

**NEW YORK CITY  
BOARD OF CORRECTION**

**January 8, 2008**

MEMBERS PRESENT

Hildy J. Simmons, Chair  
Michael J. Regan, Vice Chair  
Stanley Kreitman  
Milton L. Williams, Jr., Esq.  
Gwen Zornberg, M.D.

Excused absences were noted for Members Rosemarie Maldonado, Esq.,  
Richard Nahman, O.S.A., Alexander Rovt, and Paul A. Vallone, Esq.

DEPARTMENT OF CORRECTION

Martin Horn, Commissioner  
Carolyn Thomas, Chief of Department  
Mark Cranston, Commanding Officer, Office of Policy and Compliance (OPC)  
Florence Hutner, Esq., General Counsel  
Ronald Greenberg, Director, OPC

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Jason Hershberger, M.D., Assistant Commissioner, Correctional Health Services (CHS)  
Charles Luther, M.D., Executive Director, Mental Health  
George Axelrod, Director of Risk Management, CHS

OTHERS IN ATTENDANCE

Harold Appel, M.D., Contract Administrator, Doctors Council  
John Boston, Esq., Legal Aid Society, Prisoners Rights Project (PRP)  
Tim Rudd, Analyst, Office of Management and Budget  
Eisha Williams, Legislative Financial Analyst, City Council  
Milton Zelermyer, Esq. (PRP)

Chair Hildy Simmons called the meeting to order at 9:30 a.m. A motion to approve minutes of the November 8, 2007 Board of Correction meeting – a transcript of the proceedings – was approved without opposition.

Chair Simmons reported that the Law Department is still reviewing the amendments to the Minimum Standards, and it is unclear when that review will be completed, perhaps sometime before the February Board meeting. The Chair presented the following steps that the Board must take to complete the amendment process once the Board obtains the Law Department's approval: publish the amended rule in the City Record, which will take affect 30 days after publication; provide a copy of the amendments to the City Council; and develop a plan to make sure that inmates and correctional staff are informed about the changes in the Standards, which will be completed before the amended Standards are rolled out. The Chair assured the Members that the Department of Correction will discuss its implementation plans once the amended Standards are approved by the Law Department.

At the request of the Chair, Assistant Commissioner Jason Hershberger presented a 2007 "round-up" report. He stated that there were 92,000 intake exams, 600,000 medical visits, over 125,000 dental visits, and over 250,000 mental health interactions in 2007, and these figures were similar to those in 2006. Vice-Chair Michael Regan asked if continuity of care has improved. Dr. Hershberger responded that it is always a challenge on Rikers Island because of the short length of stay and inmate transfers between facilities. Mr. Regan asked if the Department was measuring its ability to provide continuity of care. Dr. Hershberger replied that continuity of care is better in the mental observation system than in general population because of the higher level of support. Mr. Regan asked if there is a performance indicator to address continuity of care. Dr. Hershberger responded, no. Dr. Hershberger reported on improvements made in 2007, which included the reinstatement in July of daily groups in every mental observation unit, and the Department's psychiatry fellowship program, which currently has two lines from St. Vincent's and Albert Einstein Hospitals. Board Member Dr. Gwen Zornberg asked about the types of rehabilitation programs, in addition to psychiatrists and the groups. Dr. Hershberger stated that the focus is on medication compliance, reduction in self-injury, and engagement in the re-entry process. Chair Simmons asked if the Department was tracking its discharge efforts. Dr. Hershberger replied that it is difficult to do so. The Chair discussed the need to know how efficacious the discharge planning efforts are and would like to have a "conversation" in six months about the success of their efforts. Dr. Zornberg asked about any programs for the general inmate population addressing anger management and management of impulsivity. Dr. Hershberger said that one of the functions of the groups is to address these issues. Chair Simmons asked if anyone is tracking the effect of these group sessions on violence. Commissioner Horn stated that overall violence indicators are trending down [the attached DOC violence indicator report was distributed]. Dr. Hershberger discussed a

new substance abuse unit started in the last week of December 2007 for inmates who test positive for drugs while in custody, but have no violent infractions. He added that the unit houses about 40 inmates and a second unit will be opened soon. Dr. Zornberg asked about programs for the rest of the inmate population. Dr. Hershberger responded that there are two additional targeted inmate groups eligible to receive substance abuse services: inmates who self-identify as drug users at intake and inmates who have been referred by the drug courts.

Dr. Hershberger reported that the Department has fully implemented the medical intake part of its electronic records system. With the Board's variance to enable the Department to transition from a paper to an electronic medical record, the Department has added new functions, such as reporting the lab results and creating discharge plans, and he expects a more comprehensive medical record in the next year. Chair Simmons requested that at the March Board meeting the Department report on its implementation plans and schedule for completing the electronic record system. Dr. Hershberger also mentioned more 2007 improvements: specialty radiology services are now housed at the West Facility, the Department received Substance Abuse and Mental Health Services Administration (SAMHSA) credentialing to offer opiate detox and methadone maintenance to inmates, provided flu immunizations to 7,000 inmates, voluntary HIV testing to 25,000 inmates, sexually transmitted disease (STD) treatment to over 3,000 inmates, and increased from 1 to 3.5 full-time infectious disease consultants. Finally Dr. Hershberger presented a program whereby former mental health inmates receiving training to be forensic peer specialists, and while being trained, they can volunteer for several months to escort recently discharged inmates to their appointments. He said that once credentialed, forensic peer specialists can seek full-time positions as case managers, discharge planners and patient advocates. Thus far, Dr. Hershberger said that there have been three graduates. Chair Simmons requested an update on the program at the March Board meeting.

Chair Simmons asked Dr. Hershberger what are the Department's big challenges for 2008. Dr. Hershberger responded that the Department's major task is to build the electronic medical record which will give the providers better access to historical data. Mr. Regan stated that it has been quite awhile since the Board was provided information regarding the performance indicators. Chair Simmons requested that Dr. Hershberger report on the status of the PHS contract and the performance indicators. She also requested that Commissioner Frieden attend the March Board meeting to discuss these issues. Dr. Hershberger stated that on December 31, 2007 the Department renewed its contract with PHS for another three years. In response to concerns raised by Board members, Dr. Hershberger replied that the Department evaluates PHS by the performance indicators and in other ways not captured by the PIs, such as evaluating the quality of services, continuity of care, continuity of staff working in the same building, and the effectiveness of suicide prevention and credentialing programs. While acknowledging the Performance Indicator Reports limitations, Chair Simmons expressed her concern that the Board has not been receiving them, despite requests for the information. Mr. Regan added that since the Department made a decision to renew the contract with PHS, it must have been comfortable with the vendor to reach that conclusion. Chair Simmons

emphasized that the Department must find the best way to provide this information to the Board so that it can properly discharge its duties with respect to health care. Member Stanley Kreitman stated that the renewal of the PHS contract was in effect an “unqualified endorsement” that PHS is the best vendor available to provide this service and asked if the Department would give such an endorsement to the Board. Mr. Regan added that many of the PIs were very valuable to the Board in understanding the delivery of health care in the jails and would like once again to have access to this information. Chair Simmons underscored the fact that the Board needs to get information from the Department, and stated that over the next six to seven weeks consideration should be given to how to use the March Board meeting. Deputy Executive Director Cathy Potler requested that Dr. Hershberger provide a copy of the new PHS contract to the Board.

Department of Correction Commissioner Martin Horn described the Intensive Treatment Unit (ITU), a step-down housing area for inmates in the MHAUII punitive segregation unit and for those with a mental health illness who have been found guilty of an infraction. Dr. Hershberger added that the ITU is a “dialectical behavioral treatment model” unit that provides treatment and group sessions, and enables inmates time out of their cells. Dr. Zornberg stated that this program needs to be expanded to include more inmates beyond those in this unit.

Dr. Hershberger reported on the recent suicide at RNDC noting that all suicides are tragic and potentially preventable. He stated that this case involved a 17-year old, who was charged with a sexual offense and identified by the court as suffering from depression and at risk for suicide. The judge requested that a mental health evaluation be conducted, which was done; the opinion of the clinician was that the patient was not suicidal. Dr. Zornberg asked when you have a lawyer and judge saying that the defendant may be at risk for suicide and then you have a social work-level clinician saying that the defendant is not at risk, is there a discussion with a psychiatrist? Dr. Hershberger replied that there is a discussion with the clinical supervisor; a psychiatrist, the Mental Health Unit Chief, and a doctorate in psychology may be included in that discussion. He further explained that the mental health staff is organized into teams, which include masters-level clinicians (social workers and psychologists), a clinical supervisor (a PhD.-level psychologist), the Unit Chief who is a clinician administrator, and a psychiatrist. Dr. Hershberger stated that the Department relies on the professional judgment of that team. Commissioner Horn suggested that there be no further discussion, as the matter is in litigation. Mr. Regan asked how often judges order that an inmate be placed on suicide watch. Commissioner Horn responded that it is not an infrequent occurrence for a judge to order a mental health evaluation, suicide watch or protective custody. He added that this was the only suicide in DOC custody for calendar year 2007. Dr. Zornberg said that “every suicide that happens is a somber and sad call for greater vigilance.”

Referring to the Violence Indicators report (attached), Commissioner Horn pointed out decreases between 2006 and 2007 in all violence indicators, except “B” uses of force. The Commissioner said that he hopes to reduce violence further in the coming year, and that the changes in the Minimum Standards will assist in that effort. He also

reported that there have been fewer injuries to inmates, and serious assaults on staff have decreased by 38% this year. Chair Simmons interjected that on Christmas Eve, the Commissioner and she went to RMSC facility where inmates expressed their appreciation by spontaneously applauding their housing area officer. Dr. Zornberg complimented the Commissioner on the reduction of slashing and stabbings, and asked him to discuss the difference between an “A” and a “B” use of force. The Commissioner responded that an “A” use of force results in a more serious injury, such as a fracture as opposed to a contusion. Mr. Kreitman asked why “B” uses of force and the use of chemical agents increased. The Commissioner explained that staff is encouraged to use chemical agents because it reduces injuries to both staff and inmates, and that officers are more likely to break up a fight by using a chemical agent. Mr. Regan asked if this has had an effect on staff sick leave and absences. The Commissioner responded that sick leave usage in 2007 was down to an average of 10 days, four days fewer than it was several years ago. Commissioner Horn reported that Chair Simmons asked to join him on Christmas Eve on his tour of RMSC and AMKC. He said that as a result of her recommendation, at RMSC shampoo and sanitary napkins will be distributed to new admission inmates during intake at RMSC.

A motion to renew existing variances was approved without opposition. The meeting was adjourned at 10:16 a.m.