

NEW YORK CITY  
BOARD OF CORRECTION

September 9, 2013

**MEMBERS PRESENT**

Gerald Harris, Esq., Chair  
Alexander Rovt, Ph.D., Vice-Chair  
Catherine Abate, Esq.  
Gordon Campbell, Esq.  
Greg Berman  
Robert L. Cohen, M.D.  
Michael J. Regan

Excused absence was noted for Pamela Silverblatt, Esq.

**DEPARTMENT OF CORRECTION**

Dora B. Schriro, Commissioner  
Evelyn A. Mirabal, Chief of Department  
Mark Cranston, First Deputy Commissioner  
Ari Wax, Sr. Deputy Commissioner  
Thomas Bergdall, Esq., Deputy Commissioner and General Counsel  
Erik Berliner, Deputy Commissioner  
Florence Finkle, Esq., Deputy Commissioner  
Sara Taylor, Chief of Staff  
Martin Murphy, Assistant Chief of Staff  
Eldin L. Villafone, Press Secretary  
Robin Campbell, Press Secretary  
Carleen McLaughlin, Legislative Affairs Associate

**DEPARTMENT OF HEALTH AND MENTAL HYGIENE**

Homer Venters, M.D., Assistant Commissioner, Correctional Health Services (CHS)  
Ross MacDonald, M.D., Medical Director, CHS

**OTHERS IN ATTENDANCE**

Mary Bosley, Urban Justice Center (UJC)  
Rob Calandra, City Council  
Dahianna Castillo, Office of Management and Budget (OMB)  
Matthew Claiborne, Columbia University School of Journalism  
Laura Clark, Jails Action Coalition (JAC)  
Megan Crowe-Rothstein, JAC  
Sara Devincenz, Stop Mass Incarceration Network (SMIN)  
Allan Feinblum, JAC  
Briana Gilmore, NY Association of Psychiatric Rehabilitation Services  
David Gonzalez, JAC/ISO  
Susana Guerrero, State Commission of Correction  
William Hongach, City Council  
Karen Imas, Doctors Council  
Sarah Kerr, Legal Aid Society

Julia Kim, NJC  
Elena Landiscine, New York Civil Liberties Union (NYCLU)  
Victoria Law  
Neil Leibowitz, M.D., Director, Mental Health, Corizon  
Elena Landiscine, NYCLU  
Kristin Misner, Deputy Mayor's Office  
Elizabeth Moshe, CAL  
Five Mualimmak, Campaign to End the New Jim Crow  
Luke Neihew, JAC  
Alex Pappas, JAC  
Jennifer Parish, UJC/JAC  
Regina Poreda Ryan, City Council  
Beth Powers, Children's Defense Fund  
Felicia Reback, JAC  
Emily Regan  
Marc Steier, Correction Officers Benevolent Association (COBA)  
Sidney Swartzbaum, ADW/DWA  
Tim Tucker, JAC  
Nate Vogel  
Gale Weiner, JAC  
Alison Wilkey, Youth Representative  
Sallina Yung, OMB  
Milton Zelermyer, Legal Aid Society  
Michael Zuckerman, M.D., Vice President of Operations, Corizon

Chair Gerald Harris called the meeting to order at 9:05 a.m. A motion to adopt the minutes from the Board's July 22<sup>nd</sup> meeting was approved without objection.

The Chair requested that the Commissioner discuss a disturbance at GRVC in the beginning of August where there was a delay by correctional staff to respond to the incident. Commissioner Schriro responded that since the incident is still under investigation, she would prefer to respond in executive session. Chair Harris agreed to hold a brief executive session after the meeting.

Chair Harris pointed out that he has added the Executive Director's report as a regular agenda item so that the Board members can be updated on the day-to-day issues that our Board staff handle. Executive Director Cathy Potler reported as follows:

- After almost two years without an office manager, the Office of Management and Budget (OMB) provided funding to hire a full-time office manager who after being on the job for only three weeks has already made an enormous difference. She expressed her appreciation to Deputy Executive Director Amanda Masters, IT Director Jim Bennett, and Executive Assistant Tonya Glover who pitched in by performing additional tasks. She also was very thankful to OMB for funding this

position and to the Department of Correction (DOC) for providing staff to assist us with both payroll and purchasing duties.

- Four bright and dedicated student interns assisted Board staff on various projects this summer. Two students from Stuyvesant High School helped Director of Research Chai Park on collecting and inputting data on an access to medical care project. A Rutgers University senior conducted research and assisted Ms. Masters with visit appeals. A high school student helped staff organize the Board's extensive 60-year document collection for scanning and archiving in anticipation of our move to a new and much smaller location in December 2014.
- Beginning this week, Cardozo Law School's new Youth Justice Clinic will assign seven third year law students to conduct research on model programs in juvenile detention facilities, ways that misconduct is handled, and staff training.
- On August 21st, Board staff conducted the first of a series of unannounced facility inspections to check on compliance with many of our standards. Ms. Park put together a really terrific survey instrument, which she field-tested a number of times before the inspection. The first facility inspection was at Rose M. Singer Center. It was a full staff inspection and lasted the entire day. Before the inspection began, Ms. Masters, Director of Field Operations Felix Martinez, and Ms. Park discussed the survey with the Warden and informed her about the inspection. At the end of the day, staff followed up with an exit discussion and explanation of how our findings would be communicated. The inspection report will be provided to the Board.

Ms. Potler explained that our field staff walk the jails day in and day out, and are usually able to handle most of the issues that arise directly with the jail administrators. From time to time, there are issues that come up that cannot be resolved at the facility level. When this occurs, Ms. Potler stated, it is brought to her or Ms. Masters's attention, and they then contact DOC Central Office. Ms. Potler reported on two such recent issues:

- RNDC ran out of brown uniforms in the most popular sizes for adolescents for a variety of reasons. Board staff found that upon admission, contrary to the Minimum Standards, new admission adolescents were being given only one brown shirt instead of two, along with a pair of brown pants. Additionally, the uniforms were not being laundered for up to two weeks at a time when, under the Standards, they are supposed to be laundered every four days. The adolescents are required to wear their uniforms at all times – to court, outdoor recreation,

school and visits. Board staff worked with facility administrators to try to resolve this problem, but there were not enough uniforms available. After contacting DOC Central Office, more brown uniforms were ordered, and in the meantime, uniforms of a different color were delivered to and distributed at RNDC.

- An ongoing issue at GRVC's MHAUII has been the lack of available escort officers. Board staff observed inmates left in the shower for an hour or longer after they finished showering, as well as delays in delivery of mandated services and meals. These issues were discussed with DOC Central Office. Last week, the Department changed its leadership at that facility, and Board staff have observed that more escort officers were assigned to the MHAUII housing areas.

Chair Harris asked Ms. Potler to briefly update the Board on her meeting with the Doctors Council. Ms. Potler replied that the lack of escort officers caused longer wait times for patients to see medical staff. As a result, inmates would lose patience and refuse to see medical staff. The Doctors Council also expressed concern that inmates often miss their scheduled follow-up medical appointments because there are not enough officers to escort them to the appointments. Ms. Potler recommended that Doctors Council speak directly with DOC and DOHMH about these issues and provide the Board with more detailed information about the lack of escort officers, such as the facilities and shifts when this was occurring.

Board Member Dr. Robert Cohen asked whether DOC has had more difficulty getting inmates to medical and mental health services since AMKC has become more dependent on escorts. Commissioner Schriro responded that when DOC and DOHMH provide oversight, they get "the correct and more consistently high level of response." The Commissioner added that the Deputy Warden in charge of the command-within-a-command is "dynamic and very hands-on," and that she expects to see improvements as the staffing and training of that unit is completed.

Chair Harris requested that DOC and DOHMH report on the progress of the alternatives to punitive segregation. Commissioner Schriro stated that inmates in general population (GP) who need a higher level of mental health care are housed in the mental observation (MO) units. She stated that the current capacity for MO housing is 773—610 male and 163 female—and that MO housing is currently located at seven jails. She explained that as part of the reforms underway DOC will consolidate all MO housing units for adult males into one, and that it will be at AMKC.

Another reform discussed by the Commissioner was the clinically driven CAPS program for seriously mentally ill inmates who have been infractioned. The first CAPS

program was opened at RMSC on August 6th. The Commissioner reported that the current census is 10, comprised of women who had been housed in MHAUII and in the MO unit who had not infringed, but need a higher level of clinical care. With respect to the two CAPS units for men at AMKC (a 20-bed cell unit and a 40-bed dormitory unit), the Commissioner reported that the opening has been pushed back two to three weeks to give more time to train the psych techs.

DOHMH Assistant Commissioner Homer Venters, M.D., stated that he was thrilled with the prospect of taking down MHAUII and replacing it with a clinical approach for inmates with serious mental illness. He thanked the leadership at DOC for “moving at light speed to get the physical plant changes and the staffing and the leadership in place.” Dr. Venters discussed the CAPS program as follows:

The categorical difference . . . between the men and the women is that if you look at all of the people on the mental health service who have infractions . . . most of them are seriously mentally ill. If you look at the men, a small percentage of them are seriously mentally ill. They present very different challenges from a clinical treatment standpoint and also from a security standpoint for the Department of Correction. . . . One of our challenges [in the CAPS unit] is to make sure that for the women who are too sick to participate in programming, of which there is a small number, that we bring programming to them. We work to get them out of their cells, and that we not consign them to what heretofore had been kind of a MHAUII approach. . . . The male CAPS unit will open in the next two to three weeks, after we iron out a couple of remaining logistical issues . . . and as that unit is opened, that'll allow us to take down a MHAUII unit. . . . We have several successive steps after that to help us take down the remaining MHAUII and also do the tough logistical job of consolidating the people on the MO service who are in the MOs in other jails into AMKC. It's a very aggressive agenda, but we certainly are eager to be pushing forward.

Board Member Catherine Abate asked if incarcerated women with serious mental illness are there for non-violent, less serious crimes. Commissioner Schriro said that they would get her an answer. Ms. Abate explained that she asked the question because she wanted to know if the courts were aware that these women have serious mental health issues. The Commissioner responded that based upon focus groups done as part of the Council on State Governments (CSG) study, the courts were viewed as being unaware.

Commissioner Schriro discussed the Restricted Housing Unit (RHU) as follows:

The RHU was developed as an alternative to MHAUII for inmates who had non-serious mental illness such as minor adjustment and behavioral disorders. Although the program was modeled after work that the State correctional system did, none of the inmates in that initiative are out more than four hours a day. We have a three-phase behavioral program with as much as six to eight hours a day. And we continue to revisit and refine our own design. I've mentioned in the past that the initial plan was that the first week would be spent largely in-cell. . . . At this point, as early as the second day in the program, inmates are spending some time out of cell. We also added an incentive for participation—the opportunity to earn up to a 50 percent conditional or early release from the program. We've also continued to work to tailor some of our traditional custody management practices to be in alignment with the three phases, so as to allow more freedom of movement within the housing unit, contrary to what you would ordinarily see in a punitive segregation setting. One of the things that is still being worked on is the three-phase program, which . . . takes on average about eight weeks to complete. And eight weeks is much longer than many of the penalties that are imposed on the population. There are two ways to solve that. One is to either consolidate or accelerate the program, so that you can have full exposure to it while you're in that setting or to secure additional resources so that you could complete that programming once you've returned back to either MO housing or to the general population.

Commissioner Schriro concluded by stating that the opening of the three new RHUs at AMKC, OBCC and GMDC totaling 95 beds have been pushed back two to three weeks to “steady up staffing.”

Chair Harris stated that within the last few days, Board members were furnished with a draft of a report by its consultants that focuses on the RHU. He added that it would be made available to the Commissioner so that she will have an opportunity to review and respond to it.

Dr. Cohen asked why the adult RHU, which was opened 10 months ago, has had a census of only 15, when it is a 30-bed unit. Commissioner Schriro replied that as long as MHAUII exists, there will always be the tendency to use it, and that it is why it is being

taken down as quickly as possible. She stated that the adolescent RHU has been at full capacity and the program has been successful. She noted, however, that the adult population is “more entrenched in who they are.” She added that as an RHU opens, a MHAUII unit will close.

Chair Harris asked Commissioner Schriro to discuss infraction penalty reforms initiated by the Department. The Commissioner reported that since 2006 to present, the average daily population for the “Brad H. class” has increased from 24 to 37 percent, and approximately one-third of those inmates with mental illness are seriously mentally ill (SMI). They are more likely to engage in serious misconduct resulting in more time in segregation.

The Commissioner then discussed the accomplishments achieved by DOC as follows:

- Expanded mental health programming and training
- Secured funds and initiated the CSG study and proposed the formation of the Mayor’s Steering Committee, and developed the strategy to secure funding to open the resource hubs later this fall
- Created the command-within-the-command to have a concerted and consistent approach within and between the agencies
- Proposed CAPS and secured the State Commission of Correction (SCOC) approval to operate CAPS in a model that is consistent with our clinical commitments
- Proposed and have been opening the RHUs, while shutting down MHAUII, and secured the funds to evaluate these reforms.

The Commissioner discussed the Department’s commitment to addressing the needs of the adolescent population. She first described the adolescent population as follows:

- The number of adolescents in the system has remained consistent
- Adolescents are more likely to be facing serious felony charges: two-thirds of the adolescents have serious felony charges, compared to two-fifths of the adults

- They disproportionately engage in more serious infractions of jail rules
- They exhibit higher incidence of mental illness.

Based on these observations, the Commissioner explained that DOC began to look for ways to tailor the adult system to better meet the needs of the adolescent population. Toward that end, she described the following initiatives undertaken by the Department:

- Moved adults out of the adolescent jail and placed the majority of adolescents in individual cells
- Modified the institutional schedule requiring an earlier lock-in time, mandated uniforms for all adolescents, implemented Temporary Cell Restriction (TCR), and added an ombudsman
- Added more correctional staff for the adolescents, including line officers, supervisors, a tour commander, and deputy warden
- Secured the country's first social impact bond to bring behavioral training to adolescents and created an after school program to reduce idleness
- Piloted sentencing guidelines at RNDC.

The Commissioner stated that as a result of all these efforts:

Fights in the last year are down by 68 percent and uses of force are down by half, with none of them resulting in an A [use of force] or any kind of serious injury to either officer or adolescent. . . . And this past year we've had our highest academic level of achievement with 74 youth earning a GED or a high school diploma.

The Commissioner discussed a document that she distributed to the Members (annexed to these minutes) regarding sentencing reform for infractions. She explained that in June the pilot was started at Rose M. Singer Center (RSMC), and in July it was implemented at RNDC. It went Department-wide in August. Commissioner Schriro reported that so far there has been a 47% “bed day” reduction in infractions. The Chair asked for clarification on whether the percentage referred to the quantity of persons or time. The Commissioner stated that the number refers to time sentenced. She went on to



say that at RMSC the reduction was 12.5%. The total population reduction has been 36.5%. For adolescents, there has been a 46.5% reduction. The Commissioner promised to report back on the sentencing reform results on a monthly basis.

The Commissioner added that she had reversed a decade-long practice of running all sentences for infractions consecutively, and in February 2012 the Department began to sentence all non-violent multiple infractions concurrently. Two months later DOC began to expunge “owed” punitive segregation days for inmates returning to DOC custody, as long as the charges did not involve assault on staff, inmate-on-inmate assaults, or weapons. For these incidents, at least two years must pass before expungement can be applied. The Commissioner reported that thus far 2,166 files have been cleared. She also reported that conditional discharge from punitive segregation for RHU participants is now discretionary after two-thirds of the time has been served. She further added that that during the first eight months of 2013, 248 inmates have been released upon completion of two-thirds of the penalty and another 27 after serving half.

Commissioner Schriro stated that there is a “state statute that mandates punitive segregation.” She stated that along with the mandate for punitive segregation, there come responsibilities to use it professionally. The Commissioner discussed the years’ long backlog that had built up for punitive segregation beds, as well as her decision to “temporarily increase[d] punitive segregation beds” to reduce the backlog. Commissioner Schriro stated that the backlog is resolved and that the bed reductions have begun. She reported that the Department has reduced punitive segregation beds as follows: 30 adolescent beds, 20 female MHAUII beds as the CAPS unit is opened and 136 beds that are technically on line, but have not been used for a long period of time.

Board Member Michael Regan asked where the Department plans to house mentally ill inmates who are not suitable for the CAPS or RHU units after it shuts down MHAUII.

Commissioner Schriro answered that that is DOHMH’s decision and stated, “They’re always the driver of whether or not they [the inmates] are appropriate for punitive segregation.”

Chair Harris stated to the Commissioner: “What I’m hearing is that you are committed to shrinking punitive segregation and exploring better options.” In turn, Commissioner Schriro responded, “That has been the consistent commitment and it’s summarized in these materials, and the answer is yes.”

The Chair requested that Dr. Cohen, the Chair of the Committee on Punitive

Segregation, give his report. Dr. Cohen stated the following:

At the June 3, 2013 Board meeting, a resolution was approved by the Board establishing a committee of the Board to review the use of punitive segregation in the Department of Correction and make a recommendation regarding the initiation of rulemaking. Upon approval of the resolution, Chair Gerald Harris named Dr. Robert Cohen as the Chair of the Committee and Catherine Abate, Greg Berman and Pamela Silverblatt as members. The Committee has met four times: June 20, July 8, July 22, and August 20.

Committee members reviewed extensive briefing materials prepared by Board staff on punitive segregation demographics, use of force incidents and census data; information on alternatives to punitive segregation for the mentally ill (CAPS and RHU expansion) from the Departments of Correction and Health and Mental Hygiene; infraction/penalty reform and mental health training from DOC; injury and self-harm data from DOHMH; literature on solitary confinement; and Board of Correction minutes referencing punitive segregation since 2009. Members have carefully reviewed the monthly progress of the Department of Correction regarding the status of its initiatives regarding solitary confinement. The committee has received and reviewed a draft report regarding punitive segregation and mental health services on Rikers Island prepared by Drs. James Gilligan and Bandy Lee.

The committee met, individually and as a group, with the following stakeholders:

- Deputy Mayor Linda Gibbs
- Commissioner Dora Schriro and Deputy Commissioners Thomas Bergdall and Erik Berliner
- Deputy Commissioner Amanda Parsons, Assistant Commissioner Homer Venters, and Executive Director Daniel Selling
- Council Member Daniel Dromm
- Members of the Jails Action Coalition

We offered to meet with the Correction Officers' Benevolent Association. They were not able to meet with

us at this time, but said they would participate in further discussions of this issue.

Committee members made multiple visits to Rikers Island, including tours of AMKC and RNDC RHUs, GRVC and RMSC MHAUIIs, AMKC and RMSC mental health units, RMSC CAPS unit, and OBCC CPSU.

From 2007 through June 30, 2013, the number of punitive segregation beds in the City jail system has grown from 614 to 998, a 61.5% increase. All of the prisoners in MHAUII and RHU are mentally ill. Eighteen percent of the 403 CPSU inmates on August 1, 2012 have an "M" status.

The mentally ill stay in segregation much longer than the non-mentally ill, and those placed in segregation are much more likely to suffer serious injury. The main rationale for the increased use of punitive segregation has been to maintain safety, but the increase in punitive segregation beds has been matched by an increase in violence and injury.

During this summer, between 25% and 28% of all adolescent boys on Rikers Island were housed in punitive segregation status. The American Academy for Child and Adolescent Psychiatry and the United Nations Special Rapporteur have strongly advocated that solitary confinement should not be used as a punishment for adolescents.

The committee commends both DOC and DOHMH for recent steps to reduce the use of punitive segregation for the mentally ill by committing to closing both MHAUIIs at GRVC and RMSC and partially replacing them with a non-punitive therapeutic program for serious mentally ill persons who violate jail rules. At the present time, the adult/adolescent MHAUII unit is still operating at GRVC, and the CAPS unit at GRVC has not been opened. The CAPS unit at RMSC is being gradually populated. The Committee also supports DOC's sentencing guideline reforms, the initiation of concurrent rather than consecutive sentencing, and expungement of "owed time" from prior incarcerations to reduce the length of time inmates must serve in solitary confinement. The Board appreciates these efforts.

Our recommendation regarding rule making is neither a criticism nor repudiation of the substantial efforts and plans for addressing these issues being undertaken by Commissioners Schriro and Farley and their staff.

If the Board engages in rulemaking, it would be an open process. The Board would discuss proposed language with DOC, DOHMH, OMB, interested parties, and experts. Under the City Administrative Procedure Act (CAPA), the Board would be required to publish and distribute widely its proposed amended standards, solicit written comments and hold a public hearing. The Board would consider all written comments and testimony before promulgating new or revised standards.

Based upon a review of all the above mentioned reports, documents, data, and correspondence from City Council members and interested parties, the committee unanimously moves the Board to initiate rulemaking regarding the use of solitary confinement in the NYC jails.

Board Member Regan seconded the motion. He added that he agreed with the recognition of the efforts by DOC and DOHMH in this area, and thanked the members of the committee for their hard work.

The Chair joined in thanking the members of the committee for their work. Board Member Gordon Campbell also thanked the committee members and recognized the work of DOC for “taking punitive segregation very seriously.” He stated that this is the beginning of a process, and that all members of the Board should be educated and made aware of best practices, research, and the progress of reforms implemented by DOC. He added that he hopes for a “transparent, robust, and elaborate” process, which he thinks of as “rule-making plus” because there is much more the Board can do beyond rulemaking.

Chair Harris stated the following:

In moving forward, it's important to recognize that the Commissioner and the Department have the responsibility and the burden of administering the jail system and ensuring the safety of the inmates and the staff. And so I urge the Board to consult with the committee regularly and work closely with the Commissioner as it considers any changes to rules. Rulemaking is likely to be a lengthy process and it does require that the Board hold a public

hearing and get input from all interested constituencies.

So I simply caution the Board that as it considers any changes, which may emerge from that process, to carefully weigh and evaluate their impact on the safety and efficiency of the jail system; of the rules that are already in place, which may require more effective enforcement; of the efficacy of the measures already taken by the Department and the feasibility of alternatives that will be required to replace any changes to the rules in order to maintain safety and order.

The Board unanimously voted in favor of the motion. Chair Harris noted that Board Member Pamela Silverblatt was not able to attend today's meeting and noted that she was a member of the committee that made the motion.

DOC requested the renewal of the existing variances. The Board unanimously approved.

Chair Harris adjourned the meeting at 10:20 a.m. for executive session.

## Realigning Custody Management's Continuum of Care and Control: Important Reforms related to Punitive Segregation

The optimal continuum of care and control, ranging from least to more restrictive means, has four key components – prevention, early intervention, intermediate sanctions, and punitive segregation – with each contributing to jail safety. Punitive segregation is a necessary component of custody management, one to use when lesser measures do not suffice.



The Department of Correction (DOC) has developed a plan replacing longstanding and outdated practices with data-driven and evidence-based options to address the city jail population's needs and risks. The plan represents a marked shift from past practices notably, relying upon considerable time in punitive segregation as the preferred response to most infractions and carrying over penalties not fully served from one commitment to the next. **Our plan is premised upon prevention, not punishment whenever possible, and proportionality when an intervention, intermediate sanction or punitive segregation is warranted.** Our goal is to achieve the best results at the earliest opportunity and in the least restrictive manner. The plan, when executed in full, will a) reduce punitive segregation by more than 40 percent by i) expanding early interventions and adding intermediate sanctions, and ii) through sentencing reforms that include the adoption of sentencing guidelines and the imposition of penalties for multiple infractions to run concurrently, not consecutively; b) substantively change the operation of punitive segregation, and c) eliminate MHAUII and in its place, operate i) a behavioral program for inmates with infractions who are not seriously mentally ill and ii) a non-punitive, clinical program for those with infractions who are seriously mentally ill; as well as d) appreciably accelerate the identification and referral of inmates with mental health issues to corresponding clinical interventions in jail and community-based settings.

### Sentencing Reforms and Improving Conditions of Detention in Punitive Segregation

The DOC in partnership with the Department of Health and Mental Hygiene (DOHMH) is committed to implementing a rigorous program of reforms for all inmates in punitive segregation. Our efforts to advance custody management and to improve the treatment of the mentally ill, including those with infractions, are real, substantial, with CAPS and RHU fully funded by the City, and scheduled to be implemented in CY 2013. In its totality, our plan is designed to produce optimal results in jail and after release. With comprehensive reforms well underway, and with the benefit of your continued input, we urge that these efforts have opportunity to take hold and then, to be evaluated. To that end, DOC has secured funds from the DOJ's National Institute of Correction, to study the efficacy of RHU and CAPS in particular, and to disseminate the findings with an eye towards replication nationwide.

Starting with sentencing, one of our most significant efforts has been the development of sentencing guidelines that are currently being piloted at RMSC and RNDC and will be adopted department-wide this summer. These shorter and uniformly applied penalties, coupled with three complementary initiatives – the conversion from consecutive to concurrent sentencing, the reversal of the longstanding practice of honoring most historical time imposed, and the reinstatement of the long-dormant policy of awarding conditional releases – are expected to reduce demand for punitive segregation beds by 40 percent or more within the year. To follow is a brief description of each endeavor.

Sentencing Guidelines Beginning in May 2013, DOC began piloting use of sentencing guidelines aligning the seriousness of inmates' offenses and their disciplinary records with the contemplated penalties, reserving sterner sanctions for the most serious and repeated infractions. By end of summer, the guidelines will be in place department-wide; yielding an anticipated 40 percent reduction in the number of days in punitive segregation imposed. During the first month of the pilot at RNDC encompassing both the adolescent and adult male populations the average sentence ordered was cut by 36 percent in comparison to the month preceding the pilot. As more data becomes available, DOC will explore how sentencing may be customized for adolescents and other special populations.

Concurrent Sentencing In February of 2012, DOC reversed the longstanding practice of routinely imposing penalties consecutively. Now, punitive segregation penalties for non-violent infractions with multiple offenses run concurrently. CY 2013 through July 31, 3,962 concurrent sentences were imposed.

Expungement of Historical Time In April 2012, DOC began expunging historical time owed for infractions committed during a previous incarceration after one year in all but three instances. In these exceptional instances – assaults on staff, inmate-on-inmate assaults that resulted in serious injury and incidents involving weapons – it is expunged after two years. In CY 2013 through July 31, 1,281 records of historical punitive segregation were expunged. DOC is exploring further expansion.

Conditional Early Discharge from Punitive Segregation In CY 2012, DOC also reactivated a long dormant policy of conditional discharge, suspending the remaining portion of time imposed on inmates who committed non-violent rule violations and remained violation-free while in punitive segregation. In CY 2013 through July 31, 231 inmates were released from punitive segregation after serving two thirds of their adjudicated sentence; another 22 were discharged after serving one half.

Improving Conditions of Detention in Punitive Segregation Going forward, fewer inmates will be placed in punitive segregation and for shorter periods of time. DOC will institute periodic case conferencing with these inmates beginning their first week in punitive segregation and continuing throughout their stay in the unit to improve communication and increase their opportunities to earn conditional releases. For those in CPSU and RHU who are not conditionally discharged, DOC will pursue resources to add transitional or "step-down" programming opportunities to ready them for their return back to general population before the infraction has been satisfied in full. Additionally, DOC is reassessing inmates' access to exercise, visits and health care; reconsidering diet and exercise requirements; and with DOHMH pursuing the means by which to provide behavioral programming in the units throughout the penalty phase.

#### **Tailoring Custody Management to Mentally Ill Inmates with Infractions**

In coordination with DOHMH, DOC has substantively revised responses to infractions of inmates with serious and non-serious mental health diagnoses. In CY 2012, DOC and DOHMH introduced daily access, six hours per week, to clinical activities for inmates in the Mental Health Assessment Unit for Infracted Inmates (MHAUII). In CY 2013 the departments appreciably advanced the ways in which inmates with mental illness, especially those with a serious mental illness, will be cared for; in part, by establishing a 'Command in a Command' with specially selected and trained staffs. Guided by research literature and our CSG study, the following alternatives were developed and are being implemented in full this fall:

Restrictive Housing Units (RHU) In CY 2012, DOC and DOHMH piloted the RHU, one unit for adult and another for adolescent inmates who are not seriously mentally ill, as an alternative to MHAUII. RHU is both the place where the penalty of punitive segregation is imposed and a three-phase behavioral program is provided by clinical staff. Integral to RHU is opportunity to earn progressively more out-of-cell time as early as the first week. RHU is being expanded to serve all non-seriously mentally ill inmates previously housed in MHAUII. As each new RHU unit opens, a portion of MHAUII will be closed. When MHAUII is completely emptied this fall, it will be repurposed.

Clinical Alternative to Punitive Segregation (CAPS) Perhaps most significantly, DOC and DOHMH are opening CAPS, a secure therapeutic placement that will serve as the alternative to punitive segregation for Seriously Mentally Ill (SMI) infractions. CAPS is not a punitive placement. Instead, SMI inmates with infractions will be assigned by DOHMH to CAPS to participate in a program of treatment provided by mental health professionals.

Diversion of Mentally Ill Offenders DOC was instrumental in initiating plans, now adopted as the Citywide Criminal Justice and Mental Health Initiative, whereby eligible mentally ill inmates will be diverted pre-trial and post plea into community-based programs. A court-based resource hub will open in each of the five boroughs by the end of CY 2013.

#### **Additional Reforms in Process and Proposed Changes to BOC Rules and Variances**

DOC and DOHMH are committed to the development of a comprehensive continuum of care and control that includes skill building opportunities to advance prevention and early interventions and reduce the need for intermediate sanctions and punitive segregation. Two measures require modification of BOC Standard 1-05 by variance or rule making; a third, funding. The rest can be accomplished by DOC within existing resources and without modification to city standards.

Prevention In order to reduce the incidents that trigger infractions and to operate the safest system possible for everyone, Standard 1-05 should be revised to allow for adjustments to the lock-in schedule for newly admitted inmates and maximum custody inmates, two groups of inmates whose propensity for violence is highest and participation in incidents is disproportionately large. Additionally, DOHMH will seek to secure resources to provide M-inmates in the general population in need of this assistance with substance abuse services and behavioral therapy.

Intervention To reduce further incidents resulting in Grade 2 and 3 infractions, Standard 1-05 should be revised extending the Temporary Cell Restriction (TCR) option to female inmates and other populations that may benefit.

Intermediate Sanctions To reduce the number of inmates in traditional punitive segregation, DOC will establish limited punitive segregation (LPS) for inmates with qualifying lesser infractions and infraction histories as a post adjudication alternative to full punitive segregation. DOC also plans to establish both probation and community service as sentencing options. DOC can establish these three intermediate sanctions within existing standards; none of them requires a variance.