



**NEW YORK CITY
BOARD OF CORRECTION**

May 14, 2019 PUBLIC MEETING MINUTES

MEMBERS PRESENT

Robert L. Cohen, M.D.
Hon. Bryanne Hamill
Jennifer Jones Austin, Esq.
James Perrino
Michael J. Regan
Jacqueline Sherman, Esq.

Martha W. King, Executive Director

MEMBERS ABSENT

Stanley Richards, Vice-Chair
Steven M. Safyer, M.D.

DEPARTMENT OF CORRECTION (DOC)

Cynthia Brann, Commissioner
Hazel Jennings, Chief of Department
Brenda Cooke, Chief of Staff
Heidi Grossman, Deputy Commissioner for Legal Matters/General Counsel
Peter Thorne, Deputy Commissioner of Public Information
Angel Villalona, First Deputy Commissioner
Steven Kaiser, Director of Policy & Reform Initiatives
Marcia Maxwell, Executive Director of Intergovernmental Affairs
Dana Wax, Senior Policy Advisor
K. Harrison, Correction Officer
Nancy Li, Policy Analyst
Elizabeth Seibold, Press Officer

NYC HEALTH + HOSPITALS (H+H)-CORRECTIONAL HEALTH SERVICES (CHS)

Patsy Yang, DrPH, Senior Vice President
Ross MacDonald, MD, Chief Medical Officer, Assistant Vice President
Benjamin Farber, Chief of Staff
Carlos Castellanos, Chief Operations Officer/Deputy Executive Director
Jonathan Wangel, Esq., Senior Director of Risk Mitigation and Management
Michele Martelle, Senior Director of Planning, Evaluation and Reentry Support Services
Elizabeth Ford, MD, Chief of Service, Psychiatry
George Axelrod, Director of Health Information & Risk Management
Omar Arnouk, Associate Counsel, Office of Legal Affairs
Roseann Titcombe, MD, NYU Fellow

OTHERS IN ATTENDANCE

Elias Husamudeen, Correction Officers' Benevolent Association (COBA)
Albert Craig, COBA
Marc Steier, COBA
Amelia Warner, COBA
Jennifer Parish, Urban Justice Center
Kayla Simpson, Legal Aid Society – Prisoners' Rights Project (LAS)
Kelsey De Avila, Brooklyn Defender Services (BDS)
Simone Spirig, BDS
Elizabeth Mayers, Jails Action Coalition
Julia Davis, Children's Defense Fund
Daniele Gerard, Children's Rights
Kieshorne Dennie, NYC Council
Peter Butler, NYC Council
Alana Sivin, NYC Council
Robert James, Friends of Island Academy
Jorge Marin, Independent
Winston Nguyen, Independent

Opening Remarks

The Board's Executive Director, Martha W. King ("ED King"), announced that Derrick Cephas voluntarily resigned as Chair and Member of the Board. Mr. Cephas was appointed by the Mayor in October 2014, serving as Vice-Chair and then as Chair. He led the Board during a period of great reform and innovation in NYC's jails. This included the Board's enactment of punitive segregation reforms, the Minimum Standards on Sexual Abuse and Sexual Harassment, variances related to alternative restrictive housing for adolescents and young adults, and rulemaking on restrictive housing. ED King said the Board and its staff greatly appreciate his dedication and commitment to the Board and to criminal justice reform over the past four and a half years. Because of Chair Cephas's resignation and because the Board's Vice-Chair, Stanley Richards, had a prior work conflict, Board Member Jackie Sherman graciously agreed to chair today's meeting.

ED King also announced that last week was National Correctional Workers' Week. As the Board has said in the past, staff in NYC's jails have the most challenging jobs in the City. On behalf of the Board, she thanked the Department of Correction's ("DOC" or "Department") staff for their daily commitment to improving the City's public safety and jails.

Approval of March 12, 2019 Minutes

Member Sherman asked for a motion to approve the draft March 12, 2019 meeting minutes. Upon Member Regan moving the item and Dr. Cohen seconding it, the minutes were unanimously approved (Members Cohen, Jones Austin, Perrino, Regan, and Sherman).

Proposed Rulemaking re Minimum Standard § 3-08 and New Minimum Standard § 3-16

► Introduction

ED King said the Board would vote today to initiate the rulemaking process and public comment period on proposed new rules. She summarized the basis for the proposed rules as follows:

In January 2019, Board staff published a report summarizing data on serious injuries to people in custody and an audit of three months of serious injury reports.¹ The report documented an 80%

¹ The Board's *Serious Injury Reports in NYC Jails* (January 2019) is published here: <https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/2019.01.07%20-%20BOC%20Serious%20Injury%20Report%20-%20Final.pdf>

discrepancy between the number of serious injuries diagnosed by Correctional Health Services (“CHS”) and the number of serious injuries reported internally and publicly by DOC. In response to these findings, the Board planned to impose conditions on a longstanding CHS variance that allowed for the sharing of injury information between the agencies. However, just prior to the February 2019 public meeting, the Corporation Counsel Zachary Carter decided that the Board’s oversight via this variance was no longer required. That decision was based on Mr. Carter’s finding that the Board’s Minimum Standard from which the longstanding variance had been sought should be interpreted differently than it had been for the past five years. The Board then voted on and unanimously passed a resolution saying that it disagreed with the Corporation Counsel’s opinion. The Board also announced it would enter rulemaking to enforce the Minimum Standards and implement additional rules to improve injury responses and prevention, which it found to be dangerously flawed in its January 2019 report.

In February 2019, the Board submitted draft proposed rules to the City’s Law Department, the Mayor’s Office of Operations, and to DOC and CHS for their feedback on any operational impact. BOC received and was responsive to all feedback. The Law Department and Mayor’s Office of Operations certified the proposed rules last night, after which BOC immediately published the proposed rules to its website and shared them with interested parties.

Among other things, the proposed rules seek to: (1) expressly allow CHS to share with DOC specific diagnoses related to injuries sustained by people while in DOC custody; and (2) address the deficiencies identified in the Serious Injury Report by requiring DOC and CHS to comply with data collection and reporting requirements concerning injuries. Under the proposed rules, CHS would be able to disclose certain individual communicable disease diagnoses when an exposure has occurred at a facility and it is necessary for CHS to engage in contact tracing to protect the health and safety of exposed individuals; when such disclosures are made, CHS would be required to inform the Board within 24 hours. Additionally, in recognition of the fact that individuals in DOC’s custody are people first and the circumstance of their incarceration is not their defining feature, the Board has made a commitment to employ person-forward language in its Minimum Standards and general communications going forward.

If the Board votes to approve the proposed rules today, it would begin the public comment process, as required by the City Administrative Procedure Act (“CAPA”). The Board welcomes public comment today, in writing via email, mail, or the City’s rules website, and at a CAPA hearing scheduled for June 20, 2019 at 22 Reade Street. The Board will publish the draft final rules in advance of a second Board vote at the July 9, 2019 public meeting to approve the rules.

► Public Comment

The Board heard public comment from Marc Steier (COBA), which is available here: <https://youtu.be/LEY49eLcCnA?t=1718>.

► Board Discussion

ED King responded to Mr. Steier’s concern about the legality of today’s vote in light of the fact that the proposed rules had only been made available to the public the night before. ED King clarified that today’s vote to initiate the public comment period is an extra step the Board has decided to take which is not legally required by the CAPA process. BOC also has a longer public comment period than what is legally required by CAPA. She said the public CAPA hearing is scheduled for June 20, 2019, and the estimated time for the final vote on the rules would be at the public Board meeting on July 9, 2019. The nearly 60-day public comment period will include further discussions with DOC and CHS, and the opportunity to hear from all interested parties to inform revisions and improvements to the proposed rules.

Judge Hamill concurred with Member Jones Austin and Member Regan that people felt as though they were not given adequate notice of the proposed rules before today’s vote. However, she

clarified again that CAPA does not require the Board to take a vote before initiating the CAPA process, and today's vote is the Board's attempt to be as open and transparent as possible. She emphasized that the improved tracking of serious physical injuries and violence in the jails has been an urgent matter for the Board.

► Board Vote

After Member Sherman called a roll call vote, the Board unanimously approved the motion to propose the rules related to injuries and patient confidentiality and begin the CAPA process, 6-0 (Members Cohen, Hamill, Jones Austin, Perrino, Regan, and Sherman).²

Secure Unit Variance Request

► Introduction

ED King said that DOC requested the renewal of a variance allowing it to reduce out-of-cell time to a minimum of ten (10) hours per day in the Secure Unit and to allow for alternative access to law library. She summarized key points found in DOC's recent public reports and audits as follows:

As of March 1, 2019, DOC had placed 91 young adults in the Secure Unit. Since the Board last passed a variance on Secure in November 2018, the average daily population increased from an average of eight (8) young adults in November 2018 to 20 young adults in February 2019. The average daily population then decreased to 14 young adults in March 2019. The average length of stay for young adults exiting Secure was 81 days from November through March. From September 2018 through February 2019, there were 31 exits from Secure, an increase from 13 in the previous six-month period. Thirty-two percent (32%) of the exits were due to young adults completing all phases of Secure, 29% were due to movement to a less restrictive housing unit outside of Secure, and 19% were due to young people being discharged from custody. Between September 2018 and February 2019, there were 72 placement reviews for young people in Secure, which is nearly three (3) times as many as there were during the last review period. Of these 72 reviews, 79% were recommended for progression, an 18% increase from the last review period.

Since September 2017, the Board has required that the Department refrain from using restraint desks in the Secure Unit school area. Per the Board's variance condition, restraints should be used only under extenuating circumstances, and DOC must notify the Board on a weekly basis of their use. The Department has successfully provided these weekly reports to the Board, and the last documented use of restraint desks during school was on September 14, 2017.

DOC's monthly audits of Secure have shown the following:

- From September 2018 to March 2019, young adults in Secure consistently spent less time out of cell than the minimum lock-out requirement.
- In Phase 1, where DOC must offer 10 hours of out-of-cell time, young adults spent an average of seven (7) hours and four (4) minutes out of their cells. However, DOC reports that the limited time out-of-cell is due to young people choosing not to leave their cells.
- The law library coordinator was consistently in the unit and spent an average of three (3) hours and 22 minutes each day in the unit – well beyond the requirement of two (2) hours of law library each weekday.
- Young adults are consistently participating in all programming afforded to them in the unit.
- On average, 56% of students are refusing educational services and the audits do not document the reasons for school refusal.

² The Board's Notice of Public Hearing and Opportunity to Comment on Proposed Rules (March 13, 2019) is published here: <https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2019/May/2019.05.13%20-%20Proposed%20Rules%20re%20Injury%20Sharing.pdf>

- Students in Secure who attend school spend, on average, only 56 minutes per day in the classroom.

The audits show that DOC implemented several of the Board's recommendations. The Board looks forward to further discussions with DOC about ways to improve these audits.

► DOC Presentation

DOC's Chief of Department, Hazel Jennings ("Chief Jennings"), requested a six-month variance renewal from Minimum Standards §§ 1-05(b) (lock-in) and 1-08(f) (access to law library) to continue operating the Secure Unit.

► Board Discussion

Judge Hamill shared several concerns that officers in Secure expressed to her in March 2019. The officers said that 1) there was no steady afternoon captain assigned to the unit; 2) they needed more equipment such as radios, cuffs, mitts etc.; 3) lockout and lock-in times were being delayed because of a recent increase in the census, and it is now taking two (2) hours to lock everyone out which cuts into individual lockout time; 4) the criteria for placement and progression out of the unit was not being followed; 5) the mixing of different Security Risk Groups ("SRG") is increasing violence and hindering the time young adults have to be in the classroom because different SRGs cannot attend school at the same time; 6) young adults with several incidents while in the unit were not transferred out, and those who had completed their phases and were due to move were also remaining in the unit; 7) many officers were required to work two shifts at a time (16 hours total) and they believe that fatigue does not benefit the safety of the unit; and 8) no officers had received the incentives promised to them for working in Secure Unit (e.g., Gate 1 passes and hazard pay). Member Hamill noted that ED King sent these concerns to DOC via email, and while the Board has received some responses, many of these problems may still remain.

Chief Jennings said that DOC was notified about the issues with equipment and it now ensures that security equipment is checked daily and remains in the housing area. She said the increase in Secure Unit placements is due to: 1) the increase in Use of Force ("UOF") for young adults, and 2) the step-down placements from young adult Enhanced Supervision Housing. She asserted that incidents in the Secure Unit have significantly decreased this month, during which there were only two UOFs and no fights. She has not received any complaints about staff not receiving their Gate 1 passes, and will look into this issue. She also asserted there is no excessive overtime for staff in the unit. Judge Hamill asked Chief Jennings to look into these concerns, especially the concern that young adults are unable to attend school due to the separation of different SRGs. She said the decrease in violence in the unit demonstrates the extraordinary training and commitment of the officers in the unit.

Dr. Cohen was under the impression that the Secure Unit could not house more than eight people at any given time due to the unit's design. He expressed concern that there were 20 people in the unit last month and currently 14 people in the unit, and inquired about DOC's intentions with the population size of Secure. Chief Jennings replied that Secure was designed for a challenging young adult population and DOC's goal is to keep the daily population at a manageable amount and the unit fully staffed.

► Board Vote

ED King read out loud an amendment to existing Condition #2. This would change the requirement that DOC provide notice to the Board on a weekly basis stating whether restraint desks were used to only providing notice to the Board if restraint desks were used.³

³ The revised variance condition #2 reads as follows: "The Department shall not use restraint desks in Secure Units except in the Secure Unit school area and only when (a) extenuating safety or security

After Member Sherman called a roll call vote, the Board unanimously approved existing Conditions #1 and # 3-11, by a vote of 6-0 (Members Cohen, Hamill, Jones Austin, Perrino, Regan, and Sherman).

After Member Sherman called a roll call vote, the Board unanimously approved the amended Condition #2, by a vote of 6-0 (Members Cohen, Hamill, Jones Austin, Perrino, Regan, and Sherman).

Member Sherman called for a motion to vote on the variance with the conditions. After Judge Hamill moved and Dr. Cohen seconded, the Board unanimously approved the variance with the 11 conditions, by a vote of 6-0 (Members Cohen, Hamill, Jones Austin, Perrino, Regan, and Sherman).⁴

Jail Lockdowns and Minimum Standard § 1-05 (Lock-In)

► Introduction

ED King said Board staff recently published a report on the topic of lockdowns in the City's jails.⁵ She provided a background to the report as follows:

DOC has a policy that permits its staff to lockdown housing areas and facilities to investigate violence, avoid violence, conduct searches, or restore order. During a lockdown, people in custody must be in their cell, and all movement, services, and programming cease. Lockdowns therefore hinder DOC's and CHS's ability to meet the Minimum Standards. This has been a priority concern for the Board in recent years.

Last year, the Board published its first review of lockdowns, finding that despite a 32% decrease in DOC's population since 2008, there had been an 88% increase in lockdowns. In response to the Board's report, DOC made a commitment in April 2018 to limit lockdowns to specific housing areas rather than locking down entire facilities in response to smaller-scale incidents. The Board's recent report documents the results of its 2018 report and the Department's efforts and progress to limit the number and impact of lockdowns. This is yet another example of how the Board and the Department can use data to document concerns, strategize solutions, and measure the impact of changes and interventions pursued.

► BOC Presentation

The Board's Deputy Executive Director of Research, Emily Turner ("DED Turner"), and Research Associate Mackenzie Deary, presented a summary of the report as follows:

DED Turner thanked Mackenzie Deary for leading the Board's work on this report and the Board's Monitoring team for their work on this report. She also thanked DOC and CHS for their careful review and feedback on the report's findings. DED Turner noted that DOC has agreed to implement nearly all of the report's recommendations.

circumstances, or specific, credible intelligence of a safety or security threat, require their use; and (b) the Deputy Warden of Secure approves their use in writing. The Department shall notify the Board, in writing, every time restraint desks were used and specify the circumstances that required their use. The Department shall provide written notice to the Board within 24 hours of such occurrence."

⁴ The final record of variance is available at:

https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2019/May/2019-05-14%20FINAL%20Record%20of%20Variance%20Action_Secure-corrected.pdf

⁵ The Board's *Annual Lockdown Report* (May 2019) is published here:

https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/Lockdown%20Report%202019_5.13.19_FINAL.pdf

i. Methodology

To better understand the Department's use of emergency lockdowns and their effect on mandated services, the Board's report involved:

- Reviewing DOC's administrative data sources on lockdowns, including information from DOC's incident reporting system;
- Reviewing DOC and CHS policies related to lockdowns;
- Auditing one month of DOC and CHS documentation of the services impacted by lockdowns, and
- Interviewing people in custody and correction officers to examine the impact of lockdowns from their perspective.

ii. Key Findings

Ms. Deary said that from 2008 to 2017, the number of lock downs in DOC's facilities increased by 88% but in the last year, DOC has made very important progress. From 2017 to 2018, there was an 18% decrease in the total number of lockdowns in DOC facilities, from 1,595 lockdowns in 2017 to 1,313 lockdowns in 2018. The duration of lockdowns decreased from an average of 12 hours in 2017 to 11 hours in 2018. BOC also found that on average, people in general population housing were afforded 10.9 hours of lock out time per day, less than the 14 hours required by the Minimum Standards. Use of Forces, inmate tension, and inmate fights were the top three reasons for lock downs in both 2017 and 2018. Additionally, in 2018, facility-wide lockdowns accounted for 12% (n=166) of all DOC lockdowns, down from 16% (n=265) in 2017.

DOC currently tracks the services impacted (delayed or cancelled) by lockdowns on paper forms. Board staff audited all Area Lock-In Forms submitted in November 2018, and found that in 56% of lockdowns, six (6) or more services were either delayed or cancelled. Overall, DOC's documentation of these services impacted by lockdowns has improved substantially since 2017 and is more consistent with what was reported to the Central Operations Desk. However, the forms do not capture critical information that the Board believes will improve data quality such as: medical services beyond sick call (e.g., clinic, medication administration, follow-up appointments, and specialty services); incidents where no services were affected; specific programs impacted by lockdowns; specific DOC staff activities undertaken during lockdowns; and number of staff diverted from their regular posts to respond to a lockdown incident.

BOC's monitoring team conducted a non-statistical sample of interviews in housing areas that had been recently locked down in order to provide a qualitative context to the data. During a two-week period in March 2019, Board staff spoke with 32 people in custody and seven (7) officers across six (6) different facilities. Overall, the people in custody interviewed perceived lockdowns as an unfair form of punishment for others' behaviors. The officers interviewed expressed a certain amount of apprehension regarding lockdowns, and reported that they feel less safe because they expect people in custody to be frustrated as a result of a lockdown. However, the officers reported that they believe lockdowns are an effective form of de-escalation.

Board staff reviewed DOC and CHS policies and documentation of the services affected by lockdowns. This revealed that current DOC policies do not identify which CHS staff the Tour Commander is required to communicate potential disruptions to health and mental health services to during lockdowns, or within what timeframe this communication is to occur. BOC also found significant discrepancies between DOC and CHS documentation on how lockdowns impact health-related services. This suggests gaps in coordination between DOC and CHS, and hinders understanding of the impact that emergency lockdowns have on health and mental health services for people in custody.

iii. Recommendations

DED Turner discussed the report's recommendations:

- DOC should build on its recent progress and continue to reduce the number and duration of lockdowns to the fewest and shortest necessary to restore order and maintain security.
- DOC should work toward ending the use of facility-wide lockdowns, and instead use shorter, more targeted interventions so that only those housing areas that must be locked down are affected.
- DOC should develop a system to communicate publicly on its website when lockdowns impact phone calls and visits.
- DOC should continue to improve its consistency and completeness of data tracking and documentation. This includes electronically capturing information on all services affected and the impact on staffing.
- DOC should collect and analyze information on the specific time, steps, and numbers of staff needed to address different lockdown procedures (such as those related to slashings, searches, fights) and the intended goals of those activities.
- DOC should update its policy to outline the communication procedures and reporting timeframes between DOC security staff, DOC Health Affairs, and CHS staff when lockdowns occur.
- CHS and DOC should develop systems to track how lockdowns affect scheduled services, medication provision, and patients requesting sick call, and develop a policy addressing how access to care across different service types is prioritized and rescheduled when lockdowns occur.
- DOC should provide BOC its updated draft policy on lockdowns so it can share feedback.
- DOC should provide BOC direct access to lockdown documentation (“Area Lock-In Forms”) related to the services impacted by lockdowns for review and monitoring.

► DOC Response

Chief Jennings said that emergency lock-ins are critical to maintaining operational integrity as well as safety of people in custody and staff. DOC had approximately 30 lockdowns this month and it projects a nearly 40% reduction in lockdowns from Fiscal Year 2018. DOC’s overall emergency lock-ins have decreased by 18% and DOC is in the process of revising its lockdown policy with recommendations from BOC as well as the *Nunez Monitor*. In January 2019, DOC also initiated bi-weekly training for Assistant Tour Commanders and Captains to provide critical thinking skills for operating the facilities and for ensuring that services are impacted to least extent possible.

DOC’s Chief of Staff, Brenda Cooke (“COS Cooke”), clarified that DOC counts lockdown events slightly differently than the Board. For example, if a lockdown began at 5PM in a housing area and lock-in is from 9PM-5AM, DOC would count the lockdown as between 5PM-9PM. The next morning a lockdown is automatically lifted and needs to be reinstated so staff employ critical thinking to consider if the lockdown needs to continue, and if it does, a new lockdown request is submitted and counted as a new lockdown event. This has been an operational change in the past year.

► Board Discussion

Member Perrino expressed concern that DOC does not have enough tools to safely separate violent individuals, and he does not want the goal of reducing lockdowns to impinge on DOC’s ability to manage violence. Chief Jennings said that lockdowns remain a critical safety tool but DOC is making sure that staff are thinking critically about lockdown-related issues. Dr. Cohen said that he appreciates DOC’s efforts to apply lockdowns more narrowly to housing areas. Member Regan said that DOC needs lockdowns, as they are an important safety tool. In his opinion, the most important metric to assess them is the length of the lockdown and services that were affected.

Member Sherman asked DOC to speak to the efforts it has undertaken to ensure communication between DOC and CHS when lockdowns occur. Chief Jennings said the bi-weekly training

stresses to Tour Commanders the importance of making this notification. She noted that during lockdowns, access to clinic and mental health services do not completely cease for anyone in critical need of them.

Update on Nunez Independent Monitor

► Introduction

ED King discussed the *Nunez* Consent Judgement and the Monitor's Seventh Report as follows:⁶

In 2011, Legal Aid filed a class-action lawsuit against the City of New York, alleging a pattern and practice of unnecessary UOF by DOC staff with impunity. In 2014, the Southern District of NY joined the class action. In 2015, the case settled with a Consent Judgement. Among other reforms, the judgement required DOC to develop a new UOF policy; take steps to impose appropriate discipline for staff engaged in misuse or excessive UOF; improve staff training; and install comprehensive video surveillance. It also included the appointment of an Independent Monitor to document and report on the implementation of reforms.

In April 2019, the *Nunez* Independent Monitor filed his Seventh Report. The Monitor found that DOC was failing to meet the three principal requirements of the Consent Judgment: 1) reduction in the UOF rate; 2) timely and quality UOF investigations; and 3) meaningful and adequate discipline of staff for using excessive or unnecessary force. The Report noted that during the Seventh Monitoring Period (July 2018 - December 2018), DOC's UOF rates reached their highest levels since the Consent Judgment went into effect. The Monitor also found a high rate of force that was deemed avoidable or unnecessary.

ED King invited DOC to update the Board on the current status of its reforms and efforts to address the Monitor's findings in the last Report.

► DOC Presentation

Heidi Grossman, DOC's General Counsel ("GC Grossman"), prefaced her remarks by noting that DOC has maintained a high level of compliance with 84% of the terms of the Consent Judgment. She said that while DOC is proud of its accomplishments, it has undertaken efforts to improve and implement the reforms the judgment was designed to achieve. She presented on these efforts as follows:

Over the past three to four years, DOC has developed a case management system; a *Nunez* Compliance Unit; and preliminary investigations. During this Monitoring Period, there was a reduction in UOF at OBCC and RMSC, and DOC intends to take the skills and management-style that led to these successes and replicate them in other facilities.

i. Transfer of Learning

DOC adopted a "transfer of learning" to focus on the following core issues the Monitor identified in the Seventh Report: 1) painful escort techniques; 2) prevalence of inmate fights; 3) over-reliance on probe team responses; and 4) excessive and unnecessary force. The transfer of learning pilot involves video roll call trainings, messaging, and mentoring by designated Captains. At roll call trainings, staff apply what they have learned by answering questions about these four core areas. DOC intends to use clickers so staff can anonymously respond to these questions and if, for example, 30% of the group does not understand a specific area, it informs DOC that this deficiency must be addressed.

⁶ The Seventh Report of the Nunez Independent Monitor is available at:
https://www1.nyc.gov/assets/doc/downloads/pdf/7th_Monitor_Report.pdf

ii. Quality and Timely Investigations

DOC has seen success in its preliminary investigations, but it is actively working to eliminate the backlog of incomplete facility investigations. DOC is centralizing the responsibility for facility investigations with the Trials and Investigations Division, and expects to use the lessons learned from the PREA backlog to manage this backlog. DOC also received initial approval from the Monitor to develop an "Intake Squad," which will focus on preliminary investigations. After a preliminary investigation is completed, a case can be: 1) forwarded to another investigator to do a full Investigative Division ("ID") investigation; 2) fast-tracked if there is no need to do a full investigation (e.g., when video evidence directly captured the incident) and DOC can negotiate a disciplinary outcome with the staff member directly; 3) closed with no further action; and 4) closed with a referral for follow-up (e.g., cases involving minor offenses).

iii. Timing of Full ID Investigations

DOC is focusing on cases coming up on their statute of limitations, and building a system to reduce the backlog of investigations.

iv. Discipline

DOC has implemented an audit protocol and expects to resolve command level discipline issues by leveraging the Trials and Investigations Division. This would authorize the Trials and Investigations Division to adjudicate some command disciplines, which would reduce delays in the adjudication process.

v. In-Service Probe Team and Cell Extraction Trainings

DOC is completing the trainings required by the Consent Judgment and tracking their attendance.

vi. Adoption and Implementation of Direct Supervision for 16, 17, and 18-year-olds

In regard to the adolescents (16-17-year-olds), DOC is actively working with the Monitor and Administration for Children's Services ("ACS") on the Strive Behavior Management plan at Horizon. In regard to the 18-year-olds, DOC is developing graduated sanctions, and believes that will incorporate aspects of direct supervision.

vii. Use of Force

DOC's Immediate Action Committee, the facility leadership's Rapid Reviews, and the Early Intervention Unit are critical to identifying UOFs and tracking relevant trends. DOC found that 3,600 of its UOF incidents (61%) involved individuals with an SRG affiliation. In 2018, a significant number of UOFs (approx. 4,600), involved people who are known to be in need of mental health services. Notwithstanding, stabbings and slashings have decreased by 42%, and UOFs with serious injuries to either an officer or detainee during an assault on staff decreased from 63 in 2017 to 47 in 2018.

DOC reviewed UOFs that did not result in injuries to people in custody between September 2018 and December 2018. The review found that a large number of overall UOFs were used to protect people in custody during inmate-on-inmate fights. Between 81-84% of the incidents that occurred had no observed or claimed injuries to the people in custody attributable to UOF. Between 13-16% of the injuries were caused by another person in custody, and DOC staff used force to protect the victim from further harm.

► Board Discussion

Dr. Cohen appreciated the depth of analysis that GC Grossman provided in her response to the Monitor's Seventh Report. He said that from reading the Report, it appears that facility level staff from the Warden to Correction Officers have not agreed to achieve compliance with the Consent Judgment, and noted there are also issues with staff retention. He expressed grave concern that in approximately 215 cases, action was taken to require discipline of officers, but DOC did not follow through with the discipline until the Monitor instructed DOC to take action. Additionally,

nearly 1,500 cases had exceeded the statute of limitations, and a large number of these cases had evidence of wrongdoing. He asked DOC how it got to the point where so many serious cases were approaching the statute of limitations. GC Grossman said that DOC is focusing on professional and leadership development of staff to achieve compliance with the judgment and so that staff are better positioned to assume leadership roles when there is employee turnover. She said the development of the Intake Squad and the centralization of cases with the Trials and Investigations Division will ameliorate the delay in investigating cases and adjudicating command level disciplines.

Member Sherman asked if the development of the Intake Squad requires additional staff or if current staff will fulfill this function. GC Grossman said that DOC it is still determining how it will carry out this plan, but it will likely require the use of current and additional staff.

Judge Hamill thanked GC Grossman for the update and emphasized the importance of targeted leadership and management training for facility staff. She reiterated that investigations as well as timely and adequate discipline are key factors in achieving success in the Consent Judgment.

DOC Update on Visit Initiatives

► Introduction

ED King said in 2018, there were just over 221,000 visitors to the City's jails and about 167,000 visits. Studies have shown that visits allow people in custody to maintain relationships with their family and communities, which in turn can result in better behavior in custody and reduce recidivism. She invited the Department to update the Board on the status of its new visit initiatives.

► DOC Presentation

Steven Kaiser, DOC's Director of Policy & Reform Initiatives, thanked the Board for the opportunity to discuss DOC's recent work related to visits. He presented as follows:

i. Visit Initiatives at RMSC (Women's Facility)

DOC created an additional uniformed staffing post on the RMSC's visit floor, allowing mothers to enter the children's area to play with their children. DOC also received approval from the SCOC to begin construction on a family visiting area on the RMSC's visit floor; this area will be located adjacent to the children's area and will have family-friendly tables that allow families to interact without barriers.

DOC worked with ACS for the expansion of the Children of Incarcerated Parents program, where children involved in the foster care system are brought to the facility for two-hour visits with their parents. These visits occur every other Tuesday and every Saturday; snacks and refreshments are provided. DOC is also engaged with the Mayor's Office of Data Analytics, which is in the process of analyzing the visitor flow rate at RMSC. DOC is reviewing opportunities to improve the visit experience for women without increasing visitor wait times at the facility. In April 2018, DOC partnered with the Children's Museum of Manhattan to offer the Crafting Family Connections program, where mothers are transported to the Children's Museum for monthly visits with their children. During these visits, mothers interact with their children for two hours, snacks and refreshments are provided, and families can engage in programming and arts and crafts activities. DOC extended this contract for an additional two years.

ii. Structural Changes to Visit Areas

The Department completed renovations of the Central Visits area on Rikers Island which included repainting, re-flooring, procuring new furniture, installing informational kiosks, and installing video monitors that play visitor-relevant information. DOC also installed monitors in each facility visit area. DOC staffed two full-time visit greeter positions (one of whom is bilingual) and installed landline telephones with call access to city information (311), Constituent Services, and BOC.

DOC recently contracted a professional muralist who is in the process of painting large murals in all visit areas to create a less institutional environment and encourage more visits. To encourage visitors to bring children with them, DOC procured crayons and coloring books for children to use as they wait for visits and to take home when they leave.

iii. Free Shuttle Bus for Visitors

DOC launched the free shuttle bus in April 2018 to provide free transportation for visitors from Harlem and downtown Brooklyn. There has been a steady increase in ridership over the course of the first year, and it has so far provided 75,000 rides to visitors. DOC removed the large Rikers Island decals on the side of the buses and replaced them with more discreet decals. DOC also doubled the number of buses in circulation on each route.

iv. Staff Trainings

The Osborne Association collaborated with DOC to deliver full-day training on customer service and community sensitivity principles, which includes implicit bias principles. This training was rolled out this past Friday and is available to all visits officers, shuttle bus drivers, and public facing bail window staff. DOC is also adding another refresher training on the Department's visit policies and procedures. In October 2018, DOC was awarded a Training and Technical Assistance grant from the National Institute of Corrections and the Urban Institute. It has been working with these organizations for the past few months to further develop recommendations related to improving its visit processes and experiences.

► Board Discussion

Judge Hamill commended the Department on its initiatives. Separately, she said the Board's role is to provide oversight and voiced concern about the alleged illegal strip searches and body cavity searches of visitors that were recently reported to have occurred at one facility. She acknowledged that the Department cannot speak to this alleged incident and everyone is presumed to be innocent when charged with a crime. However, she asked DOC what policies and protocols it has in place to ensure compliance with visitor search procedures. She added that these types of allegations have been consistently reported to BOC.

Commissioner Brann said that DOC believes that everyone entering its facilities as a visitor should be safe, and that DOC does not tolerate staff misconduct on any level. She stressed that while individuals are presumed to be innocent, DOC has taken swift action to suspend the individuals involved in the allegations pending the criminal charges. She asserted that DOC constantly trains staff on visit and search procedures and none of what is alleged in this complaint conforms to DOC's policies. She expressed that DOC is a large organization and the vast majority of its staff come to work intent on doing a good job. She also stated that DOC responded to DOI's investigation and review of its policies and procedures and that DOC has adopted all of DOI's recommendations. Judge Hamill urged DOC to review and improve upon its policies related to visitor searches and ensure that proper supervision is provided during these searches. Judge Hamill also asked if the Board could receive a copy of DOI's recommendations; Commissioner Brann said that she is unsure if the report has been made public but will share this information with the Board.

Member Sherman praised DOC's recent visit initiatives. She asked how DOC is measuring the impact its recent efforts are having on the number and quality of visits. Mr. Kaiser said that DOC reviews visitor data and performs analyses on the number of visits and how visitors use DOC's services. DOC weighed this information against the declining jail population and saw sporadic increases and declines in visits; the Department is still attempting to understand the cause of these trends. DOC is also working with the Mayor's Office of Data Analytics to perform an analysis of visits at RMSC, and will continue to work with them to assess the impact of Department programs. Qualitatively, DOC conducted surveys at RMSC and received positive feedback on these initiatives.

Dr. Cohen appreciated DOC's presentation and hearing about its recent initiatives. He inquired about DOC's visit greeters and said that they were consistently not present on the days that he visited Rikers Island. Mr. Kaiser said there are two visit greeters at Central Visits, but currently none at the borough facilities.

Public Comment and Adjournment

The Board heard public comment from Officer Harrison (DOC), Albert Craig (COBA), Winston Nguyen (Independent), Kayla Simpson (LAS), Elias Husamudeen (COBA), and Julia Davis (Children's Defense Fund).

The public comments are available at: <https://youtu.be/LEY49eLcCnA?t=9334>.

Following public comment, Member Sherman adjourned the meeting.

DRAFT