



NEW YORK CITY
BOARD OF CORRECTION

March 10, 2015

MEMBERS PRESENT

Gordon Campbell, Esq., Chair
Derrick D. Cephas, Esq., Vice Chair
Jennifer Jones Austin, 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.

DEPARTMENT OF CORRECTION

Joseph Ponte, Commissioner
Martin Murphy, Chief of Department
Errol Toulon, Jr., Deputy Commissioner of Operations
Heidi Grossman, Esq., Deputy Commissioner of Legal Matters/General Counsel
Erik Berliner, Deputy Commissioner of Health Affairs
Winette Saunders-Halyard, Deputy Commissioner for Youthful and Adult Offender Programs and
Assistant Commissioner for Community Partnerships and Program Development
Timothy Farrell, Deputy Commissioner of Classification and Population Management
Brenda Cooke, Esq., Executive Agency Counsel
Shirvahna Gobin, Assistant Commissioner for Strategic Planning
Danielle Leidner, Executive Director for Intergovernmental Affairs
Sean Jones, Deputy Chief of Staff
Francis Torres, Director of Education
James Perrino, Deputy Chief
Karen Collins, Warden
Clement Glenn, Deputy Warden
Robert Kelly, Deputy Warden
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

Patrick Alberts, Agency Attorney, Division of Prevention and Primary Care
Lucia Caltagirone, Agency Attorney Intern
Nathaniel Dickey, Special Assistant

OTHERS IN ATTENDANCE

Alex Abell, Urban Justice Center
Scilla Alecci, Freelance Reporter
Amanda Becker, Jails Action Coalition (JAC)
Andrew Case, Public
Dahianna Castillo, Office of Management and Budget (OMB)
David Condliffe, NYC Bar Association
Albert Craig, Correction Officers Benevolent Association (COBA)
Julia Davis, Children's Rights
Laurie Davidson, Doctor's Council
Kelsey Deavila, JAC
Riley Evans, Brooklyn Defenders Services/JAC
Richard Heflign, Public
Dashone Hughey, OMB, Senior Analyst
Fred Hurley, Department of Youth Services (DYS)
Jeff Jacamantz, Department of Public Information
Deandra Kahn, NY Civil Liberties Union (NYCLU)
Mike Kenny, OMB
Sarah Kerr, JAC
Martha King, Senior Policy Analyst
Elena Landriscina, Disability Rights NY
Neil Leibowitz, M.D., Director, Mental Health, Corizon
Evelyn Litwok, JAC
Amanda Masters, Office of the Public Advocate
Elizabeth Mayers, JAC
Barbara Morton, DYS
Gloria Pazmino, Reporter, Capital NY
Jake Pearson, Reporter, Associated Press
Steve Riester, NYC Council
Kathleen Rubenstein, NYC Law Department
Nashla Salas, Independent Budget Office
Michael Schwartz, New York Times
George Steptoe, Freelance Reporter
Daniel O'Sullivan, DYS
Gale Weiner, JAC
Michael Winerip, NY Times

Chair Gordon Campbell called the meeting to order at 9:03 a.m. and asked the Members in attendance to introduce themselves. A motion to adopt minutes from the February 20, 2015 meeting was approved without opposition.

Chair Campbell introduced an agenda item, Enhanced Supervision Housing (ESH), thanking Ashley D’Inverno for her work on a report detailing the results of BOC’s early monitoring of ESH. The Chair said ESH currently houses 17 inmates, and noted that several members have visited the ESH unit. He reported that there was a use of force incident last week, and an ESH inmate was found with contraband and subsequently transferred to state prison. Chair Campbell invited DOC Commissioner Joseph Ponte to comment on ESH, and he reported as follows:

DOC staff worked hard to prepare the ESH unit for occupancy, and also to identify inmates for whom ESH placement would be appropriate. This involved intensive review of records. DOC has been moving ahead slowly. There have been a couple of incidents, and staff have made some mistakes. Deputy Warden Kelly is in the unit everyday.

Having been invited by Commissioner Ponte to provide further information, Deputy Warden (D/W) Kelly addressed the Board, as follows:

Policies and procedures are in place, and programming has begun aggressively. The “Daddy Me”, Challenge, and Journal programs are in place, and inmates, after taking a few days to adjust, are participating in programs and seeing a benefit to themselves in doing so. Steadily-assigned officers are encouraging inmates to participate, and steadily-assigned supervisors are sending a consistent message to inmates and to staff.

Board Member Dr. Robert Cohen, noting that he, BOC Vice Chair Derrick Cephas, and Chair Campbell all had visited the ESH unit, asked whether inmates are availing themselves of the opportunity to lock-out during most of their seven hours. D/W Kelly said they were. Dr. Cohen asked if the training for ESH officers is the same as that provided to CPSU officers. D/W Kelly responded that ESH officers receive training in Safe Crisis Management, mental health training and security skills. Commissioner Ponte added that some elements of ESH training are the same as CPSU, and others that have been added to ESH will be incorporated into CPSU training. Dr. Cohen asked about the logic of providing access to mental health care at 9 p.m. D/W Kelly said this is when mental health staff make rounds. Dr. Cohen asked about scheduling for the one multi-purpose room, pointing out that an inmate who was supposed to see a mental health provider could not do so because the room was unavailable. Commissioner Ponte said the issue is not the room; if an inmate needs to be seen, he will be taken to the clinic. Dr. Cohen pointed out that for an inmate to get to an appointment in the multi-purpose room, he must first be strip-searched. He then asked if both groups get to recreation each day. He said he had heard during his visit to ESH that the afternoon lock-out group could not go to recreation. D/W Kelly said all inmates are offered recreation, but the cold weather, as well as ice and snow conditions, caused attendance to remain low. He said the Department is working to arrange for indoor recreation to be provided.

Board Member Bryanne Hamill, noting that the BOC staff report indicates there is little programming at present in ESH, asked when it will be fully operational. Assistant Commissioner Winette Saunders said that when ESH opened, DOC began a survey of inmates to determine their preferences. She said that as a result, the following programs have been offered: “Daddy and Me”, a parenting program that ends on Wednesday; a librarian comes every Wednesday and provides books from the Brooklyn Public Library; “Step Up Parenting”, for which 5 inmates have expressed interest in participating; homeless prevention advocacy, including an assessment of risk of homelessness and determination of whether rent arrears might be paid; and “Challenge” curriculum, which began on March

6 (7 inmates refused in the morning, and 6 participated in the afternoon). Judge Hamill asked about the ESH due process hearings. D/W Kelly said the Adjudication Unit has conducted hearings. He said that all hearings have resulted in confirmation of initial ESH placement. Judge Hamill said the first hearings were not being taped, and therefore could not be reviewed, but that all hearings now are taped. Deputy Commissioner Heidi Grossman said Judge Hamill was correct. Chair Campbell asked if any appeals had been filed, and Ms. Grossman said no.

Chair Campbell announced that the Board was creating five *ad hoc* committees: Death Review, to be chaired by Member Jennifer Jones-Austin; Adolescents and Young Adults, chaired by Judge Hamill; Strategic Planning, to be chaired by Chair Campbell; Governance, to be chaired by Vice Chair Cephas; and Violence, to be chaired by Dr. Cohen. Chair Campbell said that each committee will develop a charter. He then announced that the Board will issue an annual report in the early fall, covering the fiscal year ending in June 2015.

Chair Campbell next addressed punitive segregation (PS), noting that the Board yesterday received a letter and directive from DOC. DOC Chief of Department Martin Murphy reported as follows:

DOC has been implementing the rule changes passed by the Board. Inmates who were serving “historical time” have been removed from PS. Inmates with non-violent Grade I and II infraction convictions are housed in “PSeg II”, where they receive seven hours of lockout time per day. Inmates approaching 30-day confinement in PS are being monitored for removal for 7 days before serving more PS time. Historical time is being expunged for new admission inmates upon arrival into custody.

DOC conducts twice-weekly meetings to review PS sentences incurred during the current incarceration, but prior to the rule change. No inmate serves more than 30 consecutive days from the date of the rule change, but the total time owed remains. The only exceptions would be if the Chief ordered an “override”.

Dr. Cohen asked how many inmates currently are in some form of PS. Chief Murphy said there are 18 inmates in PS II (“bing lite”) and 200 inmates in PS, down from 249. Dr. Cohen asked Chief Murphy to provide PS data for each of the units to the Board. Judge Hamill asked about the PS backlog. Chief Murphy said anyone who owed “historical” time was removed from the backlog list. Deputy Commissioner Erik Berliner said that DOC’s original estimate was that it would take 8 to 10 months to clear the PS backlog, and the process is moving a bit quicker than that. He said DOC is paying careful attention to the 60-days-in-six-months rule. Judge Hamill asked about plans for inmates who must be removed from PS for seven days before returning to serve the balance of a PS sentence: is DOC creating an administrative segregation area for them, or will they go to ESH or general population? Commissioner Ponte said it depends on the inmate: some may be suitable for return to general population. Chief Murphy said the issue is considered at the bi-weekly meetings, and is done on a case-by-case basis.

Chair Campbell next turned to violence issues, thanking BOC’s Jim Bennett. He asked that data on monthly stabbings and slashings be posted on BOC’s website. Chair Campbell noted that the number of reported stabbing and slashing incidents thus far in 2015 is more than all such incidents reported in all of 2007, all of 2008, and all of 2009. He added that in those years the inmate population was 3000 higher than it is today. He asked Commissioner Ponte to address violence issues, and the multi-facility lockdown that occurred last week. Commissioner Ponte responded as follows:

There has been a substantial spike in stabbings and slashings in the first quarter of this year. DOC is concerned about the availability of weapons, and the fact that most of the violence is driven by gangs. Sometimes DOC is unaware that a newly-admitted inmate had an issue from

the street with inmates with whom he is housed. DOC needs to improve intelligence gathering, so gang members can be safely separated. Sub-sets of gangs complicate things, with issues carrying over from the street. ESH will help. Currently there are 17 inmates in ESH; as ESH continues to roll out, it will help with gang-related violence issues.

Board Member Michael Regan, noting the significant increase in violence since 2009, asked if there were other strategies DOC was considering. Commissioner Ponte said a consultant from Connecticut would take the lead on DOC's overall population management plan. He said this would result in a better understanding of who is at risk, noting that the highest custody inmates have scores from 13 to "30-something", which is much too large a range. He said it will take time to better define those inmates who need greater supervision. The Commissioner added that he has asked the First Deputy Commissioner to look at who in DOC is moving inmates, and who is authorized to move them. He said when he looks at issues he asks, what could DOC have done to prevent this incident? Mr. Regan asked if the staffing level of Gang Intelligence is the same as in 2009. Commissioner Ponte said the issue is staff resources to a small degree, but it is more about skill building. He said training for the unit had been sporadic and inconsistent when he arrived at DOC, and this is the issue most in need of improvement. Mr. Regan said Gang Intelligence has done an extraordinary job in addressing terrorism issues.

Dr. Cohen showed a graph of inmate injuries from fights per year. He said it showed that except for the past few months, the rates have been consistent since 2006 -- .133 per 100 inmates per 31 days in 2006; .123 in 2011, and .142 in 2013. He said violence is a characteristic of Rikers Island, and it is important to look at things over time to get a better handle on it.

Noting that a variance had been requested from the Board, Chair Campbell asked the Commissioner to discuss the multi-facility lockdown last week. The Commissioner requested that the matter be discussed in executive session. Judge Hamill asked if inmates are produced for court during lockdowns, and the Commissioner said yes. Dr. Cohen said that use of force (UOF) has increased dramatically over the past 10 years. He said the rates have increased from .8 in 2006 to 1.3 in 2011 to 2.4 in 2013 to 3.2 in 2014, and this year the rate to date is 3.7. Dr. Cohen asked the Commissioner to explain what it means that the UOF rate is going up but violence is not decreasing. He also asked what it means when lock in for the night is changed to 9 p.m. yet violence does not decrease. Commissioner Ponte said staffing levels are different after 9 p.m. He said DOC needs to rethink how it does business; he said the custody management tool will help. The Commissioner said that once DOC is able to determine which inmates require the highest level of custody, staff will be trained to deal with them, and the number of officers will vary with the custody level. He said DOC will build a model where a facility functions as a high-custody facility, where all staff are trained to deal with high-custody inmates. Commissioner Ponte said DOC will roll out a 14-point plan this week that will have a significant impact on violence, but that it will take time. He said DOC shows captains videos of UOFs to show them good UOFs, as well as UOFs, which should have been handled differently. He concluded by noting that everyone, including the Board, wants safer jails.

Chair Campbell invited DOHMH Assistant Commissioner Dr. Homer Venters to comment on the impact of the lockdowns on access to medical and mental health care. Dr. Venters reported as follows:

The lockdowns on March 3rd and 4th did have impacts. In locations where staff works inside of housing areas, the area is insulated from impact: there was not a big drop-off in mental health encounters in CAPS or PACE or mental observation units. However, there were drop-offs in sick call (22 to 38% decrease) and discharge planning for people with HIV and mental health issues (24 to 46% decrease) as compared to the same days of the week in prior months.

As soon as staff leadership learns of lockdowns, they begin triaging patients, and people who most need to be seen are seen. A notification system with DOC has been established, and DOHMH learns at the outset of any lockdown.

Dr. Cohen said he and Vice Chair Cephas visited RHU two weeks ago. He asked Dr. Venters if anything had changed to provide access to mental health services. He said the RHUs have increased violence, rather than reduce it, and that the RHU resembles MHAUII. Dr. Venters responded as follows:

DOHMH and DOC have had several productive sessions since the last BOC meeting. Those who have been meeting would like to sit with a few members of the BOC to discuss core principles. There is not yet a full plan, but all agree that patients who might benefit from mental health interventions cannot do so in a solitary confinement setting. Because of changes to PS implemented in PS by the BOC, programs of 6 to 8 weeks duration need to be modified because patients will be in a more transitory state of 3 to 4 weeks. When a patient poses a security threat, DOC must be able to securely place the individual quickly, for a brief period of time.

The data show that there are a large number of people known to mental health services who have Grade I infraction convictions. It is important to develop a plan that DOC, DOHMH and BOC can support.

Judge Hamill reported on adolescent and young adult issues, as follows:

We have ended solitary confinement for 16 and 17 year-olds. Effective January 1, 2016, solitary will end for inmates up to and including age 21, provided there is sufficient funding. There are no young adults in ESH. Commissioner Ponte and his entire team, including Chief Perrino, Winette Saunders, and Warden Collins are to be commended. DOC has established an Adolescent Advisory Committee, comprised of staff of DOC, DOHMH, the Department of Education, CUNY, ACS, youth advocates, and foster care agencies. The group is working to bring about meaningful, sustainable reform that is modeled on juvenile justice. Vincent Schiraldi chairs a programming subcommittee with Wynette Saunders. It is developing a program plan to submit for City approval a budget of approximately \$20 million.

The end of PS has resulted in a cultural shift at RNDC. DOC is developing and incentivizing a behavioral management system – programming, structure and idleness reduction, better training for staff, family engagement, more exercise, more therapeutic and clinical services. Adolescents have a ratio of 15 to 1. There are a few administrative segregation units – Second Chance and two TRUs (now called Transitional Restorative Units).

TRU is modeled on the Massachusetts Department of Youth Services' Assessment and Stabilization Unit for dangerous and difficult-to-manage adolescents. (The Advisory Committee met with the Commissioner and some of his top staff.) Fourteen-hour lockout is being maintained, as is close supervision and, until recently, school attendance for all youth. The policy for use of the de-escalation area is being developed by DOC and DOHMH, but instead of locking-in an adolescent, they are being separated.

Chief James Perrino, asked by Judge Hamill to discuss violence problems and DOC's response, said the following:

In December, when PS ended for adolescents, some fought and used force. UOFs, which in 2014 had been consistently low – and were down to 30 in October – spiked to 70 in December. In response, steady staff have been assigned in some housing areas, and training has been increased.

UOFs in January were reduced to 60, and to 54 in February. The spike was anticipated and DOC is addressing it. De-escalation is not being used. PS was eliminated too quickly, and the operating model still is being developed. PS was not working, and staff at RNDC are proud of the changes.

There was a fight in the school on February 27th at 9 a.m., when Trinitarian inmates on their way to class from 1 Main South ran into a classroom with inmates from 3 Main South, many of whom are Bloods. 10 adolescents from 1 Central South ran into another classroom with 12 inmates from 3 Central South. Chairs were thrown and teachers were very upset, but DOC staff acted quickly by using chemical agents. Seven officers and one captain went to the hospital. All staff and teachers were debriefed. The Massachusetts staff reassured everyone that incidents will happen as transition occurs.

Chair Campbell asked when a plan for de-escalation will be put in place. Chief Perrino said DOC is working with its Massachusetts colleagues and consulting other jurisdictions for best practices, and will not implement until everyone is comfortable with an agreed-upon plan. He added that the plan for adolescents will provide a foundation for a plan for young adult inmates. Chief Perrino said that everyone wants the adolescents to be safe and to learn in school. He said DOC is changing the culture, and that officers need to engage with adolescents, establish relationships, and treat them differently than has been the case for 100 years. Vice Chair Cephas asked what were the causes of the fight, and what lessons were learned. Chief Perrino said the teachers and officers were debriefed together, with the teachers being asked what would enhance their safety. He said teachers asked that the metal chairs be bolted to the floor. He added that a teacher helped to reconfigure the classrooms. Chief Perrino said DOC replaced the locks on the classroom doors so that they lock from inside. He said that the adolescents respect the officers; neither threw punches at the other during the incident. As to a cause, Chief Perrino noted that one adolescent was “aging out” and on his last day he urged the others to “do something”.

Dr. Cohen asked how many adolescents and young adults have low bails, and asked that bail information be provided. He asked if the adolescents and young adults have access to indoor recreation on a daily basis. Chief Perrino said there is a recreation center in the sprung, but to get to the sprung, inmates must walk outside in the cold and this has kept attendance low. He added that one of the two gyms needs repairs and is unusable. Commissioner Ponte said funds have been allocated for the gym repairs. Dr. Cohen raised the issue of restorative justice, noting that the Justice Department report cited years of violence against young men by the officer staff. He asked whether restorative justice has been discussed with respect to officers. Chief Perrino said the issue begins with him, as chief of the area. He said DOC recently hand-selected 15 officers from the Academy to work with the young inmates. He said some had been social workers, and others had been teachers: many rookie officers now want to work with adolescents. Judge Hamill asked for confirmation that all adolescents continue to go to school. Chief Perrino said yes: cell study will not be used nor will teachers come to the TRU area. Judge Hamill asked why there now are two TRU areas. Chief Perrino said a slashing occurred on February 15th and it was necessary to separate two adolescents who had conspired to hurt others, so a second unit was set up. Board Member Jennifer Jones-Austin commended Chief Perrino and the Department for the immediacy of his response, which she said reflected that he embraced the most humane approach to she has heard thus far to the complex issues presented. Judge Hamill then invited Ms. Saunders to address the collaborative efforts with which she is involved.

Ms. Saunders introduced DOC's Massachusetts colleagues, noting that the Commissioner has directed DOC staff to look at best practices across the country. She said the MA Department of Youth Services has been particularly supportive, and yesterday Commissioner Forbes and his team came to New York. Commissioner Ponte said the Massachusetts officials were volunteering their time to help DOC, and he thanked them. They then introduced themselves. Barbara Morton, regional director for 31 years,

noted that her agency works with youth from ages 7 through 21. Dan O'Sullivan is the director of operations for the agency. He praised Chief Perrino and Ms. Saunders, and all the people he has met who are working with adolescents. He said we need to think of adolescent inmates as the adolescents they are, and engage with them: staff need to want to work with adolescents. Fred Hurley is a facility administrator who has been with Youth Services for 27 years. He supervises three buildings containing seven programs. He said he has enjoyed working with the DOC people, and underscored the need for culture change. Judge Hamill thanked the Massachusetts people for their assistance. Ms. Saunders said DOC staff will go to Maine in April. She thanked Judge Hamill for her involvement.

Chair Campbell asked the Board to entertain a request from DOC for a renewal of existing variances from the Minimum Standards for two months until the May meeting. The first is for a variance from section 1-02, Classification, to allow for commingling of special category adolescent detainee and sentenced inmates at RNDC. A motion passed without opposition. The second request is for a variance from section 1-03, Personal Hygiene, to require inmates in PS to wear uniforms. A motion passed without opposition. The third request also is for a variance from section 1-03, Personal Hygiene, and pertains to suicide smocks and bedding. A motion passed without opposition. The final request is for a variance from section 1-06, Recreation, regarding recreation for inmates in the contagious disease units. A motion passed without opposition.

Chair Campbell invited comments from the public. Riley Doyle Evans, from the Jail Action Coalition and Brooklyn Defender Services, said he hoped DOHMH, DOC and BOC work together to improve sick call and mental health access in ESH. He said the 9 p.m. rounding does not seem effective, given limited staffing and extended lock-ins. Mr. Evans also expressed the hope that BOC and DOC can work together to reduce the long bing sentences imposed before the rules change.

There being no further business, meeting was adjourned.