

NEW YORK CITY
BOARD OF CORRECTION

July 22, 2013

MEMBERS PRESENT

Gerald Harris, Esq., Chair
Gordon Campbell
Greg Berman
Robert L. Cohen, M.D.
Michael J. Regan
Pamela Silverblatt, Esq.

Excused absences were noted for Vice-Chair Alexander Rovt, Ph.D. and Catherine Abate, 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
Shirvahna Gobin, Executive Director for Intergovernmental Affairs
Eldin L. Villafone, Press Secretary
Carleen McLaughlin, Legislative Affairs Associate

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Amanda Parsons, M.D., Deputy Commissioner
Homer Venters, M.D., Assistant Commissioner, Correctional Health Services (CHS)
Ross McDonald, M.D., Medical Director, CHS
Daniel Selling, Psy.D., Executive Director of Mental Health/Substance Abuse Treatment, CHS
George Axelrod, Esq., Director of Risk Management, CHS

OTHERS IN ATTENDANCE

Becca Broche, Jails Action Coalition (JAC)
Matthew Claiborne, Columbia University School of Journalism
Diane Cook, JAC
Megan Crowe-Rothstein, JAC
Laurie Davidson, Contract Administrator, Doctors Council SEIU
Allan Feinblum, JAC
Chrissy Fiorentini, NYC Independent Budget Office (IBO)
Leah Gitter, JAC
James Goward, Esq., Bronx District Attorneys Office
Jeng-Tying Hong, Columbia University School of Journalism
William Hongach, City Council
Karen Imus, Connelly McLaughlin & Woloz
Tomoeh Ise, Urban Justice Center
Neil Leibowitz, M.D., Director, Mental Health, Corizon
Jeff Mailman, City Council
Five Mualimmak, Campaign to End the New Jim Crow
Kristin Misner, Deputy Mayor's Office
Jennifer Parish, Urban Justice Center/JAC
Nashla Salas, NYC Independent Budget Office (IBO)

Eric Sarver, Esq., JAC

Gail Weiner, JAC

Allison Wilkey, Youth Represent

Fury Young, JAC

Sallina Yung, OMB

Michael Zuckerman, MD, Vice President of Operations, Corizon

Chair Gerald Harris called the meeting to order at 9:10 a.m. A motion to adopt the minutes from the Board's June 3rd meeting was approved without objection. The Chair announced that Pamela Brier resigned from the Board and requested that a resolution be adopted thanking Ms. Brier for her many years of dedicated service as a member of the Board. The members unanimously approved the resolution.

Chair Harris welcomed a new Board member, Gordon Campbell, and requested that he introduce himself. Mr. Campbell stated that he has spent 15 years in New York City government working at the Human Resources Administration where he headed the office of Medicaid Transportation and started the Division of AIDS Services; at the Mayor's Office of Operations as Chief of Staff for the First Deputy Mayor; and finally as the Commissioner of the Department of Homeless Services. After leaving City government, Mr. Campbell added that he headed up the Victim Services Agency, which is now called Safe Horizon, then for five years was the President and CEO of United Way of New York City and last fall moved to NYU Wagner School of Public Affairs as a professor of practice.

Chair Harris began his report by congratulating the Department of Correction (DOC) on its record number of inmates recently receiving their Regent diplomas and GEDs from the East River Academy on Rikers Island. Noting the unusually high temperatures and humidity, Chair Harris asked Executive Director Cathy Potler to update the Board on the conditions in the jails. Ms. Potler reported that Board staff has been monitoring the temperatures throughout the jails, but especially in the punitive segregation areas. She stated that overall DOC has been providing cold water, fans and extra showers; however, there are two housing areas of particular concern: one is the adult Restrictive Housing Unit (RHU) at the Anna M. Kross Center (AMKC) where temperatures in some of the cells ranged as high as 89 and 90 degrees and 88 to 89 degrees on the tier corridor and the other is the adolescent RHU at Robert N. Davoren Center (RNDC) where temperatures were equally high, except that the RNDC RHU is equipped with two air conditioners, one at the end of the corridor and the other in the dayroom. Ms. Potler stated that these temperature readings were reported to both Departments of Correction and Health and Mental Hygiene (DOHMH). After taking temperature readings, which were consistent with those taken by Board staff, DOHMH removed heat sensitive inmates from both RHUs and restricted admission into the RHUs until the temperature falls below 88 degrees. Ms. Potler concluded by stating that DOC is in the process of installing air conditioning units in the AMKC RHU.

Commissioner Schriro stated that the Board and DOC "have had great communication" throughout this heat spell and that air conditioners in the AMKC RHU are now in place. DOHMH's Assistant Commissioner Homer Venters, MD, added that DOHMH worked closely with both the Board and DOC during the heat spell. He stated that any person who is heat sensitive and housed in solitary confinement should not remain in cells that exceed 88 degrees. In those cases the individuals were transferred out and admission to some units was stopped.

Chair Harris reported that the Board received a letter (attached) from the Doctors Council, a union that represents doctors who work in the City jail system, expressing concerns about staffing levels, security issues and wait times for treatment. Ms. Potler stated that after receiving Doctors Council's communication, she has set up a meeting with representatives to discuss their concerns and will keep the Board updated.

The Chair reported that at the last Board meeting, he appointed a committee to examine the issue of solitary confinement and the need for rulemaking. He added that the Board has been waiting for a report from our consultants, a draft of which is anticipated sometime this week. He requested that Board Member and Chair of that Committee Dr. Robert Cohen report on the Committee's work.

Dr. Cohen stated that the Committee has met three times: first the members, met alone; the second time, with Commissioner Schriro; and the third meeting was this morning with representatives of the Jails Action Coalition (JAC). After today's Board meeting, the Committee will meet with representatives from DOHMH. Dr. Cohen expressed his appreciation to Board staff for providing data and documents to the Committee and to DOC and DOHMH for responding to numerous requests for information. Dr. Cohen concluded by confirming that the Committee is on track and will be delivering a report to the full Board on August 22nd.

Chair Harris requested that Ms. Potler report on DOC's reporting requirements established in the resolution that created the Board's Committee on reviewing the issue of solitary confinement and rulemaking. Ms. Potler stated that the Department has provided the July 1st reports to the Board and has also updated the timeline as recently as Friday. The next reports are due on August 1st. She noted that there have been some recent adjustments made, particularly with respect to the CAPS program for the women that DOC and DOHMH will be reporting on.

The Chair discussed two recent announcements involving arrests of correctional staff: (1) two officers were arrested by a joint task force involving the U.S. Attorneys Office, the Department of Investigation (DOI) and the U.S. Drug Enforcement Agency (DEA) in connection with charges of bringing both marijuana and weapons into the jail and alleging that these items were being sold by two officers to inmates and (2) the Bronx District Attorney's Office announcement that ten DOC uniform staff, including three supervisors and seven officers, were indicted in connection with an assault on an inmate named Jamal Lightfoot. Chair Harris asked the Commissioner to discuss these incidents.

Commissioner Schriro responded that she would make a few statements now, but then would request to go into executive session to discuss specifics since both cases are under investigation. The Commissioner pointed out that in both cases it was DOC that made the referrals to DOI. She explained that the referrals concerning the first two arrests dealing with the introduction of contraband had been made well over a year ago and in the second matter, DOC contacted DOI that very night when the uses of force occurred and within a matter of hours DOI had taken the case. The Commissioner discussed steps taken to "eliminate the circumstances that would ever warrant the use of force...and have taken other measures to identify and to make independent assessment, when force occurs, whether or not it was warranted, whether or not it was excessive, and whether or not it was reported as it actually occurred." She further stated that in instances where "matters were either underreported or not reported at all ... we have moved swiftly to modify or suspend those individuals pending the outcome of our own investigations, except in those instances where DOI takes them over." The Commissioner added that the Department has significantly increased the installation of video cameras to assist them in their investigations, and that almost 2,700 cameras have been installed. Chair Harris noted that a brief executive session will be held after the meeting.

Commissioner Schriro updated the Board on the opening of Clinical Alternative to Punitive Segregation (CAPS), expansion of the RHUs and the consolidation of the mental observation units making reference to a one-page document entitled "Timeline for Alternatives to Punitive Segregation for Mentally Ill Inmates" distributed at the meeting (attached herein). She announced that a "dynamic" deputy warden has been selected to lead the command-within-the-command and teletypes have been issued recruiting officers. The Commissioner stated that the consolidation of the mental health units at AMKC will enable the Department to increase its capacity without additional cost, creating 83 more beds. She discussed that the RHUs, a self-paced, three phase behavioral program, will also be part of the command-within-the-command, and is reserved for inmates who are not seriously mentally ill, but are not appropriate for the Central Punitive Segregation Unit (CPSU). Upon successful completion of the program, Commissioner Schriro stated that the inmates can earn up to a 50% conditional release from the penalty imposed. Finally, the Commissioner discussed the new CAPS program whereby seriously mentally ill inmates who have been infractioned will have their penalty set aside and will be placed in a clinical unit where officers will undergo special training. Commissioner Schriro stated that CAPS will be rolled out for the women on August 5th.

Executive Director Cathy Potler asked the Commissioner what it means to set aside an infraction. She responded that the penalty is never imposed. Chair Harris asked whether there is an adjudication of the infraction. Commissioner Schriro responded that they go through the adjudication process, but the penalty is not imposed, but rather is "set aside". Board Member Robert Cohen asked if an infraction has been put aside because of an inmate's serious mental illness, can the infraction still be used in the evaluation of someone's classification level or sentencing. The Commissioner answered that the way the sentencing grid works now, it doesn't differentiate if someone is seriously mentally ill or not, but it is something that DOC is looking into.

Commissioner Schriro reported on the Department's implementation of its sentencing guidelines, which have been piloted thus far at RMSC and RNDC. She stated that the Department plans to roll it out system-wide before the end of the summer. Finally, the Commissioner discussed the new interim centralized intake center located in five retrofitted sprung at the West Facility (WF). She explained that except for new admission inmates at the Manhattan Detention Center (MDC), all inmate assessments will be conducted at the WF location. She added that capital funds have been secured to complete in 2018 a permanent 1500-bed central intake new admission facility on Rikers Island that will also house the infirmary, an expanded detox unit and general population housing.

Dr. Cohen asked the Commissioner two questions: (1) the number of supervisors and officers who have been trained for the new mental health units and (2) because of the increased number of adolescents in punitive segregation over the past several years, has the Department considered modifying the sentencing grid specifically for adolescents. The Commissioner responded that the training has not yet begun and that after completion of the sentencing grid pilot at

RNDC, the Department will look into modifying the grid for adolescents.

Ms. Potler asked what the training entails for the correctional and mental health staff and its length. Dr. Venters responded that the week-long training for the new CAPS unit at the Rose M. Singer Center (RMSC) will begin next Monday for 12 Corizon staff and six steady officers and a captain. He stated that Michael Atherly, Chief of Security, at Kirby will conduct the joint training, which will be focused on how to handle aggressive patient and how to promote a clinical agenda. Dr. Venters added that after physical plant renovations are completed, the CAPS unit will open up on Tuesday, Aug. 6th in Building 11.

Ms. Potler asked if there were enough mental health and correctional staff being trained to cover for staff that calls in sick or is out on vacation. Dr. Venters replied that even though seven to eight personnel are needed on the unit on a given day, 12 individuals have been hired. He stated that the RMSC CAPS unit will also serve as a training venue for staff who will be assigned to the CAPS unit at AMKC. Commissioner Schriro responded that the Department will have a sufficient reserve of trained staff.

Commissioner Schriro reported on the Department's progress in addressing its adolescent population as follows:

...We have in every way that we could identify, tailored custody management for the youngest members of the inmate population, adolescents 16 to 18... We have made every effort to make the best use of the physical plant...and the institutional day so as to get the best result with the adolescents...ABLE, which is the moral recognition therapy...is taking hold and we're seeing continuing improvement of the day-to-day institutional conduct, their ability to show some more restraint and use better judgment. In June we had our lowest yet numbers of inmate fights, particularly inmate fights resulting where one inmate seriously injures another, and uses of force.... Since TCR's inception, we have utilized it 131 times and that has involved 115 unique individuals. There have been some small numbers of inmates, who have had more than one TCR...Since the adoption of TCR, there has been a 28 percent reduction in the number of inmates who are infraacted for grade three matters.

Chair Harris asked about the upsurge of adolescents who were rejecting TCR. The Commissioner responded that they may be adopting a "wait and see" approach. She added that the Department's ombudsman at RNDC tries to speak with the adolescents during or immediately after an incident to ensure that they understand the opportunity that they are being afforded.

Commissioner Schriro updated the Board on several other adolescent initiatives:

- Restrictive Housing Unit (RHU): Since its inception 24 adolescents have graduated from the program and 95 have satisfactorily participated in RHU, but did not complete it because their infraction penalty ended.
- Sentencing reform: Based upon the first two weeks of data collected since the implementation of the sentencing grid at RNDC, there may be a reduction of about 40 percent in penalty days imposed – it went from the average sentence of about 22 days down to 13.
- East Island Academy (Department of Education [DOE] school on Rikers Island): 74 inmates received a Regent's diploma, and many others earned Regents credits towards a diploma.

Chair Harris asked the Commissioner if she has any data on whether any of the graduates of East Island Academy have pursued higher education. Commissioner Schriro replied that she does not, but that she will try to get it.

Dr. Cohen asked whether the Department has addressed a way for the adolescents in punitive segregation to have direct interaction with the teachers. Despite conversations with DOE, the Commissioner stated that she has nothing to report as of yet.

Ms. Potler inquired whether the Department would be able to fill in the DOE programming time during the month of August while school is not in session. Commissioner Schriro responded that ABLE is a year-round program and ABLE's enhanced recreation program will be available.

Dr. Venters mentioned that in addition to the RMSC CAPS unit, DOHMH staff is working closely with DOC in planning the expansion of the RHUs and the rigorous training that both DOC and mental health staff assigned to these units will undergo together. DOHMH Deputy Commissioner Amanda Parsons added that DOHMH is proceeding "very

methodically” in the implementation of the CAPS unit and expansion of the RHUs and also is engaging in discussions with DOC, experts outside the system, clinicians and patients in its attempt to improve these units.

Dr. Venters requested that the Board renew the following variances for six months: (1) the use of interferon gamma release assays (IGRA) for tuberculosis screening of new admission male and female inmates with the understanding that DOHMH would continue to provide a report with data for men and women and (2) to authorize psychiatrists to see and evaluate stable adult patients on psychotropic medications in general population at least every 28 days, instead of 14. The Board unanimously approved the renewal of both variances.

DOC requested the renewal of the following variances for six months: (1) authorize the commingling of adolescent and adult as well as detainee and sentenced pregnant inmates at RMSC to enable better medical monitoring and to avoid exposure to influenzas and other contagious infections; (2) to temporarily restrict for up to two hours in their cells adolescent prisoners assigned to cell housing units at RNDC who continue to engage in minor misconduct after being ordered to stop with the understanding that all conditions outlined in the variance remain in effect; and (3) the renewal of all existing variances. The Board unanimously approved renewals of the variances.

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

Timeline for Alternatives to Punitive Segregation for Mentally Ill Inmates¹

updated July 18, 2013

	Capacity ²	7/1	7/8	7/15	7/22	7/28	8/5	8/12	8/19	8/26	9/2	9/9	9/16	9/23	9/30	10/7	10/14	10/21	10/28
Create a 'Command within a Command' at AMKC																			
Select the Commanding Officer who will operate the unit																			
Recruit DOC staff to work in the unit and then effectuate transfers for newly recruited staff																			
Train newly recruited staff																			
Open CAPS Unit																			
Create office space in Mod 1 Lower B for clinical personnel																			
Hire Corizon clinical personnel (Secure Treatment Aides, Clinical Staff)																			
Open Mod 1 Lower B	20																		
Open Mod 11A ³	40																		
Close MHAUII and Open RHU																			
Open AMKC RHU (Quad Lower 8) (opened October 2012)	30																		
Add air conditioning to the dayroom and tier																			
Open RNDCRHU (3LN) (completed May 2012)	30																		
Close RMSC MHAUII	(20)																		
Open RMSC CAPS Unit	20																		
Assign steady staff to the housing unit																			
Prepare office space for clinical personnel, wire for computers																			
Open AMKC RHU (Quad Lower 6)	30																		
Assign steady staff to the housing unit																			
Add air conditioning to the dayroom and tier																			
Close MHAUII 13A	(50)																		
Open GMDC RHU	30																		
Assign steady staff to the housing unit																			
Add air conditioning to the dayroom and tier																			
Prepare office space for clinical personnel, wire for computers																			
Install cameras in the housing unit																			
Close MHAUII 13B	(50)																		
Open OBCCRHU	35																		
Assign steady staff to the housing unit																			
Add air conditioning to the dayroom and tier																			
Prepare office space for clinical personnel, wire for computers																			
Install cameras in the housing unit																			
Close MHAUII 11B	(50)																		
Close MHAUII 11A	(50)																		
Consolidate Male MO Units at AMKC																			
Close MO units in OBCC and GMDC	(168)																		
Open MO units in AMKC (1 Main, 2 Main, 3 Main, 4 Main, Quad 2 Lower, Quad 4 Lower)	251																		
Assign steady staff to the housing unit																			
Add air conditioning to the housing unit																			
Prepare office space for clinical personnel, wire for computers																			
Install cameras in the housing unit																			
Open NIC Main Mental Observation Unit for Special Case Management	10																		
Implement Sentencing Guidelines System-wide																			
Sentencing guidelines were piloted at RMSC beginning May 1																			
Sentencing guidelines were introduced at RNDC on June 24																			
Sentencing guidelines will be phased-in at all other jails																			

¹ The timelines are good faith estimates, and may change

² 220 MHAUII (200 male and 20 female) beds will be replaced with 175 RHU beds for a net reduction of 45 punitive segregation beds for infraction inmates with mental illness

³ The closing of the last MHAUII housing unit is contingent on the reopening of NIC Main this fall as scheduled