

**NEW YORK CITY  
BOARD OF CORRECTION**

**January 11, 2010**

MEMBERS PRESENT

Hildy J. Simmons, Chair  
Michael J. Regan, Vice-Chair  
Pamela S. Brier.  
Robert L. Cohen, M.D.  
Stanley Kreitman  
Rosemary Maldonado, Esq.  
Milton L. Williams, Jr., Esq.

Excused absences were noted for Catherine M. Abate, Esq. and Alexander Rovt.

DEPARTMENT OF CORRECTION

Dora B. Schriro, Ph.D., Commissioner  
Larry W. Davis, Sr., Chief of Department  
Florence Hutner, Esq., General Counsel/Deputy Commissioner for Legal Matters  
Mark Cranston, Chief of Staff/Commanding Officer, Office of Policy & Compliance (OPC)  
Harry Ahl, Deputy Warden/Executive Officer, OPC  
William Colon, Deputy Warden, Facility Operations  
Ronald Greenberg, Director of Inspections, OPC

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Thomas Farley, M.D., Commissioner  
Louise Cohen, Deputy Commissioner, Health Care Access and Improvement (HCAI)  
Suzette Gordon, Esq., Counsel, HCAI  
Marie Gbur, M.D., Medical Director, Correctional Health Services (CHS)  
Charles Luther, M.D., Executive Director for Mental Health, CHS  
Homer Venters, M.D., Deputy Medical Director, CHS  
George Axelrod, Esq., Director, Risk Management, CHS

OTHERS IN ATTENDANCE

Robert Calandra, Esq., Governmental Affairs Division (GAD), City Council  
Andy Grossman, Deputy Director, Finance Division, City Council  
William Hongach, GAD  
Maxine King, Women on the Rise Telling HerStory, Correctional Association  
Jenna Libersky, Independent Budget Office (IBO)  
Eyasu McCall, Unit Head, Office of Management and Budget (OMB)  
Timothy Rudd, Analyst, OMB  
Kerry Spitzer, Budget and Policy Analyst, IBO  
Dale Wilker, Esq., Prisoners' Rights Project (PRP), The Legal Aid Society  
Milton Zelermyer, Esq., PRP

Chair Hildy Simmons called the meeting to order at 9:03 a.m. Minutes from the November 9, 2009 Board of Correction meeting were approved without opposition.

Chair Simmons reported that she and BOC Executive Director Richard Wolf met with Chair Thomas Beilein and Commissioner Dr. Phyllis Harrison-Ross of the State Commission of Correction (SCOC). She said that they discussed agency agendas for the coming year, and overlapping concerns that might offer opportunities for BOC and SCOC to work together. Mr. Wolf reported that Dr. Harrison-Ross emailed him that she hopes to attend the Board's March meeting. Chair Simmons said that Dr. Harrison-Ross, Chair of SCOC's Medical Review Board, maintains her psychiatric practice in NYC, and expressed interest in working with the Board on health matters. Chair Simmons urged Members, especially Dr. Robert Cohen and Pamela Brier, to participate in a soon-to-be scheduled follow-up meeting with SCOC.

Chair Simmons announced the imminent departure from DOC of General Counsel Florence Hutner. She commended Ms. Hutner for her service and wished her well, as did other Board members.

Chair Simmons asked for a report from DOC Commissioner Dora Schriro, who responded as follows:

The new Chief of Department is Larry Davis, who has worked at DOC for thirty years. Three of his four sons also work for the Department. Chief Davis will exceed the Board's expectations and already has exceeded hers as they have worked together to refine the agency's mission, which she will present at the Board's March meeting.

The National Institute of Correction (NIC) is providing resources for two projects flowing from a top-to-bottom agency review. The first is a peer-review evaluation of individual jails: thirty individuals selected by DOC have evaluated three jails and will also function as "train-the-trainers". The remaining jails also will be evaluated soon. The second project is to examine DOC's classification system. This will be done by Dr. James Austin. This project will affect DOC's many special housing designations, some of which have been discussed with the Board. Most correctional agencies undertake a detailed examination of their classification system every five to seven years. DOC's system is 22-years-old, and was designed to classify prisoners within a range of scores from 1-16. Now however, inmates have scores ranging as high as 100+, and the ratio of high-security to low-security prisoners is disproportionately high. This means that the system cannot provide meaningful guidance to security and programs staff, and it is outdated. The current system "over-classifies", leading to an excess of special population categories and a high number of prisoners who are not in general population housing. The review should be completed by the end of February.

BOC Vice-Chair Michael Regan asked if DOC's goal is security enhancement or budget reduction. Commissioner Schriro responded that her goal is improving the

effectiveness of security operations by obtaining the best information about every prisoner at intake. She said that, after reorganization and staff training, DOC will implement the new classification system for all new admission prisoners, and thereafter reassess prisoners every 60 to 90 days. Dr. Cohen recommended that DOC not wait to review the classification status of close custody and other special category prisoners about whom BOC long expressed concern and who generally have long lengths of stay.

Commissioner Schriro explained that the new classification instrument will facilitate an objective, evidence-based analysis of the level of supervision required for various prisoners. She said that DOC probably will have a lot of data ready by BOC's March meeting but will share available findings beforehand. Chair Simmons said that Classification Standard gives DOC fairly broad latitude to establish a system within the Standards' framework, but both the Standards and the City Charter require Board involvement in system development. Mr. Wolf added that, over time, the Board has expressed most concern about enforcing subdivision (e), which requires DOC to use a classification system that groups prisoners according to the minimum degree of surveillance and security required. Commissioner Schriro responded that DOC already is making a comprehensive review of each special housing area to ensure that every unit is identified. She added that DOC is reviewing case law so that changes will comply with all legal mandates, including the Minimum Standards. Member Stanley Kreitman stressed the importance of having qualified staff making individual classification decisions. He said that adolescent prisoner violence statistics may reflect a poor classification system or poor decision-making. He urged the Department's classification staff to coordinate decision-making with DOHMH staff. Commissioner Schriro responded that both agencies have been discussing continued collaboration so as to achieve classification scores and housing assignments based on all critical factors: security, health and mental health.

Mr. Wolf reported on a recent tour of a special housing area with Dr. Cohen, Deputy Executive Director Cathy Potler, Director of Field Operations Kenneth Armstead, and BOC Field Representative Rahzeem Gray. He described 12 Main in the George R. Vierno Center (GRVC), containing twelve cells but currently housing six inmates, as a locked-in area about which BOC receives frequent complaints from inmates and their families. He said that the manner in which the housing area is operated contributes to its difficult environment. He explained that, while touring 12- Main, the group interviewed inmates, and reviewed posted notices and inmate records. He reported observing two Minimum Standards violations: some inmates are not permitted to have soap in cells, and some are not permitted to keep legal materials in their cells. Mr. Wolf said that an inmate must get the attention of a passing officer and get that officer to provide soap or legal materials through the cell gate, both of which are kept in a container on the floor outside the cell. Mr. Wolf described the group's meeting about their findings with a GRVC deputy warden and the warden, who stated that inmates may have soap in their cells and that, perhaps, some inmates asked to keep their legal materials outside their cells. Mr. Wolf responded that, to the contrary, an individualized notice is posted outside each inmate's cell listing restrictions on that inmate: several notices state that legal materials are to be kept outside the cell, that staff are to give materials to the inmate only upon

request and must take them back as soon as the inmate reviews the material. He reported that, although the warden said that he would rectify the violations, as of this morning, one inmate still was not permitted soap in his cell and two inmates still were not permitted legal materials in their cells.

Mr. Regan asked what type of inmate is assigned to 12 Main. Commissioner Schriro said their backgrounds vary, and noted some characteristics: high classification scores, extensive disciplinary history, mental health history, punitive segregation time spent in the Central Punitive Segregation Unit (CPSU) or in the Mental Health Assessment Unit for Infracted Inmates (MHAUII), and the accrual of many more punitive segregation days than the average prisoner would be able to serve while in DOC custody. She added that she could not yet answer if these are problem inmates or inmates with problems, or if DOC's current response to them is appropriate. Chair Simmons said that, while the Department is reviewing the future of this and other special housing areas, she expects DOC to resolve problems in a manner consistent with BOC Standards. Commissioner Schriro reiterated that DOC will complete its review of special housing as expeditiously as possible.

Commissioner Schriro next discussed visiting. She said that DOC began a review several years ago that was advanced significantly by contributions from the Board. Mr. Regan said that the Board recognizes DOC's need to maintain security and hopes that it is considering new technologies, such as are available for the aviation industry, which contribute to security without requiring much physical contact. He noted that, under the prior administration, Members heard "horror stories" from visitors who testified at BOC hearings about experiences with disrespectful staff. Chair Simmons added that time-consuming delays, and inconsistencies in rules and in notices about rules, made the visit process arduous and discouraged visitors. Commissioner Schriro responded that despite physical plant limitations, she plans to rearrange space or utilize space in new ways that will be more visitor-friendly, particularly for children. She added that she hopes to offer special services on holidays such as Mothers' Day. Chair Simmons applauded the Commissioner's decision to make visiting a priority, and her staff's responsiveness to the Board's complaints about bathroom sanitation. She described the Department's latest update on visiting as "tepid" and not responsive to issues raised by the Board. She commended DOC for ending the requirements that visitors present with their identification a current pay stub or school program, but questioned the requirement for anyone age 20 or under to provide proof of age, including babies. Commissioner Schriro said that DOC's focus only is on visitors whose age cannot be discerned visually as 16 or over, and who are not accompanied by an adult. She said the Department does not intend to require ID for children accompanied by an adult. Chief of Staff Mark Cranston said that he may not have presented the new ID policy clearly when writing the last report to BOC. Mr. Wolf responded that the ID requirement for children under age 16 is not new, and appears DOC's website, in the Visitors Guide, and on posters at the Visit Control Building. Mr. Cranston said that DOC has not completed revising its visitor identification requirements. Chair Simmons asked for an update by the March Board meeting, and for an interim report if DOC finalizes the policy sooner.

Commissioner Schriro reported that DOC is finalizing revisions to the Departmental policy that now ends contact visits for inmates who test positive for drugs or who refuse a urine test. She said she agrees with the Board's view that visit restrictions must be rationally related to positive drug tests. Chair Simmons said that she looks forward to receiving the revised Directive.

Chair Simmons welcomed DOHMH Commissioner Thomas Farley, M.D. to his first Board meeting, and invited him to address the Board. He reported as follows:

It is unusual for a city to both designate its health agency to be responsible for jail health care, and for that agency to take a public health approach rather than to provide only responsive primary care. Promoting healthy jail environments and providing preventive care helps to prevent serious, future health problems when prisoners return home. DOHMH preemptively addresses ailments for which prisoners are known to be at high risk. For example, prisoners rarely complain to clinic staffs about STDs or HIV but, by screening and offering literature and counseling about both, providers can prevent serious complications.

DOHMH is developing and disseminating an electronic medical record (EMR) designed to improve primary and preventive care. 1700 community health providers already are using the EMR, which has been adapted for implementation in the jails. DOHMH is phasing in the jail-based EMR for system-wide use in 2010.

Chair Simmons asked for progress reports at each Board meeting on the implementation and operation of the EMR. Commissioner Farley continued his report, as follows:

The contract with Prison Health Services ends on December 31, 2010, and DOHMH will issue a Request For Proposals (RFP) later in January or in February. A previously-issued concept paper solicited recommendations for services that a new contract should include. The Board's suggestions of organizations capable of providing quality jail health care are welcome.

Commissioner Farley noted that he assumed office in the midst of the H1N1 crisis, which originally was thought to be a severe pandemic for which the world long was preparing but which is not having as serious an impact as was feared. DOHMH's response in the spring primarily was to implement existing infection-control measures to prevent transmission person-to-person among prisoners and staff. These same measures were used in the fall, but with the added advantage of having a vaccine. More than 4000 prisoners and staff received the vaccine. In the Fall, H1N1 spread primarily among children, and only a small number of jail cases were reported, with no evidence of transmission within the jails.

DOHMH's budget must be cut by 4% in the current fiscal year and 8% in FY 11. The Department awaits OMB's response to DOHMH's proposed cuts, which would be accomplished through efficiencies that will not harm programs. The

DOHMH budget will remain attentive to populations that are most vulnerable to health problems, including prisoners.

DOHMH Deputy Commissioner Louise Cohen commended Commissioner Schriro on the manner in which DOC is assessing all custody activities, and said DOHMH and DOC would collaborate to enhance and transform mental health programming. Commissioner Farley acknowledged the value of DOHMH working closely with the Board. Mr. Regan said that Commissioner Farley's presence reveals an intent to continue the close working relationship between DOHMH and BOC established by his predecessor.

Ms. Cohen announced the departure of Medical Director Dr. Maria Gbur, who significantly improved DOHMH's oversight of jail health care services. She said that Dr. Gbur will become Housing Works' Chief Medical Officer. Ms. Cohen introduced Dr. Homer Venters, who will become Correctional Health Services' Medical Director, having served as Deputy Medical Director.

Member Pamela Brier thanked Ms. Cohen for providing a narrative explanation of prisoner mental health care procedures. Ms. Brier reiterated that she is interested in DOHMH's assessment of PHS' performance – beyond the Performance Indicators regularly given to the Board. She said this is particularly important given that DOHMH will be assessing responses to the RFP. Dr. Cohen suggested that in the future DOHMH should report on the quality of procedures, including strengths and weaknesses encountered by DOHMH and PHS staff. He also asked for updates on staffing levels and assignments. Mr. Regan agreed, reiterating his long-standing concern about mental health continuity of care. Dr. Cohen asked about compliance with regulations on mental health staff seeing patients within 72 hours of referral. Dr. Charles Luther, CHS' Executive Director for Mental Health, responded that CHS tracks treatment very closely, and that all patients, whether emergency or routine referral, are seen within 72 hours. He said that patients who are more acutely ill have quicker access to psychiatric staff, who are on duty 24-hours daily. Chair Simmons suggested that Members identify health-related issues about which the Board should be more knowledgeable, so Ms. Cohen can begin tracking them to facilitate future conversations, which could begin at the Board's March BOC meeting.

Member Catherine Abate presented a report, by telephone from Albany, as follows:

The Board's recent inspection of the Robert N. Davoren Center (RNDC) was attended by Dr. Cohen, Mr. Kreitman, and Ms. Abate, and Mr. Wolf, Ms. Potler and Mr. Armstead. The purpose of the tour was to pursue issues of adolescent violence and uses of force (UOF), special-needs services, programming, education, and other topics that impact adolescents while in custody and upon their return to the NYC community. Before inspecting mental health, punitive segregation and Institute for Inner Development (IID) housing areas, the group met with RNDC Warden Edmund Duffy and his deputy wardens, who described how they track, analyze and address violence. RNDC management participates in

weekly Gang Intelligence Unit meetings. From his office in the jail, the warden monitors housing areas using live video feeds. He has his staff review materials from every fight, UOF, and use of chemical agent. They are instructed to identify instances in which staff use closed fists or use physical force when a chemical agent would have sufficed. RNDC staff seeks to identify underlying causes of fights, the participants, and the location.

The warden believes that increased use of chemical agents results in fewer instances of serious injuries among adolescents, but complained that medical information from Bellevue Hospital often is not available until after an inmate returns to RNDC. Dr. Cohen told the BOC group and the warden that health providers can be a good source of violence-related information, so RNDC officials should meet regularly with the Clinical Director and staff. This would increase trust, lines of communication, and intelligence gathering. Similarly, RNDC management should meet regularly with Department of Education officials at RNDC, who not only witness fights but also are recipients of student confidences. The Department should focus on eighteen year-olds who are not mandated to attend school but who need education and to be less idle.

When the group inspected the IID housing area, Dr. Cohen observed that eight or nine adolescents were idle in the housing area. The BOC group was told these adolescent prisoners did not have to attend school because they already have their GEDs.

The disciplinary system is disproportionately affecting adolescents: approximately 80 adolescents are housed in the Central Punitive Segregation Unit (CPSU). Warden Duffy reported that the threat of transfer to CPSU does not deter adolescent violence and, when adolescent inmates return to RNDC, their attitudes and behaviors are worse. The BOC group discussed with the warden confining in RNDC all adolescents who require punitive segregation using a variety of punitive segregation models. Another Board suggestion was to reduce the number of adolescents in each housing area.

The Board should obtain from DOC information on violence trends, and DOC's methods for tracking, analyzing, and addressing them. The Department also should provide information on the relationship between the Inspector General's Office and DOC's Investigations Division: which staff performs which tasks in which time-frame, record-keeping and information-sharing, timing of response and completion of investigations.

Chair Simmons agreed that the Board will pursue recommendations and requests regarding RNDC. She urged other Members to notify her if they want to tour RNDC before the March meeting.

Chair Simmons Commissioner Farley if his announcement of the City's new policy on salt content in food would apply to the jails. Commissioner Farley responded

that DOHMH is working with other City agencies on developing food procurement and preparation standards. Commissioner Schriro reported that DOC's assistant commissioner for nutritional services ensures compliance with various standards, but said that she did not know if DOHMH had contacted DOC about salt content. Chair Simmons said that DOC should come into line with other City agencies, particularly since food salt content has such an impact on health issues to which prisoners are known to be vulnerable.

Chair Simmons invited comments by DOC's new Chief of Department, Larry Davis. He assured Members that he is committed to ensuring that BOC goals, objectives, and intentions are implemented. He cited a January 8th meeting with all wardens at which the basic theme was that they be concerned about everything they do not know about their jails, including things about which BOC staff are aware or that his own staff are aware. He added that he was not aware of the BOC tour of GRVC's 12-Main special housing area, or of the BOC findings presented to the GRVC warden. Noting his past request for monthly meetings with BOC Director of Field Operations Armstead so this type of complaint need not come to a forum such as a Board meeting, he asked for such staff sessions so Member meetings can be used to address larger issues. Chair Simmons responded that BOC has had no forum other than Board meetings at which to present concerns and findings but that she will direct BOC staff to implement, before the March Board meeting, the monthly staff meeting process proposed by Chief Davis to resolve daily DOC performance problems evaluated by BOC staff.

Mr. Wolf reported that Commissioner Schriro requested a renewal of a variance, first granted on May 22, 2009, from the Classification Standard. He said that to enhance infection-control efforts involving the H1N1 virus, the variance authorizes DOC to mix in one RMSC housing area all categories of uninfected pregnant prisoners. He said that currently there are no adolescents in the housing area, and that the variance has had no negative impact on prisoners housed there. A motion to renew all existing variances was approved without opposition.

Chair Simmons adjourned the meeting at 10:12 a.m.