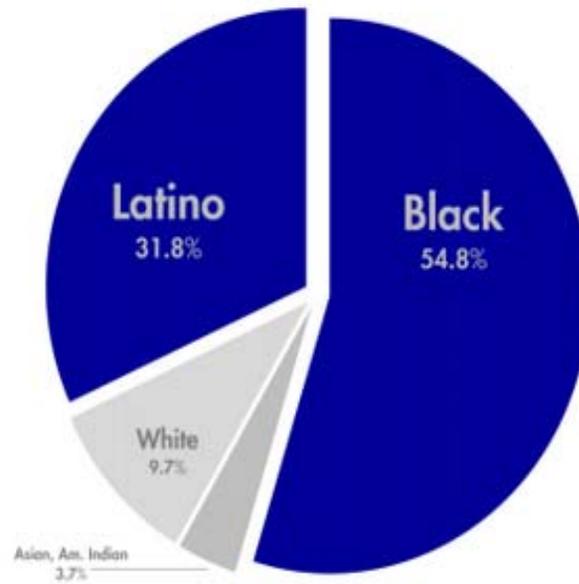
Equal Opportunity Incarceration?



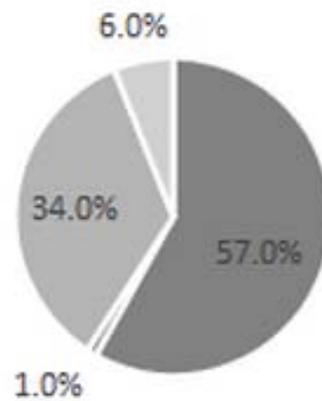
- Black or African American Alone
- Asian/Native Hawaiian/Other Pacific Islander
- Hispanic or Latino
- White alone, not Hispanic or Latino

Stop-and-Frisk 2012

Stops by Race



Equal Opportunity Incarceration?



- Black or African American Alone
- Asian/Native Hawaiian/Other Pacific Islander
- Hispanic or Latino
- White alone, not Hispanic or Latino

BLACK AND HISPANIC LIVES MATTER

ATTACHMENT B

NYC Department of Correction

**ADOLESCENT and YOUNG ADULT
REFORMS UPDATE**

**PRESENTATION TO THE BOARD OF
CORRECTION**

January 13, 2015



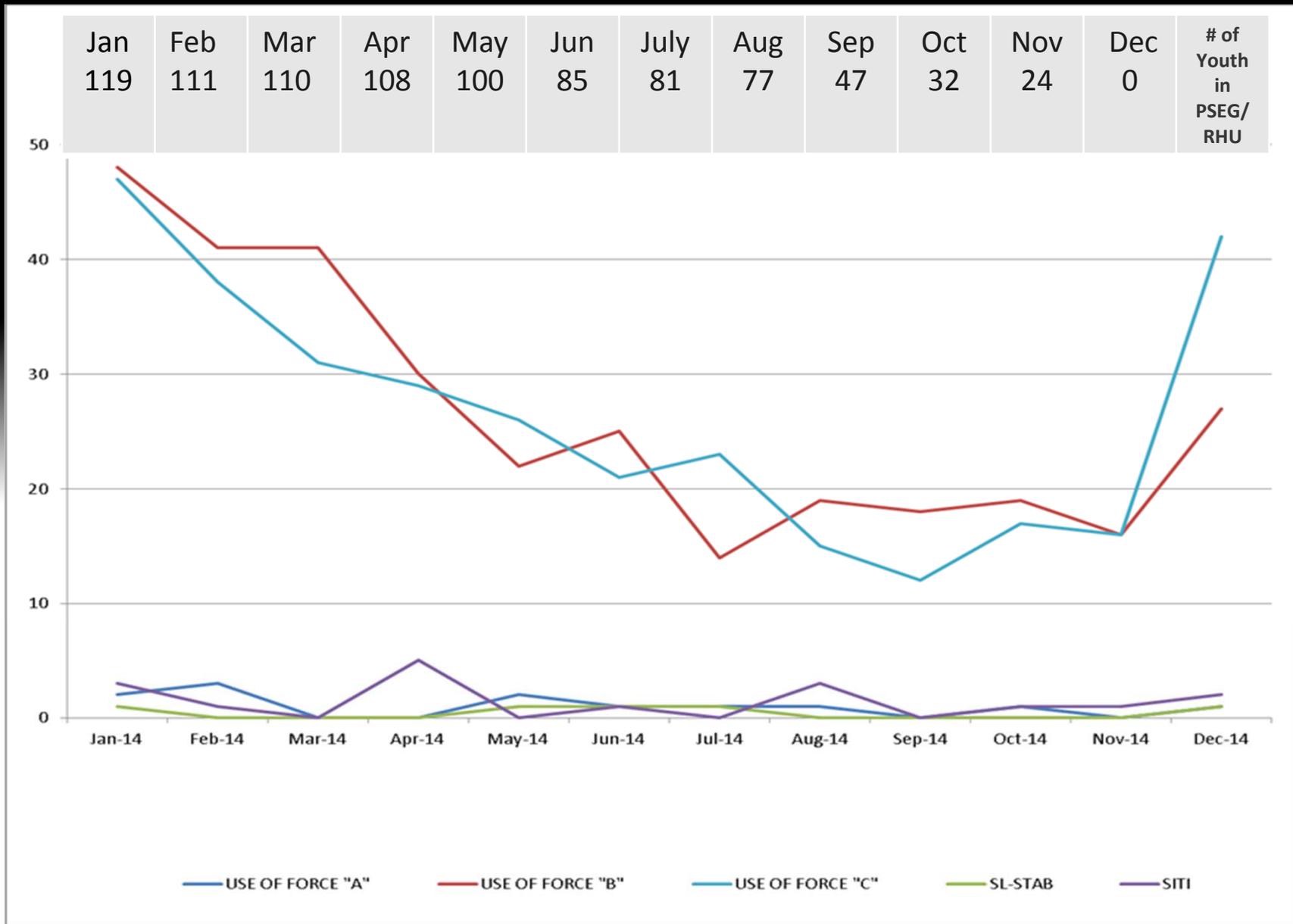
Adolescent Reforms Timeline

Apr	May	Jun	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
1	2	3 4	5 6 7	8 9 10	11 12 13 14	15	16	17 18 19	20 21 22 23 24 25	26 27 28	29	30 31

1. Commissioner Ponte convened workgroup
2. Consultations and meetings with experts across the country
3. Trauma Informed Care Training commenced
4. Visits to other jurisdictions to see best practices
5. Implementation of Next of Kin program
6. Implementation of Canine training program
7. Initiation of population relocation project
8. Conducted focus groups with parents of adolescents in custody
9. Development and utilization of screening tool for staff selection
10. Development and implementation of distinct roll-calls
11. Educational services provided in interval shifts
12. Adolescent to Officer ratio reduction implemented
13. Punitive segregation transition & Second Chance Housing initiated
14. Integration of Safe Crisis Management curriculum
15. Brainstorming sessions with experts, City Hall, and local stakeholders
16. Weekly Treatment team meetings with DOC, DOE,DOHMH, ABLE
17. Creation of TRU, draft operations manual, and directive
18. First trained canine adoption
19. 304 uniformed staff trained in SCM

20. Continue Dialectical Behavior Therapy training for uniformed staff
21. Weekly advisory board meetings commenced
22. Elimination of cell study for adolescents, receipt of educational services at East River Academy
23. Invite Massachusetts correctional leaders to RNDC
24. Additional programming scheduled to begin for adolescents (i.e.: yoga, science, parenting, drama, creative writing, etc.)
25. Co-location of Administration for Children Services at RNDC
26. Schedule visits to other jurisdictions for advisory board and frontline staff
27. Sanctuary model training tentatively scheduled to commence
28. Real Communication training tentatively scheduled to commence
29. Proposed month for hiring stationary correctional counselors for TRU and SCH
30. Proposed month for hiring youth advocates for RNDC
31. Proposed date for finalization of treatment model for TRU

Transition from Punitive Segregation



Alternatives to Punitive Segregation

Punitive Segregation (PS)

- Punitive
- 1 hour lock out
- Mandated services
- Cell Study
- 1 to 15 staffing ratio

Second Chance House (SCH)

- Non punitive
- 14 hours lock out
- Enhanced & mandated services
- East River Academy
- 3 to 15 staffing ratio

Transitional Repair Unit (TRU)

- Non punitive
- Up to 14 hours lock out (De-escalation area)
- Dialectical behavior therapy
- Individualized treatment
- Interdisciplinary approach
- Enhanced & mandated services
- East River Academy
- Robust staffing ratio
- 1 to 1 staffing ratio as needed

Initial Priorities for 2015

- Weekly Advisory Board
- Finalization of TRU and SCH policies
- Expansion of training for staff
- Further acquisition of best practices from other jurisdictions
- Further development of young adult strategy

Young Adult Strategy Updates

- 124 staff trained in Safe Crisis Management
- 61 staff members assigned to GMDC
- 63 staff members assigned to GRVC

- Moral reconnection therapy commenced in Oct. 2014
- Sessions are conducted 2x week
- Recreation centers created for young adults in GRVC and GMDC

Staff Training

Cognitive Behavioral Therapy

- Services to be offered in Jan. 2015
- Mentoring
- Career and Technical Education
- Parenting workshops
- Acting workshops

Enhanced Programming

Reentry Services

- Expansion of services to include 18 year olds and Medium Risk