

NEW YORK CITY
BOARD OF CORRECTION

January 10, 2011

MEMBERS PRESENT

Hildy J. Simmons, Chair
Michael J. Regan, Vice Chair
Catherine M. Abate, Esq.
Robert L. Cohen, M.D.
Stanley Kreitman
Rosemarie Maldonado, Esq.
Alexander Rovt, PhD.
Milton L. Williams, Jr., Esq.

An excused absence was noted for Member Pamela S. Breier.

DEPARTMENT OF CORRECTION

Dora B. Schriro, Commissioner
Larry W. Davis, Chief of Department
Lewis S. Finkelman, Esq., General Counsel/Deputy Commissioner for Legal Matters
Sharman Stein, Deputy Commissioner, Public Information
Sara Taylor, Chief of Staff
Erik Berliner, Associate Commissioner
Sarah Graizbord, Assistant Commissioner
Maggie Peck, Director, Constituent Services
Carleen McLaughlin, Legislative Affairs/Special Projects Associate

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Louise Cohen, Deputy Commissioner
Homer Venters, M.D., Medical Director, CHS
Daniel Selling, M.D., Executive Director, Mental Health Services, CHS
George Axelrod, Esq., Executive Director, Quality Improvement, CHS

OTHERS IN ATTENDANCE

Harold Appel, M.D., Doctors' Council
Luis Cintron, M.D., Deputy Medical Director, Prison Health Services (PHS)
Jay Cowan, M.D., Medical Director, PHS
Susana Guerrero, State Commission of Correction
Caroline Hsu, Legal Aid Society, Prisoners' Rights Project
Carl Keldie, M.D., Chief Medical Officer/Senior VP for Clinical Services, PHS
Danielle Louis, Office of Management & Budget (OMB)
Natasha Salas, Independent Budget Office
Irene Salas-Menotti, Intern, Board of Correction
Eisha Wright, Finance Division, City Council

Chair Hildy Simmons opened the meeting at 9:10 a.m. A motion to approve minutes from the November 8, 2010 meeting was approved without opposition. Chair Simmons thanked DOC Commissioner Dora Schriro for providing to the Board some pertinent materials for BOC review in advance of the meeting.

Commissioner Schriro presented a report, as follows:

DOC has updated its visiting procedures. On December 15, visitor identification requirements were modified to no longer require ID for persons under 16, unless they are bringing young children to meet with a parent. Other changes, developed with input from BOC staff, went into effect on January 7, 2011. Plans for renovations to the Rikers Island Visitors Center, including installation of many more lockers and shelter from inclement weather, are on schedule. Construction will begin in late February and should be completed in four months, in late June. [The Commissioner distributed "Pardon Our Appearance" notices, attached.]

Chair Simmons said the Board would visit towards the end of the renovations process. She asked if DOC had created new pictures to illustrate the dress code. Commissioner Schriro presented notices with pictures illustrating dress code rules, and notices listing impermissible items. [Attached.] She said the changes will not be implemented until after the February holidays, so that visitors will be given more than 30 days notice. She said the posters are being put up now, and the changes will take effect on March 2nd. BOC Executive Director Richard Wolf asked if DOC would inform prisoners through the inmate councils, and Commissioner Schriro said this would be done. Commissioner Schriro continued her report, as follows:

The 800-bed addition to the Rose M. Singer Center (RMSC) was inspected, and a Certificate of Occupancy is expected sometime in March.

Regarding Legionella, DOC has completed the hyper-chlorination and copper ionization processes. DOC continues to consult with DOHMH. Monthly testing continues. Replacement mixing valves will be installed within the next three months.

Member Dr. Robert Cohen asked about flow of water from shower heads. Commissioner Schriro said the spray mist effect has been eliminated from the showers by changing the setting on the shower heads. DOHMH Deputy Commissioner Louise Cohen said that the mixing valves will ensure that the water temperature is appropriately hot and that after the valves are replaced, additional testing will determine whether the water flow setting can be adjusted.

Commissioner Schriro reported that the Department has provided to the Board a new footwear Operations Order, which is now in effect. She said that some changes are that adolescents are receiving DOC footwear, as are special populations, which presently include prisoners in mental observation, punitive segregation and administrative segregation. She noted that special population categories will be expanded to include

maximum custody prisoners. Mr. Wolf asked if “mental observation” referred only to prisoners housed in designated mental observation housing, and Commissioner Schriro said this is correct. She said that DOC is continuing to experience difficulties obtaining the footwear that DOC is seeking, so the Department is going outside the normal procurement process to obtain it. The Commissioner said that prisoners will continue to wear slip-on sneakers, albeit of higher quality, until Velcro footwear is obtained.

Dr. Cohen asked whether, as a result of the institutional footwear program, any value has accrued to the Department, the prisoners, the staff or the City. Commissioner Schriro said she has not seen investigations of fights suggesting that shoes are at the root of the fights. She added that for high custody prisoners and other “volatile” populations it is reasonable to take precautions, but it is not necessary for general population prisoners. Member Catherine Abate said she assumed DOC no longer had the storage issues it had earlier. Commissioner Schriro said that so long as prisoners retain only one additional pair of footwear, DOC has sufficient storage space. BOC Deputy Executive Director Cathy Potler asked why mental observation (MO) was selected as a special category for whom institutional footwear is required. Commissioner Schriro said the MO group is very difficult to manage, and institutional footwear eliminates shoelaces and “a number of other things”.

Mr. Wolf asked how many prisoners will be required to wear institutional footwear. Chief of Department Larry Davis said approximately 4800 inmates will wear DOC footwear. Commissioner Schriro said this assumes the maximum custody group remains as large as it is at present. Mr. Wolf said the new Order, received on the Friday evening before the Board meeting, authorizes DOC staff to provide prisoners with footwear that may be one size too big, but prohibits issuing shoes that are too small. He said the Order anticipates that DOC will not provide proper sizes to some newly-admitted prisoners, who will thereafter receive properly-sized footwear during the weekly linen exchange. Mr. Wolf asked what will happen when a newly-admitted prisoner is wearing prohibited footwear, and DOC lacks appropriately-sized footwear to give him/her. Chief Davis said that common sense must prevail, and prisoners cannot walk around “barefoot”. He said the facility must make sure the prisoner has footwear. He noted that the linen exchange happens once each week, and the officer will be responsible to make sure the prisoner has footwear, including when a prisoner’s institutional footwear has worn out. Mr. Wolf said BOC staff has documented many cases in which common sense has not prevailed, and prisoners for whom no suitable footwear is available have been told to walk around in flip-flops. He said that the new Order prohibits prisoners from attending recreation and law library in flip-flops. Mr. Wolf again asked what will happen when a facility has no appropriate footwear to give a prisoner. Chief Davis said the Department will have enough sneakers once DOC works out a procurement agreement with DCAS. He said that the “pedigree” form has been amended, and the prisoner’s shoe size will be recorded. He added that shoe size also will be inputted into the Inmate Information System, which should help with inventory control.

Chief Davis said the new Order mandates staff training. He said that previously DOC took on too much responsibility as it attempted to take advantage of the Board’s

amendment to the clothing Minimum Standard. He said earlier efforts “fell short” because of procurement problems. He noted that now only 2000 prisoners who should be in DOC footwear lack it: adolescents, punitive segregation and sentenced prisoners already have institutional footwear. Mr. Wolf asked if the linen exchange officer would come to the housing area with a supply of footwear to distribute to prisoners who require it. Chief Davis said the identities of prisoners who require footwear will be provided to the linen officer by the Intake staff. He said that the linen officer should have the needed footwear, but if he/she does not, the officer must take steps to obtain it. Mr. Wolf asked whether Intake will be informed of intra-facility housing area movement of prisoners. Chief Davis said staff “can always find an inmate”.

Ms. Abate asked about the useful life of the footwear. Chief Davis said soon the Department soon will have a good sense of required quantities, by size. He said that whatever the manufacturer claims is the useful life, the Department will assume it needs twice as many pairs of footwear as the manufacturer’s claims would suggest. Vice Chair Michael Regan said that the product presented to the Board at the November meeting seemed to be of high quality, and Member Alexander Rovt agreed.

Dr. Cohen asked if consistent protocols have been established for authorizing a prisoner to receive and wear “medical shoes” – either personal footwear or orthopedic shoes following a podiatry referral. Correctional Health Services (CHS) Medical Director Dr. Homer Venters said that at some facilities, providers write consults and give copies to security staff who accept them. He said that at facilities with high security areas, such as GRVC, when providers disagree as to whether special footwear is required, security staff have greater difficulty assessing the situation, and providers need to send the patient to podiatry for a resolution of the case. Dr. Cohen asked that DOC support the medical staff in GRVC to have the orders of clinical staff obeyed. Mr. Wolf said BOC staff has investigated cases of extraordinary delays, in which prisoners go to the clinic where they are given referrals to podiatry, who refer them to Bellevue, and the process takes months. Dr. Venters said this may happen when two different providers reach different conclusions. Chair Simmons asked if it is possible to establish a principle to which the system could aspire that a prisoner who requires special footwear should not go without it for more than a specified period. Member Milton Williams suggested that this approach might benefit from a legal opinion. Ms. Cohen said DOHMH would look into establishing a policy.

Ms. Abate asked DOC to continue to evaluate whether the time and expense spent on footwear was an effective way to improve security. Dr. Cohen said that the footwear “failure” should cause the Board to reconsider its decision to authorize DOC to require prisoners to wear uniforms. Mr. Regan said he agreed completely. He said that during pre-amendment discussions, DOC represented that footwear was a “safety item”, and that if BOC did not approve an amendment it would compromise the safety of correctional staff. He said the Board was “sold” a different series of facts. Chair Simmons responded that it was not necessary to revisit the uniforms issue, because DOC does not now have the capability to implement uniforms. She said perhaps it should be revisited at some point in the future. Mr. Wolf said that BOC staff has investigated cases of personal or

special footwear being confiscated during searches from prisoners who are authorized to have it. He said the new Order requires prisoners to carry at all times their medical authorization for special footwear. He asked whether DOC could maintain facility-wide and Department-wide authorization lists so prisoners would not have footwear approved at one facility confiscated upon admission to a second facility. Commissioner Schriro said DOC plans to do this as it upgrades its technology. Ms. Potler said most jails have no list, and a list would expedite a determination as to whether a prisoner is supposed to retain supportive footwear. Ms. Cohen said DOHMH would look into whether it could generate a facility list. Ms. Potler said the Order took effect on January 7th, and asked when staff training would occur. Chief Davis replied that no prisoner whose footwear has not already been confiscated will have it taken until DOC works out procurement with DCAS. He said the Order will be implemented slowly and in a way that makes sense. He added that training will be “set up” by the end of the week, and that Intake training already has begun. Mr. Wolf asked the Chief to notify the Board when training has been completed. Chief Davis agreed.

Member Rosemarie Maldonado said that the visitor dress code notice lists, under “unacceptable”, “hooded garments, hats, and head coverings”. She asked what accommodations are made for religious head coverings. Commissioner Schriro said DOC’s practice allows religious head coverings to be worn, and the notice will be corrected to reflect the practice. Chair Simmons pointed out that “russet sacks” should be corrected to read “ruck sacks”. The Commissioner agreed. Ms. Abate noted that leggings are very popular, and wondered whether DOC would consider them appropriate dress for visitors. The Commissioner said visitors will have more than 30 days notice to comply with the new visitor dress code.

Chair Simmons asked if the Members had questions about the planned interim central intake facility. Hearing no questions, she moved to DOC’s plans to change its violence indicators, noting that this was mentioned by Commissioner Schriro in her testimony on jail violence before the City Council. Mr. Wolf said the Board wanted to confirm that even as DOC moves to change the indicators it presents in the Mayor’s Management Report, the Department will continue generating C.O.D. Incident Reports and 24-Hour Reports providing the same information as in the past. Commissioner Schriro agreed, and noted that DOC now includes more information than in the past, including length of service of staff members and whether the prisoner is part of the Brad H. group. She said that a new indicator will report on serious injuries to inmates from all violent acts, not just slashings and stabbings. She said that similarly, suicides will be reported on the MMR as non-natural causes inmate deaths. She added that the goal was to generate a “more comprehensive picture” of jail violence. Dr. Cohen said that in her Council testimony, Commissioner Schriro said DOC would be installing 1200 additional video cameras. He said cameras are a critical tool to validate complaints “on all sides” and asked if the Department is installing additional cameras beyond what is required by court case settlements. Commissioner Schriro said yes, noting that the older cameras in CPSU will be replaced, but most of the new cameras represent a capability expansion. She said that many cameras will be installed in high security and mental observation areas.

Dr. Cohen said Commissioner Schriro had testified that inmates owe 35,000 days of bing time from prior incarcerations, and asked whether she intended to continue to require prisoners to serve “old” time in punitive segregation. He noted that the practice seemed counter to the goal of providing incentives to prisoners to encourage good behavior. Commissioner Schriro said the practice requires common sense, and DOC focuses on owed time that is attributable to violent acts. She added that DOC is expanding its bing bed capacities, even as it reviews the length of some infraction penalties and incorporates intermediate sanctions into the disciplinary system. She said that local bings will enhance the prospect of swift and certain punishment for infractions. Mr. Regan said he would like to participate in a conversation at another time regarding camera strategy and “smart camera” technology. The Commissioner said that all response teams now are directed to report with a video camera.

Mr. Rovt thanked BOC staff for arranging with the Department his visit to Rikers Island with the Chairman of the Supreme Court of the Ukraine. Mr. Rovt commended DOC uniformed staff, who were able to answer his and his guest’s questions.

Commissioner Schriro said DOC’s classification consultant, Jim Austin, will return on January 20th, and offered to arrange a meeting for Board members. She also noted that mental observation prisoners account for 4% of the population but 19% of violent incidents. She described these prisoners as often acting “impulsively”. The Commissioner said DOC is approaching the M.O. population differently, noting that DOC staff are becoming trained observers and implementing graduated sanctions, with some promising preliminary results.

Chair Simmons called for a report from DOHMH. Ms. Cohen reported that the new tuberculosis screening test is not yet up and running. She said preparation takes a long time, and includes building an “electronic pipeline” from a new lab to the DOHMH electronic health records. She said that new testing will begin toward the end of February and, assuming the pilot is successful, the test will be incorporated into central intake procedures. Dr. Cohen said that before the Board voted a variance, it asked Ms. Cohen whether, given that BOC had not given interested parties an opportunity to comment, it was necessary that the vote occur at that time. He said Ms. Cohen insisted that the vote occur because the testing would begin very soon. He said it is clear that it was not necessary to have the vote before the community had a chance to respond and asked that in the future, DOHMH not ask the Board to do something that is disrespectful to the constituents the Board serves. He added that it now is many months after the variance vote. Ms. Cohen said she disagreed with Dr. Cohen’s characterization -- DOHMH did not want to work on the project unless it knew it would have authorization to implement the test. She added that DOHMH would be pleased to discuss the planned pilot with any interested party. Chair Simmons said that in the future, the Board needs to be mindful of DOHMH’s needs and the Department needs to be responsive to the concerns raised by Dr. Cohen.

Ms. Cohen said the Prison Health Services (PHS) contract has been extended for two years. She introduced Dr. Jay Cowan, the new Medical Director for PHS. She said Dr. Cowan had been an attending physician in gastroenterology at Harlem Hospital and Chief of GI at North General Hospital. Ms. Cohen said there have been no further discussions regarding the relocation of forensic services at Metropolitan Hospital. Dr. Cohen asked for the dollar amount of the PHS contract extension. Ms. Cohen said she would send the information to the Board, but noted that it is the same base amount as the current contract, plus COLAS. Ms. Cohen then reported on efforts to transform the delivery of clinical services in mental observation housing areas:

Prisoner/patients in M.O. areas have been seen on rounds and received additional clinical services, but there nonetheless was considerable “down time”. Also, many patients, upon discharge, do not seek out available services in the community. A model has been developed, based on that used for “The Road Not Taken” substance abuse treatment program. This requires that all M.O. patients participate in programs that take place throughout the day. Therapeutic intervention focuses on pre-treatment – getting people ready to participate in treatment upon discharge. Participants are directed to think about medication compliance, and about how their mental illness impacts their ability to manage outside of jail.

Treatment in jail is always difficult. Planners focused on how to make the living units cleaner and safer.

The enhanced clinical program is “dawn-to-dusk” programming. It begins with a community meeting in the morning, which includes officers. Two groups each day are run by mental health clinicians and discharge planners. The four groups follow protocols established in collaboration with a group, New Freedoms, which helped create the curriculum for The Road Not Taken. The curriculum is presented in cycles, which are repeated regularly. There are low-literacy workbooks, with homework for participants.

The program includes a nurse case manager to ensure that participants are receiving the medications and consults they require. The program is in a pilot phase in three units at the Anna M. Kross Center (AMKC), and will be expanded as emerging issues are addressed and resolved. The program is being run in a budget-neutral way, using clinicians who already worked at AMKC. Treatment clinicians have been moved into the housing units, which changes the atmosphere and creates longitudinal relationships. It is a “leveled” program, using incentives to move participants based on behavior and engagement with the program.

Hopefully the program will be consolidated into one building by the fall, enabling benefits from economies of scale.

Mr. Regan said the program could help to improve continuity of care. Ms. Cohen agreed, adding that correction officers in the units will be able to feel that they are part of

a “team”. She added that the program will undergo important changes and improvements over the next year. Ms. Abate asked how DOHMH will evaluate the program, and what are its goals. Ms. Cohen said there will be a robust evaluation by DOHMH employees outside of the program. She said its goals are to engage participants, to promote medication compliance, to look at success of survival in the community, and accessing of treatment services in the community. Ms. Cohen said there will be a joint evaluation of participants with DOC, but no personal medical information will be shared with DOC. She said that information about violent incidents will be shared and discussed each week. She said parallel joint evaluations will take place: one at the facility level and one between the DOC and DOHMH Commissioners. She said that Dr. Daniel Selling is directing the program.

Dr. Cohen asked how the program affects MHAUII. He said BOC had heard about plans to change from MHAUII to an M.O. system, and had asked Ms. Cohen for information about changes in staffing levels and other programmatic changes. Ms. Cohen said DOHMH would like to eliminate MHAUII, but a first step is to re-establish, over the next several months, the Intensive Therapy Unit in GRVC. She said the ITU is for patients with Axis II diagnoses – behavioral disorders for whom medication often is not the answer. She said these patients sometimes respond to cognitive behavioral therapy. Ms. Cohen said that DOHMH and DOC are in an ongoing conversation about what to do with the MHAUII population, and she hopes a plan will be in place by October. She said the ITU has four tiers, and patients go from full lock-in to increased lock-out based upon behavior. She said that some groups and group activity would occur in the dayroom. Dr. Cohen said open dayrooms are very noisy. Ms. Cohen said that, regarding the “larger issue”, she hopes to engage community providers in a conversation about building a stronger alternatives-to-incarceration mental health system to support the needs of people who have been in and out of jail. She said that the program should not be considered a failure if there is no change in recidivism rates, but she expects to see a 10 to 25% reduction in recidivism within a year. She said that The Road Not Taken reduced recidivism by 35%. Ms. Cohen said the program will track whether patients seek treatment upon discharge and remain compliant with medications. Ms. Abate asked if the program will engage with families before discharge. Ms. Cohen said it will when possible, but noted that some families do not want the patient to return to them. Ms. Abate said that some family issues should be addressed in the program’s group sessions. Ms. Cohen agreed. Chair Simmons suggested that in February the Board Members should visit a program area. Ms. Cohen said the program is in its early stages, and DOHMH would like to hear suggestions for improvement from the Board. Ms. Abate asked if the program was operating in other jails. Dr. Selling said programs operate in other jurisdictions, but not with this level of treatment. He said this program’s levels of treatment are more extensive, with groups running from 9 a.m. until 8 p.m.

Dr. Cohen said he distributed this morning the Human Rights Watch report on bail in New York City and urged the Members to read it. Commissioner Schriro said central intake will facilitate studies of length of stay, including the time people sit in court pens before being released from custody, during which time they could be provided with information about community-based programs and services. Ms. Abate noted that the

Criminal Justice Agency (CJA) plays an important role in providing data about people in custody. Dr. Cohen said that now may be a good time to work to reduce the number of people with mental illness who come to jail because they cannot make low bails.

A motion to renew existing variances was passed without opposition. The meeting was adjourned at 10:31 a.m.