

**NEW YORK CITY  
BOARD OF CORRECTION**

**January 8, 2004**

MEMBERS PRESENT

Stanley Kreitman, Chair  
John R. Horan, Vice Chair  
Louis A. Cruz  
Richard Nahman, O.S.A.  
Michael Regan

Excused absences were noted for Members John H. Banks III and Jane Paley Price.

DEPARTMENT OF CORRECTION

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

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Robert Berding, Director, Clinic Administration, Correctional Public Health Services (CPHS)  
Dr. Bruce David, Mental Health Director, CPHS  
Dr. Farah Parvez, Medical Director, CPHS  
Pamela Johnston, Deputy Executive Director, Division of Health Care Access & Improvement

OTHERS IN ATTENDANCE

Sara Goonan, Office of Management and Budget  
Michael Helmers, New York University  
Dr. Trevor Parks, Medical Director, Prison Health Services  
Jacqueline Riley, City Council, Finance Division  
Russell Unger, City Council, Legislative Counsel

Chair Stanley Kreitman called the meeting to order at 1:05 p.m.

Chair Kreitman noted that the inmate census dropped below 13,000 for the first time in seventeen years. He asked whether this was due to a drop in the average daily number of newly-admitted inmates or a decrease in the average length of stay. DOC Senior Deputy Commissioner John Antonelli said that new admissions are slightly lower, and that a higher percentage are misdemeanants. He added that the average length of stay is up slightly, but the net effect is evident in the lower census. Mr. Antonelli said that DOC's projections were for many more inmates, and he said he does not know how long the census will remain low. He added that in the last couple of days, there has been a slight shift upwards. BOC Executive Director Richard Wolf asked when DOC last calculated its population projections. Mr. Antonelli said that DOC's projection was approximately 900 inmates higher than the actual census. He said that projections are done to be concurrent with budget plans, but it was holding off doing new projections given recent unpredictability. Vice Chair John Horan asked how the low census affected DOC's capital budget. Mr. Antonelli said the low census helped DOC to meet its capital commitments by keeping some facilities closed and by delaying some projects, even as DOC moves ahead with its modular replacement project. Mr. Horan asked about the CPSU project. Mr. Antonelli said the plan is in redesign and that DOC has made "some shifts in terms of how we will use the facility". Mr. Horan asked that DOC keep the Board "more than casually informed" about these projects, and said he intended that it be conveyed to the Commissioner that BOC intends to be more part of the discussion. Mr. Horan said that DOC may or may not be ignoring minimum standards in its construction plans. Mr. Antonelli said this was not the case.

Chair Kreitman asked about DOC's plans for closed facilities, including the Queens and Brooklyn Detention Centers. Mr. Antonelli said they are closed because of the low population, and are being renovated. He added that the borough facilities are an integral part of DOC's capacity plan, and noted that they are ideal because each county needs its own jail space. He said that despite what appears in the newspapers, DOC has no intention of giving up the borough facilities.

Mr. Wolf said that the most recent information provided to BOC and the City Council by the Commissioner regarding the new construction adjacent to GRVC was that DOC hoped to modify the original plan to build 448 new CPSU beds, instead constructing 224 CPSU beds and 224 general population beds. Mr. Wolf asked for the most current plan. Mr. Antonelli said DOC is looking at different options, and has asked the Department of Design and Construction for suggestions. Mr. Wolf asked if it is likely that the facility that is built will not consist solely of cells. Mr. Antonelli said this was a reasonable assumption. Mr. Wolf asked whether CPSU might remain where it is. Mr. Antonelli said he was not sure. Chair Kreitman asked whether the Sprungs were to be replaced as part of the modular replacement plan. Mr. Antonelli said yes. He said that replacing temporary housing is critically important to DOC. Mr. Antonelli said that the 448 bed construction plan should not be further delayed by the current review of options and redesign process. Mr. Wolf asked when DOC will decide on the use of the facility. Mr. Antonelli said the decision should be incorporated into the January budget plan.

A motion to approve minutes from the December 11, 2003 meeting was approved without opposition.

Father Nahman reminded DOC that the earlier plan for the 448-bed facility was in serious violation of the minimum standards because there was no outdoor recreation area. Mr.

Horan agreed. Mr. Wolf said he just had received a letter from DOC General Counsel Florence Hutner noting that the Board's concerns about the outdoor recreation issue are being taken into consideration as the design process goes forward.

Chair Kreitman raised the issue of suicide smocks. He said that when DOC asked for the variance, the Board debated it and promptly granted it several months ago. He said that as of today, DOC has not implemented the variance and that DOC's suicide prevention procedures are being changed to provide "constant supervision". Chair Kreitman said he is questioning whether DOC needs the smocks if inmates on suicide watch are being observed 24-hours a day. Bureau Chief Leroy Grant reported as follows:

Effective December 22<sup>nd</sup>, DOC implemented all parts of the new Suicide Prevention Directive except for allocation of the smocks. The reason the smocks were not issued was because DOC's order for undergarments is on back-order. From December 22<sup>nd</sup> through January 6<sup>th</sup>, a total of 58 inmates were placed on suicide watch, with a daily average of 19 inmates. The smocks are part of a "zero tolerance" for inmate suicides. Every tool DOC can use will help in achieving this goal. DOC feels the smocks are needed.

Mr. Horan said he is not in favor of renewing the variance. He said DOC can come back to the Board for reconsideration, and that he will so move. He added that he is open to being persuaded. Mr. Wolf asked whether DOC had received a report from the State Commission of Correction (SCOC) detailing its requirements for constant supervision in City jails. Chief Grant said no. Mr. Wolf said this means DOC does not yet know whether it will be required to provide supervision ratios for cell areas of one officer to one suicide-watch inmate or one-to-two or one-to-four. Chief Grant said this was correct. Mr. Wolf said that the number of suicide-watch inmates in cells would necessarily vary according to need. Chief Grant agreed. Mr. Wolf suggested that, in light of the uncertainty about SCOC requirements, it would make sense for DOC to come back to the Board as soon as it knows what ratios will be required and how DOC will implement its suicide watch plans. He said this will enable the BOC Members to understand how suicide watch will work, which will be very different from the way it was presented to the Board when it granted the variance in September. Mr. Wolf said that this would allow the Board to make an informed decision on DOC's variance request. He said that under constant supervision, if SCOC requires one-on-one supervision, it was unclear why DOC would put an inmate in a cell who is under constant supervision in a suicide smock, unless DOC has no confidence that the observing officer can do his/her job. Mr. Horan said it would seem that the new procedures would obviate the need for smocks. Chair Kreitman asked Chief Grant why DOC needs the variance if there is constant monitoring. Chief Grant said that the variance is supposed to be a six-month pilot program. Mr. Wolf said the variance request never was presented by DOC as a six-month pilot program. He said that if the Board did not renew the variance now, the Board would not be saying "no". Rather, he said, the Board would merely be saying we don't know what the plan is yet, so there is nothing to decide right now. Chief Grant said that DOC implemented several conditions imposed by BOC when it granted the variance, including returning belts and shoelaces and ties to suicide-watch inmates when they enter the court room. Deputy Executive Director Cathy Potler noted that this is an operational issue that can be implemented separate from the smocks. She said that another issue was that BOC wanted patrolling officers to conduct irregular tours, not every 15 minutes beginning on the hour, to

reduce predictability of patrols and thereby enhance their effectiveness. She said this should be implemented regardless of whether suicide smocks are issued. Ms. Potler said that the conditions imposed by the Board are not for the Board, they are for the system - to help prevent suicides. Chief Grant said that although the observation form lists fifteen minute intervals, the instructions require officers to make constant observations and to make entries every fifteen minutes. Chair Kreitman said he did not notice that. Father Nahman said that since December 22<sup>nd</sup>, DOC has a new system in place that provides a safe environment. He asked what suicide smocks would add to what is already in place. Chief Grant said it would add another tool. Board Member Jane Paley Price said she does not understand the argument against granting the variance. She asked if DOC feels smocks are a “backup”, what is the objection? Chair Kreitman asked why it hurts to grant the variance if it is not being used anyway. Mr. Horan responded that the issue is an abuse of the process, that it appears significant time and energy have been wasted by the Board because DOC was conducting parallel negotiations with the State to address suicide prevention in a completely different way. He said DOC was manipulating the Board. Mr. Horan reiterated that the Board is “as interested as anyone in preserving life”. He said that BOC wants the process to have meaning, and that when DOC presents a variance request, it should have substance. He said that the current renewal request lacks sufficient substance, and he will vote against it. Father Nahman asked whether DOC would have implemented use of the smocks had it already received the shipment of undergarments. Mr. Antonelli said yes, and added that if the smocks save one life, it is worth it. Mr. Wolf said no one is arguing to the contrary. He said he is not urging the Members to vote against putting inmates on suicide watch in smocks. He said his concern is that when the Members voted to grant the variance, they did not know that constant supervision would be implemented and that, at its most stringent, there would be an officer outside the cell staring at an inmate on suicide watch twenty-four hours per day. Mr. Wolf said that if this occurs, the inmate will be wearing the bulky smock and a disposable undergarment for no reason that he can understand. He suggested that as soon as DOC establishes the new rules under which it will use the smocks and is prepared to begin, it can return to the Board and obtain a variance. He said this way nothing is compromised and the harm to the process, raised by the Vice Chair, is eliminated. Ms. Paley Price asked whether if the inmates are under constant supervision they also will be wearing “this cumbersome garment”. Chief Grant said that most inmates on suicide watch are housed in dormitories, where there is no one-on-one observation. He said that the smock would help to deter suicides in dormitories. Chief Grant said that an officer in a dormitory could get distracted by the need to provide inmates with access to other things required by the Minimum Standards. Ms. Potler said that another change from when the variance was granted is that all adult males on suicide watch are housed in one dormitory at AMKC in the Mental Health Center; similarly, all women on suicide watch are housed in one dormitory at the Rose M. Singer Center. She added that additional officers are assigned to these dormitory areas. Mr. Wolf acknowledged that dormitories present different challenges for deterring suicides than do cells, and that the Board could approve the variance for use in dormitories but not in cell areas, where one-on-one constant supervision makes the variance unnecessary. Ms. Paley Price said that being concerned about whether the process is being honored should not get in the way of the safety of inmates. Chair Kreitman offered a compromise suggestion. He said he agrees with Mr. Horan about the process, adding that the BOC was created for a purpose that DOC should take very seriously. He said he also agrees with Ms. Paley Price that suicide prevention must come first. Chair Kreitman therefore suggested that the Board extend the variance until the next BOC meeting, at which time DOC should have the undergarments and should have received a response from the State. He said DOC should come back with a new variance request, including or excluding the smocks, for the Members to debate. He emphasized that DOC should not use the variances lightly, and noted that the process is very important to the Members. Mr. Regan asked that DOC

bring sample smocks and blankets to the February meeting. Father Nahman said he does not want to see widespread use of suicide smocks as a substitute for rigorous observations by officers. He asked that DOC report on its use of the smocks, explaining where and under what circumstances it required inmates on suicide watch to wear them. Mr. Horan said that, subject to all of the foregoing remarks, he would agree to Chair Kreitman's compromise but said that he will not do so next month. Mr. Wolf said that all should remember that the Board of Correction caused New York City to become the first jurisdiction in the country to implement on its own a set of mental health minimum standards with provisions designed to reduce suicides in our system, which have resulted in few suicides in our jails.

Ms. Paley Price reported that during her visit to the Rose M. Singer Center two weeks ago, she observed that staff morale was excellent.

Mr. Regan noted that DOC had rehired the remainder of the 315 officers who were laid off last May.

Chair Kreitman opened a discussion on correctional health issues. DOHMH Correctional Health Services Director of Clinic Administration Robert Berding introduced the Deputy Executive Director of Mental Health Services Dr. Bruce David, a forensic psychiatrist with experience at Kirby Psychiatric Facility. Dr. David also worked in clinical positions on Rikers Island.

Dr. Farah Parvez, DOHMH's Medical Director, Correctional Public Health Services, reported the following:

DOHMH's epidemiology unit calculates that approximately 25,000 people in New York City have HIV but are unaware of their status. This includes inmates on Rikers Island, who are a high-risk population due to risky behavior including drug use and unprotected sex with multiple partners. A 1999 Health Department study concluded that 80% of newly-admitted male inmates and 18% of newly-admitted female inmates were HIV positive, but that current voluntary testing is identifying on 3.5%. Results of voluntary tests come back in three to five days, by which time nearly one-third of all new admissions are no longer in custody and therefore unable to receive the results.

A new FDA-approved rapid HIV test provides results in twenty minutes. DOHMH's goal is to offer this test on a volunteer basis to everyone coming through Intake, although the testing itself may not happen at Intake. DOHMH is devising a model to implement the rapid tests. In some facilities, the test may be given at Intake; at others, Intake may not be a convenient location. Staff training and quality assurance measures are being implemented, and it is hoped that testing will begin "relatively soon".

Chair Kreitman asked whether the test could be made mandatory. Mr. Horan said this was not permitted under New York State law. Dr. Parvez said DOHMH hoped to make the test routine in the facilities and thereby remove the stigma associated with HIV. She said the goal is to get inmates to understand that, as is the case with diabetes, inmates with HIV must do certain things to manage with HIV. She said that some pregnant inmates decline HIV testing because they

know they will be back in the community before test results are available. Father Nahman asked if inmates may decline the test. Dr. Parvez said inmates are given an informed consent form and will be advised of the pros and cons of being tested. She added that providers will continue to offer the current, slower test. Ms. Paley Price asked about the difference between the two tests' procedures. Dr. Parvez said the rapid test is "just a finger stick" that provides a "preliminary positive" or "confirmed negative" result in twenty minutes. She said that if the result is preliminarily positive, the traditional confirmatory test is administered, but the rapid test is 99.6% accurate. Ms. Paley Price asked what happens when an inmate tests positive. Dr. Parvez said that discharge planning through case management is very important: inmates who will be released in the next day or two will receive information about obtaining care in the community, including the 311 telephone number for accessing City-wide services. Dr. Parvez said inmates also will receive a list of DOHMH facilitator-enrollers to help obtain health insurance, as well as information about the "HIV Special Needs" plans throughout the City, which assist people in finding providers, job counseling, substance abuse programs, and social services. Dr. Parvez said that inmates who will be incarcerated for longer periods will be assisted by staff with health insurance enrollment and ADAPT forms to access medications and care in the community. Mr. Berding said that Dr. Parvez initiated a program to reach out to family members of inmates, providing health care information at jail visit houses. He said this was a successful partnership among Correctional Health, Correctional Public Health, and DOC.

Chair Kreitman said that in the Third Quarter of 2003, 5 of the 32 Contract Performance Indicators were not met by Prison Health Services. Mr. Berding said that he did not have updated information at this time, and noted that a meeting was scheduled for next week. Chair Kreitman asked that Ms. Potler be informed of the results.

A motion to renew existing variances was approved without opposition. The meeting was adjourned at 1:50 p.m.