

**NEW YORK CITY
BOARD OF CORRECTION**

April 12, 2001

MEMBERS PRESENT

John R. Horan, Acting Chair
Stanley Kreitman
David Lenefsky
Barbara A. Margolis
David A. Schulte

Excused absences were noted for Board Members Canute C. Bernard, M.D., Louis A. Cruz,
and Richard Nahman, O.S.A.

DEPARTMENT OF CORRECTION

William Fraser, Commissioner
Gary Lanigan, First Deputy Commissioner
Roger Jefferies, Deputy Commissioner
Elizabeth Loconsolo, General Counsel
William Hurley, Chief of Inspectional Services and Compliance Division (ISCD)
Catherine Raymond, Bureau Chief
James Psomas, Assistant Chief
Roger Parris, Assistant Commissioner
Richard Filippazzo, Deputy Warden
Captain Darryl Harrison
Elizabeth Myers, ISCD
Andrew Davenport, Intern, Health Services

HEALTH & HOSPITALS CORPORATION - CORRECTIONAL HEALTH SERVICES

Michael Tannenbaum, Chief Operating Officer
George Axelrod, Chief Quality/Risk Officer
Robert Berger, Director, Service Delivery Assessment
Arthur Lynch, Director, Mental Health
Ben Okonta, M.D.

OTHERS IN ATTENDANCE

Mary Ellen Bolton, Program Director, Prison Health Services, Inc. (PHS)
Andy Grossman, Finance Division, City Council
Andrew Krause, Deputy Mayor Lhota's Office
Latonia McKinney, Finance Division, City Council
Steve Scheibel, M.D., Interim Medical Director, PHS

Acting Chair John Horan called the meeting to order at 1:02 p.m. The minutes from the March 15, 2001 meeting were approved unanimously. Mr. Horan called for Members' reports.

Board Member David Schulte reported that he spoke at graduation ceremonies for the High Impact Incarceration Program (HIIP) and Self-Taught Empowerment and Pride (STEP) program. He noted that the Superintendent of the State's Willard Facility attended. Mr. Schulte added that only seven women graduated from the STEP program. Commissioner William Fraser said that the number of program participants has decreased as the number of parole violators in custody has decreased.

Executive Director Richard Wolf raised the issue of the planned consolidation of the West Facility into the Anna M. Kross Center (AMKC). Commissioner Fraser responded that currently DOC has many consolidated beds. He noted that the Bronx House of Detention, the James A. Thomas Center, the West Facility and one tower of the Manhattan Detention Complex are closed. The Commissioner described West Facility dormitories 17, 18 and 19 as "very good space" that is being looked at as reserve space that is available for "census protection". He added that security fence "chute" is being constructed to connect the dormitories to AMKC, so that if the dormitories were to be opened, inmates could walk to AMKC for services. He said that it would be less expensive to open the dormitories than to reopen a currently closed facility. Mr. Wolf asked whether DOC's population projections suggest that the space will be needed in the near future. Commissioner Fraser said that the NYPD has several new initiatives, including a warrant initiative, but the impact on DOC's prisoner population was not yet clear.

Mr. Schulte asked why DOC constructed the "mini-dorms" for mental observation prisoners at the end of chevron housing area corridors in AMKC, rather than close to the officers' station. The Commissioner said that there were several already-existing two- and three-man cells at the far end, so it was easier to create larger dorms at the far end. Mr. Lenefsky asked that further discussion of this issue await the arrival of CHS Executive Director Ernesto Marrero.

Mr. Wolf asked about the Department's plan to ban smoking in the jails. Commissioner Fraser said that contract negotiations continue with the unions and no agreement has been reached. He added that he had begun a separate health initiative to encourage staff and inmates to voluntarily stop smoking. He said that posters had been hung in the jails, a film is being prepared, and Prison Health Services (PHS) and CHS are being consulted, as has been the American Cancer Society. Commissioner Fraser said that patches will be made available for staff who wish to stop smoking. Board Member David Lenefsky asked what percentage of officers are smokers. The Commissioner said that he did not know. He said that he would find out, and also learn the percentage of inmates who smoke. The Commissioner reminded the Board that he had previously reported that cigarettes no longer are sold to inmates who are minors. Mr. Schulte asked for the reaction of the minors. The Commissioner said that there had been no problems.

Board Member Stanley Kreitman asked about the level of violence in the jails. Mr. Wolf

said that reported stabbings and slashings remain very low. Commissioner Fraser said that there have been 45 incidents reported thus far for fiscal year 2001. Last year there were 70 incidents; the projected total for this year is 57.

Mr. Horan noted that the BOC Director of Field Operations Carl Niles took photographs of the newly renovated mini-dorms - the "therapeutic" cells - for mental observation inmates in AMKC. He said that the photographs raised obvious questions about whether five persons should really live in these areas. Commissioner Fraser said that he discussed the issue with Mr. Marrero, and that they generally agree on the subject. The Commissioner said that he is not "married to the idea" of multiple-occupancy cell areas for mental health inmates. He said that one of the obstacles is the position of the toilets in the cells. He suggested that perhaps with some construction, this problem could be solved. Nonetheless, the Commissioner said that he and Mr. Marrero will meet to revisit the issue generally, particularly because no one has come up with a protocol that is acceptable to either DOC or CHS that will identify which inmates would be housed in the mini-dorms. He said that this problem may be the "deciding factor". The Commissioner said that Mr. Marrero had "gone to great lengths" to convince him that the areas had therapeutic value, and that the Commissioner agrees. However, he does not agree that the potential benefits outweigh the risks at this point. The Commissioner promised to inform the Board of his decision as soon as it is made.

Mr. Horan raised the security concerns, and the Commissioner said that the "B" officer would "have to work a little harder". He added that some inmates are housed in multiple-occupancy cells in Mod 1, but he added that no new inmates will be housed in such areas in Mod 1. He said that the Mod 1 multiple-person cells will be "phased out" as well. Mr. Schulte said that the pictures showed a situation that was a "prime subject" for the *Post* or the *Daily News* to pick up. Mr. Lenefsky asked that the Commissioner visit the area with Mr. Marrero. The Commissioner said that they already had done so.

Mr. Lenefsky said that the opinions of correctional mental health professionals as to the therapeutic value of such environments should be obtained. CHS Mental Health Director Arthur Lynch said that there is clinical value to the areas, but that there also is a philosophical issue as to whether the areas are good for the system as a whole. He said that the areas do indeed raise security concerns about which predictions cannot be reliably made. Dr. Lynch added that it is yet to be determined whether a protocol can be established that will make the areas "safe and therapeutic". He said that the therapeutic value of the areas is that some inmates in large dormitories begin to become agitated and to respond to command hallucinations: "they get freaked out". He said such individuals need a more secluded environment, but also may be self-injurious if put alone. Finally, he said that other inmates become withdrawn and need some socializing in small groups, and these inmates would derive therapeutic benefits from mini-dorms. Mr. Schulte said that if it were up to him, he would not allow the "mallet man" to be in a mini-dorm with four other people. Commissioner Fraser said that this is the protocol question he mentioned earlier, and that it may be the chief obstacle to these housing areas. Board Member Barbara Margolis asked whether these areas are used in any other system in the country. The

Commissioner said that many systems use double-bunking. Mr. Wolf asked if the Commissioner was referring to mental health prisoners. The Commissioner said that he thought it was for everyone. Mr. Lenefsky said that there is no therapeutic value to having an inmate's face two feet away from a toilet that is being used by someone else. The Commissioner said that he agreed, but added that perhaps this obstacle could be overcome.

Mr. Kreitman asked about the status of the Department's variance request to limit CPSU inmates to three showers per week. Commissioner Fraser said that DOC now was looking at due process procedures for taking certain shower privileges away from inmates who act out on the way to or from, or at the showers. He said that the State Commission allows DOC to limit showers in CPSU to three times per week, but he said that the Department does not wish to punish everyone for the actions of one inmate. The Commissioner said DOC would develop a written proposal and present it to the Board in draft form. Mr. Schulte said that DOC might want to consider the temperature of water in the shower.

A motion to renew existing variances passed unanimously.

Mr. Lenefsky asked Michael Tannenbaum to discuss the issue of specialty clinic referrals. Mr. Tannenbaum first introduced PHS's new Interim Medical Director, Dr. Steven Scheibel, from California, who is a graduate of the University of Illinois Medical School. Mr. Tannenbaum said that CHS continues to negotiate with PHS on the matrix staffing levels. He said that needs change and the system needs to be responsive. Mr. Tannenbaum said that system-wide staffing is up 1% from two weeks ago, to 98%. He said that nursing positions are 98% filled, 102% of physician assistant positions, 108% for physicians. Mr. Tannenbaum said that patient advocates positions are only 83% filled, but these should be filled shortly. He noted a City-wide shortage of LPNs, and said that PHS had filled only 88% of these positions. He added that CHS continually monitors staffing levels, and will meet again with PHS in two weeks. Mr. Tannenbaum said that cooperation from PHS has been excellent.

George Axelrod, CHS Chief Quality/Risk Officer, reported on an issue that PHS brought to CHS's attention, and that CHS shared with the Board. He said that PHS discovered that a couple of employees, in two separate periods during the first quarter of 2001, had not been scheduling specialty clinic appointments "in the proper manner". Mr. Axelrod said that this led to a number of inmates "not being scheduled in a timely manner". He said it was difficult to know whether any actual harm resulted. He noted that in great part "the system compensated" because providers who were aware that clinic appointments were necessary submitted duplicative consult requests. Mr. Axelrod said that after the problem was discovered, only 1% of the "entire spectrum of clinics" for the quarter needed to be rescheduled. He said that 35% of the inmates who were not scheduled actually had been seen before the problem was discovered. Another 30% already had been discharged from DOC custody. Mr. Axelrod noted that within priority codes, clinic appointments may be scheduled from two to eight weeks in the future. The result, he said, is that large numbers of inmates are routinely discharged before their scheduled clinic appointment date. Mr. Axelrod said that appointments were scheduled for another 22% of the

inmates before the problem was discovered. He concluded that "13% of 10%" (1%) of the prisoners required "remedial action" - the rescheduling of their clinic appointment - once the problem was discovered. Mr. Lenefsky questioned whether this was a "fair representation". He said that the Board had been told 198 inmates had not been seen. Mr. Axelrod said that 100 inmates have appointments and are waiting to be seen, and 61 other appointments have been requested but not yet scheduled. Mr. Lenefsky said that talking about "one percent" gives the impression that "we're talking about an insignificant number".

Mr. Lenefsky asked how long it took, from the day the first referral form was "dumped", until PHS picked up the problem. Mr. Axelrod said that he was not sure, and noted that the forms were for both on-Island and off-Island appointments. He said that the data showed that more clinics were scheduled in January, when the problem began, than in December, so that if one looked at the data, there would be no reason to suspect that appointments were not being scheduled. Mr. Axelrod added that interpreting the data was made more difficult by the fact that duplicative requests were submitted for some inmates whose appointments were not scheduled. Mr. Lenefsky asked how the problem, which occurred over an extended period of time, "slipped through" PHS and through CHS's monitoring. Mr. Axelrod said that the data showed that the numbers of off-Island consults - comparing last January to this January - were down from 390 to 325, and that this difference was not indicative of a "major problem". Mr. Lenefsky asked whether the real point was whether the inmates went out to their clinic appointments. Mr. Axelrod said that that was why additional consults were submitted when practitioners realized that someone had not gone out. He said that therefore people were seen even though the initial consult was not processed as it should have been. Mr. Axelrod said that PHS has taken corrective action: jail clinics have established specialty clinic logbooks so that the health services administrator at each clinic can track all appointments. He said that from CHS's perspective, if a consult was not processed, the appointment would not be logged into the computer, so CHS could not tell if someone had not been sent out because CHS could not know that the inmate was supposed to be scheduled in the first place.

Mr. Lenefsky asked whether exit interviews had been conducted with the discharged employees. Mr. Axelrod said that one person was discharged for other reasons prior to the problem being discovered. Mary Ellen Bolton, PHS Program Director, said that the first employee was terminated for personnel reasons totally unrelated to the consult problem. She said that as he exited, PHS went through his desk and found the first batch of unprocessed consults. She said that the second person, who was working in a position "quasi-supporting" the terminated employee, was then put into that position. Ms. Bolton said that PHS went to conduct an audit "prior to reporting to CHS", a second batch of was found that the employee did not uncover herself. Ms. Bolton noted that both employees were "inherited" from the previous vendor. She said that the second employee, when asked about the second group of unprocessed consults, told her supervisor in an exit interview that she thought the consults had been processed. Ms. Bolton said she did not believe the employee's claim, because the consults were found in a binder labeled "Garbage". Mr. Lenefsky asked what lessons have been learned to prevent a recurrence of this problem. Ms. Bolton said this was a "systems problem", which has

been remedied by establishing logbooks in each clinic to track specialty clinic requests. She said PHS will record in the logbooks when each consult was requested, whether the request was faxed, when an appointment was scheduled, when the inmate actually went for the appointment, and when results were received back from the specialty clinic. Mr. Wolf asked who will be responsible for making entries in the logbooks. Ms. Bolton said that a scheduler works in each jail clinic and is responsible for the entries and for faxing the request to PHS's Utilization Management office. Mr. Schulte asked whether the failure to schedule the consults deprived inmates of "trivial things". Mr. Lenefsky said that appointments are set up for "serious things", such as to see an oncologist to determine whether the inmate has cancer. Mr. Schulte asked who is the supervisor who will see that this problem does not happen in the future. Ms. Bolton said that PHS did not have its full, authorized complement of staff in place when the contract began on January 1. One supervisor was initially responsible for utilization management, quality assurance nurses, and patient advocates. She said that utilization management and quality assurance now are supervised by two different people. Mr. Lenefsky said that the record should reflect that PHS came forward and informed CHS who informed the Board. He said that he had no doubt that PHS's predecessor would not have come forward, and that Mr. Marrero's predecessors would have been unlikely to do so. He expressed his appreciation to both PHS and CHS. Mr. Tannenbaum said that CHS must "monitor this better". He said CHS must better review encounter data and track closely the scheduling of specialty appointments. Commissioner Fraser added that DOC should have a "more direct role" and said he was addressing the issue with Mr. Marrero.

Mr. Kreitman asked how an inmate gets to an oncologist, how many correction officers would be involved and how much it would cost. Commissioner Fraser said that DOC is provided lists of inmates who have to go to on-Island (at GRVC) and off-Island specialty clinics. He said that the *Vega* decision requires coordination between clinic providers and off-Island hospitals, and that DOC's Transportation Division is given time frames as to when inmates must be delivered to the off-Island specialty clinics. The Commissioner said that Transportation Division staff pick up and return inmates in the morning and the afternoon, as is also done for court appearances. He said the inmates are seen in the specialty clinic, and results are returned with the inmate to the jail. Mr. Axelrod noted that more on-Island clinics have been established to reduce costs. Mr. Tannenbaum said CHS recognizes the "critical importance" of specialty clinics, and has tied liquidated damages to the staffing of specialty clinicians, such as urologists. Mr. Lenefsky asked if liquidated damages have been assessed. Ms. Bolton said that approximately \$15000 had been assessed. Mr. Schulte asked for monthly or quarterly data to ensure that the system works. Mr. Wolf said that Board staff had had the same discussions with the previous vendor and had raised the same issues regarding specialty clinic accountability with CHS in anticipation of a new vendor providing correctional health services. He said that the "system" that was in place consisted of individual providers learning that an inmate had not gotten to a clinic and then resubmitting a consult request. Mr. Wolf said there was no master list of all specialty clinic appointments to facilitate tracking. He said he expected that the system described by Ms. Bolton should improve accountability.

Mr. Lenefsky asked Mr. Tannenbaum to provide performance indicator information to the Board when it becomes available. Robert Berger, CHS's Director of Service Delivery Assessment, said that PHS's report to CHS is due April 30th, and that the earliest CHS could report to the Board would be the May meeting.

Mr. Horan adjourned the meeting at 1:45 p.m.