

NEW YORK CITY
BOARD OF CORRECTION

May 9, 2011

MEMBERS PRESENT

Hildy J. Simmons, Chair
Michael J. Regan, Vice Chair
Catherine M. Abate, Esq.
Pamela S. Brier
Robert L. Cohen, M.D.
Stanley Kreitman
Rosemarie Maldonado, Esq.

Excused absences were noted for Members Alexander Rovt, PhD and Milton L. Williams, Jr., Esq.

DEPARTMENT OF CORRECTION

Dora B. Schriro, Commissioner
Larry W. Davis, Chief of Department
Lewis S. Finkelman, Esq., First Deputy Commissioner
Sharman Stein, Deputy Commissioner, Public Information
Michael Hourihane, Deputy Chief of Department
Thomas Bergdall, Esq., General Counsel
Sara Taylor, Chief of Staff
Martin Murphy, Deputy Chief of Staff
Erik Berliner, Associate Commissioner
Carleen McLaughlin, Legislative Affairs Associate

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Louise Cohen, Deputy Commissioner
Homer Venters, M.D., Assistant Commissioner and Medical Director, CHS
Farah Parvaez, M.D., Medical Officer, Centers for Disease Control

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
Christina Fiorentini, Independent Budget Office (IBO)
Susana Guerrero, State Commission of Correction
William Hongach, NYC Council
Michael Keogh, Bolton-St. Johns, LLC
Danielle Louis, Office of Management & Budget (OMB)
Lindsey Oates, OMB
Margaret Pletnikoff, OMB

Natasha Salas, IBO

Irene Salas-Menotti, Intern, Board of Correction

Kelly Virella, *City Limits*

Milton Zelermyer, Esq., Legal Aid Society, Prisoners' Rights Project

Chair Hildy Simmons opened the meeting at 9:08 a.m. A motion to approve minutes from the March, 2011 BOC meeting was approved without opposition.

Chair Simmons reminded the Members that the Board will conduct an inspection on Rikers Island on June 9, 2011. She commended the BOC staff for its work in following-up on numerous issues of interest to the Board, noting that by meeting bi-monthly, the Board enables staff to thoroughly research ongoing issues and provide comprehensive information to the Members. Chair Simmons told DOC Commissioner Schriro that the Board was concerned about delays in the Department's production of information and materials requested by the Board. Noting that she made her remarks in a spirit of cooperation, the Chair said the Board expects timely responses, and if in this sometimes is not possible, DOC staff must let BOC staff know. Commissioner Schriro then presented her report, as follows:

Adopting the recommendation of an expert from the National Institute of Corrections (NIC), the Department began using suicide smocks in 2004. DOC, which uses one-size-fits-all garments secured by Velcro, now is reviewing practices around the country. Some jurisdictions use smocks with metal snaps, and DOHMH has expressed some concerns about this model. DOC also has begun using jumpsuits for prisoners in one housing unit at AMKC, and will monitor its use. For now, DOC wishes to maintain the longstanding variance as is.

DOC also provides a paper undergarment, which the prisoner may choose to wear. The current product is not optimal, and DOHMH will assist DOC in procuring a better one, which also will be made of paper. DOC intends to continue issuing the current undergarment rather than returning personal undergarments to prisoners on suicide watch. On a related note, the use of paper gowns is being discontinued because they do not provide appropriate modesty or temperature protection. The smock is a quilted garment, appropriate in all seasons for climate-controlled housing units.

Regarding the Visitor Dress Code, DOC does not expressly search visitors to determine whether they are wearing undergarments, but if they appear to not be wearing appropriate undergarments, particularly brassieres, they will be offered a cover-up garment. If they agree to wear it, they will proceed with their visit. If not, they will be denied. The Department appreciates the Board bringing this issue to its attention.

BOC Deputy Executive Director Cathy Potler reported that a female visitor wearing an underwire bra often would trigger the alarm on a magnetometer, so some women stopped wearing them. Commissioner Schriro said there have been very few refusals by visitors to wear the cover-up garment when asked to do so, and this has occurred in only three facilities. BOC Executive Director Richard Wolf said that in April DOC reported five refusals. Commissioner Schriro said there were no refusals in

February; in March, AMKC reported seven refusals, 3 at EMTC, and one at GMDC; all five in April were at AMKC. Board Member Robert Cohen, M.D., said the situation parallels France, in that DOC is deciding what is a socially legitimate garment to wear, and requiring visitors to cover themselves to meet someone else's standards. Mr. Wolf asked that DOC track the number of visitors who wear the cover-ups at visits, to enable the Board to understand the frequency with which DOC objects to visitors' dress. Regarding a related visit issue raised at the March BOC meeting, Commissioner Schriro said that jumpsuits worn by inmates at visits are laundered, not pressed, so they may not look crisp. She added that the facility has ordered additional jumpsuits.

First Deputy Commissioner Lewis Finkelman reported the following rollout dates for Visitor Express: RMSC, GMDC, and EMTC will "go live" next week (week of May 16, 2011), RNDC on May 18th, GRVC and CPSU on May 25th, and AMKC non-contact visit area on a date to be determined. Deputy Chief Michael Hourihane explained that separate scanning points will be established to record the start- and stop-times of non-contact visits.

Commissioner Schriro said that renovation of the Central Visit Building will begin on May 16th. Mr. Wolf asked if the plans remain the same as those that were scheduled to be completed by Memorial Day. Commissioner Schriro said yes. Member Pamela Brier asked if DOC's capital budget had been reduced. Commissioner Schriro said yes, and that the reduction is on top of that announced in prior years. She said that no safety and security capital plans have been affected.

Mr. Wolf asked how many inmates had been affected by DOC's new policy of denying contact visits to inmates whose visitors are caught passing contraband or possessing it inside DOC facilities. Commissioner Schriro said 16 inmates have been restricted to non-contact visits since the Teletype was issued on April 12th. Chair Simmons asked that the Board receive information on these restrictions regularly. Commissioner Schriro agreed, and continued her report, as follows:

Regarding capital construction, renovations at the North Infirmery Command will begin in June, so the Main facility will be closed for approximately 18 months. Construction on the interim central intake facility is scheduled to begin in mid-November. The State Commission of Correction has required final architectural drawings before giving approval, and this could delay the process further. Work at the Queens Detention Complex on fire safety and elevators will be completed in July 2012. At the Brooklyn Detention Complex, renovations will be completed in July 2012.

Chair Simmons asked if the work had actually begun on the borough houses. Commissioner Schriro said that for much of the needed work, vendors have been identified, but the work has not begun. Chair Simmons expressed concern that the City's fiscal problems could cause further delays, and asked if the start dates were firm. Mr. Finkelman said that for Brooklyn, contracts for elevator work and fire safety both are at the Comptroller's office for registration, and DOC hopes these will be registered in the

next two weeks. He said the work will take 6 months to complete. Ms. Brier asked if DOC could create a status chart bi-monthly or quarterly to better keep track of the projects. Commissioner Schriro agreed. Vice Chair Michael Regan asked if the Comptroller's office is approving contracts, given the CityTime situation. Mr. Finkelman said the process is not easy, but approvals are obtainable.

Member Catherine Abate asked what percentage of available beds is used on a daily basis. Commissioner Schriro said the percentage is in the low nineties, adding that the number does not reflect all beds. She said that JATC's beds remain technically "on-line", although they are very old and have not been used to house inmates in years. She said other beds are closed for repairs to lights and plumbing, adding that the shower renovation project results in several housing areas being "off-line" at any point. Commissioner Abate asked if the Commissioner was concerned about having enough beds, and Commissioner Schriro said she was not. She said that reductions in arraignment parts on weekends and evenings might affect the incarcerated population. Chair Simmons asked that the construction chart requested by Ms. Brier be provided before the July meeting. She said that much work already had been done in Brooklyn. Mr. Finkelman said that the only work that remains is fire safety and elevator work. Commissioner Schriro added a caveat to the anticipated re-occupancy date for Brooklyn: the availability of staffing. Mr. Wolf asked if the Brooklyn beds would replace existing beds that will be taken off-line. The Commissioner said yes, adding that additional staffing would be required for Brooklyn. Chair Simmons said DOC should realize some savings on transportation costs. Commissioner Schriro said DOC has been working closely with OMB, and she expects to reopen Brooklyn at the beginning of the next fiscal year.

Commissioner Schriro next addressed institutional footwear, noting that the Board had received written confirmation from Chief Davis that training had taken place among high-ranking staff at all facilities, and command-level orders had been updated accordingly. Mr. Wolf asked if the visit captains had been trained. Chief Davis said this will be done by the Deputy Wardens for Programs. Commissioner Schriro said this was "refresher" training, noting that training had occurred in January and February, 2011. Commissioner Schriro said that Reebok sneakers are permitted, but that one style has an insignia with a red flag and therefore is not permitted. She said inmates may send these sneakers home or have them placed in their property. She said that some facilities had colored over the red color with black magic marker, but DOC has determined that this is not appropriate. Mr. Wolf asked if inmates who have been wearing Reeboks that have had the red marking covered up will be required to surrender the sneakers, and Chief Davis said yes. Commissioner Schriro said that a security bulletin issued by the Deputy Chief of Security discusses the issue, and she will provide the Board with a copy. Mr. Wolf said that BOC has received complaints regarding the lack of consistency among facilities as to how personal footwear is handled. He suggested that BOC staff meet with Department staff to clarify issues regarding inmate property. Commissioner Schriro agreed. Mr. Wolf added that although the Department expects that inmates will be released from custody with their property, some inmates arrive at the S.O.D. building without their property, and are sent back to the releasing jail to receive it.

Noting that she had spoken with Mr. Wolf in advance of today's meeting about the possibility of a more thorough discussion in executive session, Commissioner Schriro reported as follows:

On April 14th at NIC, an inmate in high custody, enhanced restraint status, cut another inmate in the same status. An investigation is ongoing. The victim, following a prompt medical response, is "quite well", having been taken to the hospital and returned to DOC the following day. Overall safety and security is improved, but there always will be a small number of inmates who engage in violent conduct. For the second four months of the fiscal year, all indicators showed improvement when compared with the first four months. In March there were no stabbings or slashings.

The Department will provide data to the Board, including April's numbers. Most serious incidents occur among high-custody, high-security inmates, particularly if they are part of the Brad H class and are classified as in need of mental observation. Another important factor is SRG (security risk group) affiliation. This group acts in a predictable fashion, with the greatest propensity for violence.

DOC's revised custody classification will "go live" in July. Housing units are being reallocated to enable DOC to maximize control. DOC will implement a new custody management grid that, within BOC and SCOC standards, will facilitate better control. For example, in areas where DOC has flexibility – including movement, level of escort, access to phones and commissary – it will exercise it.

Dr. Cohen asked whether, given the Commissioner's identification of mental health status as contributing to violence, plans include additional mental health staff and observation units. She said there is a commitment to expand the 3-dormitory pilot, noting that violence has been more than halved in those units. She said expansion will occur in September. She said that some Brad H inmates would benefit from being in MO housing, if it were available. DOHMH Deputy Commissioner Louise Cohen reported as follows:

The issue is not the number of staff, but appropriate deployment. In the three pilot units, staff are running groups frequently. Skills building and group activity are important. Contrary to Commissioner Schriro's assertion, the issue with these inmates is not propensity for violence, but rather poor impulse control. She said the program is more a "pre-treatment ramp" than a violence reduction program.

When all MO inmates are in one building, DOHMH anticipates the ability to provide much greater continuity of care. The goal is to bring services to the housing units.

Dr. Cohen observed that the number of segregation beds are increasing, but not the number of treatment beds. He said the answer is not to have more people in decentralized segregation beds, even as CPSU and MHAUII remain. He said he expects the same phenomenon will occur regarding MO inmates. He said that the problem is that the system is receiving more and more inmates with serious mental illness. Ms. Cohen agreed that it would be better if there were fewer segregation beds.

Commissioner Schriro reported on new security procedures, as follows:

New security procedures have been adopted, and will be implemented on a case-by-case basis. A recent dispute between two inmates resulted in a slashing. Old practice would be to conduct a post-incident tactical search operation (TSO) by staff assigned to the facility, and then restore the house to general operations. This time, however, a special search team was conducted. Prisoners were required to change into jumpsuits and wear DOC-issued footwear. Property was inventoried and put through a line scan. Urine samples were taken; commissary accounts and phone records were examined. These steps yielded significant investigative findings, which could be discussed in executive session.

Because the search exceeded 24 hours, Mr. Wolf was contacted and apprised of developments as they occurred.

Chair Simmons noted that DOC had declared an emergency variance under the Minimum Standards. Mr. Wolf said the Department needed to be mindful that a search exceeding the 24-hour emergency period could implicate visits, access to law library, and other activities governed by the Minimum Standards, so it was important and helpful that the Commissioner kept him informed of developments. Mr. Wolf reported that the slashing occurred on one side of a housing area, but the other side was also locked down and the inmates were subjected to the same enhanced security procedures. He said BOC received allegations from some inmates that their clothing was forcibly removed by staff. He said if this was true, the incidents should have been reported as allegations of unreported uses of force. He added that, following the alleged incidents, two inmates claimed they were denied access to sick call. Mr. Wolf said these allegations were reported to DOC, and investigations are underway.

Ms. Abate asked if electronic medical records (EMR) and discharge planning provide additional information about prisoners in need of mental health services. Ms. Cohen said this will be the case, going forward. She said the now DOC-wide EMR-system will enable providers to learn the medications a prisoner-patient was taking before entering DOC custody. Chair Simmons congratulated all involved in completing system-wide implementation of EMR.

Dr. Farah Parvaez, Medical Officer from the Centers for Disease Control, distributed and referred to a five-page handout (attached), as she reported on DOHMH's experience with the quantiferon tuberculosis-test (QFT) variance, as follows:

DOHMH requested a variance from BOC and then engaged in preparatory work prior to implementation at the Rose M. Singer Center (RMSC). This primarily involved developing and testing changes to the electronic medical records system, eCW (Electronic Clinical Works), particularly because a new lab would be performing tests and generating results. TB policies and procedures were revised to include storage, pickup and delivery of specimens. Staff were trained, including clinical staff and the PHS Help Desk. On March 14, the pilot began at RMSC, with QFT replacing the PPD test.

At intake, all new RMSC inmates are screened for signs and symptoms of TB, and documentation is reviewed. Intake providers ask about histories of both TB and HIV. The health record is checked for past TB testing. If an inmate exhibits signs and symptoms, she goes to the CDU for a full workup. If there is a history of TB or a prior positive test result, the test will not be repeated. However, in such cases, or if a prisoner-patient is HIV-positive, a chest x-ray will be taken to rule out active disease.

When the pilot began, most women did not have a documented QFT, so the test was administered to establish a baseline. If active TB or latent TB is diagnosed, case management is done at RMSC by DOHMH TB staff, which includes planning for treatment post-incarceration.

Dr. Parvaez next reviewed pilot data for the period from March 14 through April 14, 2011 (Handout, p. 4), noting that 28 of 565 women tested positive. She said this is a comparable positivity rate to that found using the PPD skin test. She also noted that 8 women (1.4%) had indeterminate results, which is consistent with rates in other settings. Dr. Parvaez said the pilot results show that QFT is feasible in a jail clinic setting, and the test did not increase medical intake processing time. She said the QFT eliminates the need to implant the skin test, and also the need to go to the housing areas, locate the inmates, and read the results. She added that with QFT, the lab result arrives electronically in the inmate-patient's medical record, and is available immediately after processing by the lab, thereby saving at least one day. Chair Simmons asked how long the pilot will continue. Ms. Cohen said she anticipates using the QFT only at RMSC, until DOC moves to a central intake system. Ms. Abate asked for a cost comparison between the PPD and the QFT. Ms. Cohen said the QTF itself is four times more expensive, but both DOHMH and DOC realize considerable staff savings with the QFT. Dr. Cohen said it is important that DOHMH is expanding its approach to detecting TB in the jails and throughout the City.

A motion to extend the QFT variance was approved without opposition.

Ms. Cohen said that PHS' recent merger is likely to have consequences for future bidding on the contract to provide correctional health services, as it is likely to reduce competition.

Ms. Cohen reported on DOHMH budget, noting that there were some cuts to Correctional Health Services. She said the PHS contract for FY12 is \$120 million. She said reductions primarily affect medical records clerks, from 65 clerks to approximately 20, who will be needed to scan some documents into eCW. Ms. Cohen said she expects that when the borough jails reopen, funds will be available for provider staff. She said that it is her understanding that no mental health inmates are going into "local" punitive segregation beds, noting that DOHMH thus far has been able to absorb with existing staff the need for additional rounds. Dr. Cohen asked if clinics are being closed when punitive segregation prisoners are brought to the clinics. CHS Assistant Commissioner Homer Venters, MD, said this usually does not happen, noting that it happened a few times when the new beds first opened, but now at EMTC this does not occur.

Dr. Cohen reported on a recent visit to Rikers Island, as follows:

In a meeting with Dr. Jay Cowan and Dr. Luis Cintron, it was noted that fewer than one-half the prisoner-patients scheduled for on-island specialty clinics made it to their appointments. Dr. Cowan was disappointed with this. The Board will want to know what steps will be taken to improve this situation.

Information requested by BOC regarding off-Island specialty clinics at Bellevue and Elmhurst still has not been provided, nor has information about length-of-stay in hospitals. This information was requested on January 13, 2011.

Chair Simmons said it would be helpful to receive the information before the Board's June Rikers Island inspection. Ms. Cohen said it would be helpful if she were copied on requests for information. Ms. Potler said the request was to DOC, not DOHMH.

Dr. Cohen said that an inmate slipped on a broken tile in an Infirmary shower, and when the grab-bar gave way, the inmate fell and broke his wrist. He also cited reports that maggots had fallen from the roof of the Infirmary, and expressed the wish that PHS would refuse to work in the Infirmary unless conditions were improved immediately. He urged DOC to move the Infirmary to the top of its capital improvements list. Dr. Venters responded that NIC Main is closing for renovations, but the Infirmary will remain open, although inmate-patients will have to be moved around to accommodate shower renovations. Ms. Cohen agreed that inasmuch as the Infirmary houses high-acuity patients, improvements are needed in conditions there, and shower renovations will fix some, but not all of the problems.

Regarding sick call, Dr. Cohen said that records are not maintained reporting on the number of patients who attend, but rather report only which housing areas are called for sick call. He said the Board will work with DOHMH and DOC to improve recordkeeping. Ms. Abate said that eCW should facilitate a discussion about which reports should be generated. Ms. Cohen agreed that it is important to know why patients do not arrive at clinic appointments. She said that some prisoners choose not to go to sick call, even though they signed up for it, and other prisoners come to sick call for non-

medical, “other” reasons. She said that when providers are able to better understand who comes to sick call, who does not, and why, it will be possible to provide better services. Ms. Cohen said that at VCBC, diabetics are housed together and services are brought to them, reducing the need for urgent care.

Chair Simmons said Dr. Cohen has raised some important issues, and discussion should continue at the Board’s July meeting. She said that, if helpful, the Board could support funding requests to OMB. She told Commissioner Schriro that time constraints prevented an executive session to discuss the investigation, and trusted that she would keep the Board apprised of developments.

The public meeting adjourned at 10:32 a.m. Following adoption of a motion, the Board met in executive session to discuss a personnel matter. The executive session concluded at 10:50 a.m.