

NEW YORK CITY
BOARD OF CORRECTION

March 13, 2003

MEMBERS PRESENT

- ✓ Stanley Kreitman, Chair
- ~~John R. Horan, Vice Chair~~
- ✓ Richard M. Nahman, O.S.A.
- ✓ Jane Paley Price
- ✓ Michael J. Regan

Excused absences were noted for Members Louis A. Cruz, John H. Banks III, and ~~Frederick J. Patrick~~. ✓

DEPARTMENT OF CORRECTION

- ✓ Martin Horn, Commissioner
- ✓ Tom Antenen, Deputy Commissioner for Public Information
- ✓ Leroy Grant, Bureau Chief, Inspectional Services & Compliance Division (ISCD)
- ✓ Judith LaPook, Chief of Staff
- ✓ Elizabeth Meyers, Director, ISCD

HEALTH & HOSPITALS CORPORATION - CORRECTIONAL HEALTH SERVICES

- ✓ Ernesto Marrero, Jr., Executive Director
- ✓ Michael Tannenbaum, Chief Operating Officer
- ✓ George Axelrod, Chief Risk/Quality Officer
- Patrick Brown, M.D., Medical Director
- ✓ Arthur Lynch, Mental Health Director
- ✓ Robert Berger, Director, Service Delivery Assessment Unit
- Eric Zimiles, Chief Financial Officer

John Russell

OTHERS IN ATTENDANCE

- ✓ Amy Anderson, NYU
- ✓ Osvaldo Cruz, Analyst, Office of Management and Budget (OMB)
- ✓ Sara Goonan, Analyst, OMB
- ✓ Michele Kalafer, City Council, Legislative Policy Analyst
- ✓ Jacqueline Riley, City Council, Finance Division
- ✓ Russell Unger, City Council, Legislative Attorney
- Dale Wilker, Legal Aid Society, Prisoners' Rights Project

✓ *Pinneg*
✓ *T. Parks, MD*

Chair Stanley Kreitman called the meeting to order at 1:06 p. m. A motion to adopt minutes from the Board's February 20, 2003 meeting passed without opposition.

Chair Kreitman said that the Board and DOC had disagreed over the design for the planned new Central Punitive Segregation Unit (CPSU). He said that the Board was concerned about a lack of outdoor recreation facilities, and asked DOC Commissioner Martin Horn whether the new CPSU would comply with the Board's Minimum Standards, "as we see it".

Commissioner Horn informed the Board that yesterday Correction Officer Maurice Brown, 37, died of a heart attack suffered while on duty at the Adolescent Reception and Detention Center (ARDC). He described the decedent as "a good officer and a gentleman".

The Commissioner said that DOC has been meeting with the City's Department of Design and Construction regarding the CPSU design. He said that the Department is somewhat constrained by past decisions, because to undo them may increase costs and delay completion of the project. He added that the 448-bed addition to the George R. Vierno Center (GRVC), which will result in an additional 100 beds at the current CPSU the Otis Bantum Correctional Center (OBCC), is critical to DOC's need to replace aging modular and sprung housing. Commissioner Horn said that DOC has changed the nature of the project, noting that bid documents sent out last week do not refer to it as "the CPSU project", but rather as a "448-bed addition to GRVC". He said that a new bid document would be sent out next week, and it will call for some new design, including cost estimates to construct an outdoor recreation yard between the two "Y" wings. He said that "the answer to the question" will be determined by cost and also by a determination about the number of these beds that would be used as a CPSU. Commissioner Horn said that with some help from the Board, DOC may be able to reduce its reliance on punitive segregation. He said that according to existing rules, if an inmate violates the smoking ban, the only punishment available to DOC is punitive segregation. He added that DOC cannot take away the inmate's commissary for a month or deprive him of recreation for a week. The Commissioner said that a task force is working on a proposal that should be ready by as early as the next Board meeting, that will seek to give DOC more "flexibility" so that it can reduce its reliance on punitive segregation. He said he was hopeful that the bids that come in will make design changes possible. He added he also is hopeful that BOC will help DOC to reduce its reliance on punitive segregation, so that fewer beds are built for that purpose. Chair Kreitman expressed optimism that DOC's approach might result in resolving a longstanding disagreement between the Board and the Department over the CPSU design. Vice Chair John Horan said that what Commissioner Horn was *describing* "sounds like an accommodation", but added that the extent to which DOC will continue to rely upon CPSU remains unclear. Commissioner Horn said that this will depend on the extent to which alternative sanctions can be identified and approved. Mr. Horan said he thought that accommodations could be reached. He asked whether the redesign plans look at rooftop recreation. Commissioner Horn said no, because there are FAA restrictions on how high a rooftop site could go due to airport access issues. Mr. Horan said that he hadn't heard that before. He said the Board will look at any adjustments DOC intends to make, adding that it sounded as if DOC intends to make appropriate adjustments. BOC Executive Director Richard Wolf requested that Commissioner Horn provide BOC staff with proposals as they are developed, so that review could begin promptly. Commissioner Horn agreed.

Chair Kreitman asked for a report on the planned smoking ban, and specifically asked whether DOC is anticipating problems. The Commissioner reported as follows:

DOC is moving aggressively forward with the assistance of Correctional Health Services Executive Director Ernesto Marrero and his staff. Regulations and notices have been prepared and distributed. Beginning on March 30th, there will be no smoking in DOC facilities or offices. Inmates will not be permitted to possess cigarettes or tobacco-related items, including matches. DOC is hopeful that this will also reduce the incidence of cell fires and make smoking marijuana more difficult because it will be easier to detect. Reaction has been very subdued. Other jurisdictions that have banned smoking have not encountered serious difficulties.

In touring several facilities, he was struck by the small number of inmates who were smoking. This suggests that perhaps people are overestimating the impact of the ban.

DOC has worked with the Department of Health and CHS to develop a protocol for those inmates who experience difficulties during withdrawal. The medical protocol will involve nicotine replacement therapy (NRT). Incoming inmates will be screened, and if NRT is indicated, inmates will receive patches. Patches will be distributed in conjunction with mandatory counseling. Inmates already in custody will be told that they should go to sick call if they experience any withdrawal symptoms. Officers have been instructed to be alert for inmates with symptoms. There may be a rush on sick call, but the system will "just have to deal with it". He said this might result in delays in access to medical care for the first two weeks to thirty days of the ban. Free candy and licorice will be provided to inmates "by the bucketful".

Board Member Father Richard Nahman asked if the ban includes chewing tobacco. Commissioner Horn said that the ban covers all tobacco products. Board Member Jane Paley Price asks where the ban applies. Commissioner Horn said that the ban applies to the inside of the institutions, and does not apply to areas outside of the facilities. He said that inmates may not possess tobacco products, and added that staff members may have tobacco products on their persons. He said that there is insufficient storage space to prohibit staff from possessing cigarettes, and many do not drive cars to work in which they could leave their cigarettes. The Commissioner said that if staff give cigarettes to inmates, staff will be prosecuted, as will anyone else who does so. Ms. Paley Price asked whether staff may smoke in the yard. Commissioner Horn said no, that the ban applies to everyone who is inside the facility perimeter. Ms. Paley Price said that she was speaking about outdoors. The Commissioner said that staff are adults "and we are not going to infantilize them, but if it becomes a problem, we will have to address it." Deputy Executive Director Cathy Potler asked about visitors to Rikers Island. Commissioner Horn replied that they may not smoke; they may possess tobacco products, but may not give them to inmates. He added that visitors cannot take cigarettes into the visit area. Ms. Paley Price asked for information about nicotine patches, including medical indications.

Chair Kreitman suggested that the discussion await presentation of medical issues. Board Member Michael Regan said that he read provisions of the law indicating some flexibility regarding counseling sessions for substance abuse. Commissioner Horn said that the provisions did not apply to the jails. He noted that it only applies to treatment and counseling programs, and that he has been advised by the Law Department that the provisions are inapplicable.

Chair Kreitman asked for information about DOC's budget plans. Commissioner Horn said that the Mayor directed all agencies to plan for 2.5% cuts as a contingency in the event that \$600 million in union concessions were not forthcoming. He said DOC's plan was submitted yesterday, so he could not discuss the specifics. He added that after already taking \$250 million in cuts, DOC's future cuts will result in elimination of currently occupied positions. He said that DOC is looking at consolidating some services and functions, and that there will be an impact on personnel levels. The Commissioner said that there will be an impact on services, although he does not believe there will be an impact on safety or security. Ms. Paley Price asked about the status of the RAP program. The Commissioner said he did not think RAP was included in the cuts. Ms. Paley Price asked if RAP could be a private sector initiative. The Commissioner said that he did not know.

Chair Kreitman said that he sensed there had been a rash of suicides, and asked Commissioner Horn to comment. The Commissioner said he is very troubled by the fact that there have been four suicides since January 1st, but he disagreed with the characterization of a "rash" because in fiscal year 2002, there were six suicides; thus far in fiscal year 2003 there have been four. He said that nothing has changed procedurally in the intake areas. He said that each suicide is "individual", noting that the most recent suicide was an inmate who had been admitted for less than 24 hours. The Commissioner said DOC has not completed its investigation. He said that there are some things DOC can do better, and CHS has some concerns as well. He said that "the physical plant is our worst enemy." He noted that the inmate was in new admission housing, and that the literature indicates that newly-admitted inmates are at higher risk. Nonetheless, Commissioner Horn said, halfway up the wall in the cell where the inmate was mounted a metal locker that could bear considerable weight, enabling the inmate to use his belt to hang himself. He said that all such lockers will be removed and inmates will be given plastic containers for property storage. He said that there was a suicide prevention aide in the housing area. The Commissioner said that the State Commission of Correction's screening guidelines, used by most jails in New York State, will be implemented by DOC at intake, in addition to the screening questions asked during the medical screening and examination process. He said that DOC posters will attempt to create a higher state of awareness among inmates, because DOC believes that in the recent suicide at the Rose M. Singer Center (RMSC) suicide other inmates had information about the decedent that could have been brought to DOC's attention. He said that an orientation video, currently in production, will be shown to acquaint all inmates with behavior associated with suicide. He added that the video will encourage inmates to report such behavior to DOC staff. The Commissioner said that cards provided to officers in Orange County, California will be provided to DOC staff to make them more aware of suicidal behavior and the steps they should take when they observe it. He reported that cameras and motion detectors have been installed in three suicide watch cells in the Contagious Disease Units (CDU) at the West Facility, and said that the equipment will be installed in thirty cells in the ten CDU Sprungs. He said that this is being done because of the isolation inmates experience when

housed in a CDU room. He said that "suicide watch" inmates have been consolidated in one dorm and one cell area at RMSC, and an additional observation aide has been added to each of these areas. Commissioner Horn said that inmates who have been identified as at risk for self harm will be placed in dormitories whenever possible. Finally, he said that at-risk inmates will not be permitted to retain articles that could be used to enable a suicide. He said these items include belts, shoelaces, bed sheets and personal clothing. The Commissioner showed the Board pictures of smocks, and said that unless contraindicated, inmates will be issued jumpsuits and bedding made from the same tear-resistant fabric. He said that a solution to the vent problem has been identified, and some cells at the George R. Vierno Center (GRVC) have been retrofitted with tighter metal mesh. He said vents will be modified in areas where suicidal inmates are housed, and in new admission areas. He added that an architect, Barbara Mandell, and Hal Smith, Director of the New York Psychiatric Center, will inspect facilities on March 31st and assist DOC in identifying "best practices". Chair Kreitman said he believes that all of the steps outlined by the Commissioner should help reduce suicides.

Mr. Wolf asked that Mr. Marrero provide information about nicotine patches. Mr. Marrero said that the patches come in different strengths, which correlate to the amount of cigarettes smoked each day. He said that patches will be distributed at intake only to inmates who request them while presenting with signs of decompensating due to withdrawal from nicotine, and only if not medically contraindicated. He said incoming inmates will be given only a "bridge" order, with additional patches being provided contingent upon inmates attending mandatory counseling sessions. He said CHS hired three public health educators to conduct the sessions, which will be held in every building two or three times per week. Ms. Paley Price asked if the patches are changed daily, and Mr. Marrero said that they are, and that inmates are allowed to change patches themselves. Mr. Marrero said that if an inmate exhibits symptoms post-intake, he/she can sign up for sick call where, if indicated, patches will be provided. Ms. Paley Price asked if the patches provide a "high" to non-smokers. CHS' Medical Director, Dr. Patrick Brown, said that nicotine is a stimulant and will increase the heart rate and possibly produce palpitations, but the patch will not produce a "high". Dr. Brown said the symptoms might be similar to an anxiety attack. Ms. Paley Price asked whether patches could become as desirable as cigarettes. Mr. Marrero said that he did not know, although he expected that inmates will "misuse" patches. Commissioner Horn said that inmates will be questioned about smoking history, and that even if the inmate gets some patches initially, he/she must attend counseling sessions to obtain more. Dr. Brown said that contraindications include a history of heart attack within the last two weeks and an irregular heart beat. Ms. Potler noted that inmates already receive "carry" medications. Mr. Wolf asked if when a visitor comes to Rikers Island with a pack of cigarettes, the visitor will be obliged to leave the cigarettes in a locker before visiting with an inmate. Commissioner Horn said yes, and added that additional lockers are being placed outside the visitor processing building. Prisoners Rights attorney Dale Wilker asked if a smoking cessation project currently is in place, and whether cigarettes continue to be sold in commissaries. Commissioner Horn said that cigarette sales are being phased out: this week an inmate may purchase four packs, next week three packs, the week after two packs, and thereafter all cigarette sales will cease. He said that patches will be available after March 30th, but patches are not available now. Ms. Potler asked if a medical protocol, and policies and procedures, had been written regarding inmates who seek patches. Mr. Marrero said that some of the details remain to be worked out, and he is hopeful that it may be possible to refer inmates directly to

counselors, and thereby avoid overwhelming sick call. Mr. Marrero said that if procedures are put in writing, the Board will receive a copy. Commissioner Horn said that a notice to inmates will be distributed on Saturday. Chair Kreitman said that the Board will monitor the phase-in of the smoking ban.

Chair Kreitman asked about the Prison Health Services (PHS) Performance Indicators (PI). He said that the 4th Quarter results indicate that a number of PIs were only "substantially met" or not met at all, and that higher fines were imposed than last quarter. He asked for comment from Mr. Marrero. Noting that the 4th quarter results include five PIs that are evaluated annually, Mr. Marrero said that the number of PIs that were not met increased from seven to eight. He said this means that last quarter PHS failed to meet seven of 35 Indicators; this quarter it failed to meet eight of forty-one. He said that liquidated damages were higher because for three HIV Indicators, performance went down as compared to the previous quarter, and he elected to double the damages. Mr. Marrero said that thus far this quarter, the same three Indicators are at 100% each. Chair Kreitman, noting the earlier discussion about suicides, said that he was concerned that PHS was not performing better on mental health documentation. Mr. Marrero agreed, noting that this may be PHS' worst area of performance. He seconded remarks by Commissioner Horn that the fact that there have been four suicides thus far in calendar year 2003 does not mean that we should expect many more suicides this year. Mr. Marrero said that regarding the most recent suicide, CHS has not yet completed its Morbidity and Mortality review, but that there was nothing remarkable about the inmate's intake or history. He noted that the six questions asked by medical staff about which the Board had had reservations led to a mental health referral of the inmate. He said, however, that the decedent was made the subject of a 72-hour referral, and he committed suicide before being seen by mental health staff. Mr. Marrero said that therefore there were no mental health documents to fill out in this case, so PHS' poor performance on PI #18 was irrelevant. He said that the Indicator is important however, and that this quarter performance may rise to 60%, which is not adequate, but performance is improving. He said that corrective actions will continue. Chair Kreitman said that it sounds that Mr. Marrero is not satisfied with PHS' performance, but Mr. Marrero said that he was. Ms. Potler asked how many charts were reviewed by CHS as it assessed PI 18. Mr. Marrero said he would call and let Ms. Potler know.

On behalf of DOC, Bureau Chief Leroy Grant requested that the Board renew all existing variances. A motion was approved without objection.

Father Nahman recommended that the Board begin a review and possible updating of the Minimum Standards. Chair Kreitman agreed. Mr. Wolf said that the process would begin when Commissioner Horn presented requests to the Board for intermediate sanctions alternatives to punitive segregation. Commissioner Horn said that a draft should be available by the next BOC meeting.

Chair Kreitman adjourned the meeting at 1:58 p.m.