



**NEW YORK CITY
BOARD OF CORRECTION**

March 12, 2019 PUBLIC MEETING MINUTES

MEMBERS PRESENT

Derrick D. Cephas, Esq., Chair
Stanley Richards, Vice-Chair
Robert L. Cohen, M.D.
Hon. Bryanne Hamill
Jennifer Jones Austin, Esq.
Steven M. Safyer, M.D.
Jacqueline Sherman, Esq.

Martha W. King, Executive Director

MEMBERS ABSENT

James Perrino
Michael J. Regan

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
Angel Villalona, First Deputy Commissioner
Michael Tausek, Deputy Commissioner of Adult Programming and Community Relationships
Dr. Nichole Adams-Flores, Deputy Commissioner of Health Affairs
Steven Kaiser, Director of Policy & Reform Initiatives
Marcia Maxwell, Executive Director of Intergovernmental Affairs
Anne Penson, Executive Director of Woman's Initiatives
John Gallagher, Acting Warden
David Sukhu, Correction Officer
Nancy Li, Policy Analyst
Jason Kersten, Press Officer

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

Patsy Yang, DrPH, Senior 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
Jonathan Giftos, Clinical Director of Substance Use Treatment
George Axelrod, Director of Health Information & Risk Management

OTHERS IN ATTENDANCE

Jennifer Parish, Urban Justice Center
Kimberly Joyce, Esq., NYC Law Department
Ester Johansson-Lebron, NYC Law Department
Freya Rigterink, NYC Office of the Mayor
Albert Craig, Correction Officers' Benevolent Association (COBA)
Kelsey De Avila, Brooklyn Defender Services (BDS)
Simone Spirig, BDS
Brittany Cooper, BDS
Wendell Walters, The Osborne Association
Allen Riley, NY State Commission of Correction
Kieth Zobel, NY State Commission of Correction
Misaël Syldor, Independent Commission on NYC Criminal Justice and Incarceration Reform
Valentia Morales, Fedcap Rehabilitation Services (Fedcap)
Lianne May, Independent
Alicia Williams, Independent

Approval of February 12, 2019 Minutes

Chair Cephas asked for a motion to approve the February 12, 2019 meeting minutes. Upon Dr. Cohen moving the item and Judge Hamill seconding it, the minutes were unanimously approved (Chair Cephas, Vice-Chair Richards and Members Cohen, Hamill, and Jones Austin).

Sharing Patient Health and Injury Information

Chair Cephas discussed the Board's resolution on Health Care Minimum Standard § 3-08(c)(3), which prohibits Correctional Health Service ("CHS") from sharing specific diagnoses with the Department of Correction ("Department" or "DOC"). He recounted the following:

Prior to the February 2019 Board meeting, the Corporation Counsel wrote a legal opinion concluding that the longstanding variance to § 3-08(c)(3) was no longer necessary for CHS to share with DOC specific injury diagnoses stemming from uses of force. The Corporation Counsel then issued a supplemental opinion stating that because specific diagnoses of all injuries sustained in custody are fundamentally necessary to DOC's injury investigations, § 3-08(c)(3) does not apply to the sharing of any injury diagnoses and, therefore, CHS can share this information without a variance.

At the February 2019 Board meeting, the Board unanimously passed a resolution declaring that: (i) the Board strongly disagreed with Corporation Counsel's opinions, which effectively removed the Board's oversight of injury information; (ii) the Minimum Standard remains in effect, and CHS must seek a variance to continue any sharing of patient diagnoses; and (3) the Board has legal authority to impose conditions on the variance related to injury reporting. Because CHS did not seek a variance renewal, the longstanding variance expired on February 12, 2019.

Chair Cephas said the Board was prepared to enter rulemaking to enforce the Minimum Standard and to implement additional rules to improve responses to injuries and injury prevention, which the Board's report on serious injuries found to be significantly flawed.¹ The Board submitted a proposed rule to the Law Department and the Mayor's Office of Operations for certification, and shared the proposed rule with DOC and CHS for their feedback on any operational impact. Once certified, BOC will publish the proposed rule on its website and circulate it to interested parties. The Board plans to vote on the proposed rule at the end of its hearing on April 23, 2019; this vote will officially begin the City Administrative Process Act ("CAPA") process.

¹ The Board's report on *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>

Dr. Cohen emphasized that the failure to renew the variance raises critical issues about transparency and injury investigation, and BOC's serious injury report highlighted significant concerns about these investigations. He said the challenge to the variance distracted from the report's findings.

CHS Update on Mental Health Units

► Introduction

BOC's Executive Director, Martha W. King ("ED King"), stated that, according to the last Mayor's Management Report, approximately 14% of people in the NYC jails have a serious mental health diagnosis and 43% have used mental health services at least three times during their incarceration. These numbers suggest there are a range of mental health needs among people in custody and there are too many people with mental illness in the jails — an issue that multiple City agencies have been trying to address.

To respond to the mental health needs inside jail, CHS and DOC have established various mental health housing units: Mental Observation Units ("MO"), Program to Accelerate Clinical Effectiveness ("PACE") Units, Clinical Alternatives to Punitive Segregation ("CAPS") Units, and Restricted Housing Units ("RHU"), as well as the psychiatric wards at Bellevue and Elmhurst hospitals. ED King requested that CHS and DOC brief the Board on the range of mental health housing and current operations.

► CHS Presentation²

CHS' Chief of Psychiatry, Elizabeth Ford, M.D. ("Dr. Ford"), presented on mental health services in the jails as follows:

(i) Mental Health Population Data

There are 3,700 patients (or 43% of the jail population) with an "M designation." This designation identifies individuals who have been treated for a mental health issue during their incarceration. There are 1,100 patients (or 16% of the jail population) diagnosed with a serious mental illness ("SMI"), which includes schizophrenia-spectrum disorders, bipolar-spectrum disorders, depressive disorders, and post-traumatic stress disorder ("PTSD"). Approximately 75% of patients with SMI are housed in specialized mental health housing, and 97% of these units have patients with SMI.

(ii) Entry into the Mental Health Service

Everyone receives a medical intake within the first 24 hours of incarceration; if people are referred to mental health, they are seen within three (3) days. Approximately 10-15% of new admissions are seen by mental health within 24 hours due to the severity of their needs. After someone is assessed by mental health, an initial housing determination is made. Housing options include general population with access to an outpatient clinic, MO units, CAPS or PACE units, and inpatient beds at Bellevue and Elmhurst Hospitals. Within the first few weeks of admission, a comprehensive treatment plan and reentry plan is developed for each person referred to mental health. Additionally, CHS provides screening services at medical intake for young adults (ages 18-21) not referred to mental health; they are screened for PTSD, substance use disorder, psychopathology, and intellectual developmental disability ("IDD").

² CHS' presentation on *Mental Health Housing and Treatment for Individuals with Serious Mental Illness in the NYC Jails* (March 2019) is available here: https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2019/March/H+H_Mental-Health-Presentation-March-12-2019.pdf

(iii) MO Units

When Health + Hospitals/CHS became the correctional health provider in 2016, it created a supervisory structure in the MO units, allowing all staff the opportunity to discuss complicated cases and day-to-day struggles with a supervisor. CHS also expanded programming in these units, hired court liaisons who relay among treatment teams, clinical staff, and legal teams to expedite individuals through the criminal justice system, and added crisis intervention and dedicated treatment teams.

(iv) CAPS and PACE Units

Six (6) PACE units are currently in operation, and CHS has approval to open 12 more by 2020. PACE has steady, multi-disciplinary clinical staff who provide team-based care; correctional staff are also steady. The units use incentives for good behavior and treatment adherence, and typically provide three (3) group programs each day. To measure the success of PACE, CHS developed three (3) outcome metrics (medication adherence, self-harm rate, and 30-day re-hospitalization rate) with specific goals. A review of data from January 2016 through December 2018 found that many goals in the male PACE units were met or exceeded. CHS began tracking female PACE units in March 2017 and found that they are also performing well, but have room to grow. CHS began robustly tracking data on the CAPS unit in 2018 and expects to use this as a baseline for measuring its improvement.

(v) Incompetent to Stand Trial (“ICST”)

CHS offers services to people found incompetent to stand trial (ICST) or “not fit” to stand trial by a NY CPL 730 exam. In 2018, CHS voluntarily assumed management of the City’s forensic psychiatric court evaluation clinics and is now responsible for Fitness to Stand Trial services in NYC. This allows CHS to better understand and treat individuals in the correctional health system.

(vi) CHS’ Successes

There have been no suicides in the mental health service in over three (3) years, and self-harm rates have significantly decreased. There is more tolerance for behaviors that were forcibly medicated in the past, and, as a result, patients are sent to the hospital less frequently for involuntary medication. Since January 1, 2016, CHS has hired a total of 89 psychologists, psychiatrists, and social workers, and has created a learning environment that makes NYC jails a desirable place to work.

► Board Discussion

Dr. Cohen noted that the percentage of women in CAPS is much higher than men; very few women are placed in solitary confinement; and women utilize mental health services beginning at intake at much higher rates than men. He asked CHS to comment on the implications of the high number of women in need of intensive mental health services and the Department’s approach to violence among women. Dr. Ford responded that nationally, women in jail have greater mental health needs than men and tend to access and engage mental health services in the community more than men. CHS has tried to honor this greater interest in, and need for, mental health services at RMSC. Psychiatrically, violence is generally a warning sign of mental illness more in women than men; fighting as a response to the jail environment is more common in men than women.

Judge Hamill asked if people in CAPS and PACE remain in these units until they are discharged from custody or if they are “stepped down” to different units. Dr. Ford responded that these units were originally intended as a step-down to MO housing or general population. However, CHS found that the PACE and CAPS population could not be stably and safely housed elsewhere. Currently, the average length of stay in CAPS and PACE is two (2) months and people are typically discharged directly from these units.

Judge Hamill said people with SMI should not be incarcerated, and asked Dr. Ford for suggestions on how the jails can better manage and treat people with serious mental illness. Dr. Ford agreed, and said there is necessary work to do in the community, because this issue is impacted by socioeconomic factors such as housing, education, employment, and social support. Additionally, community mental health providers must be trained to treat previously incarcerated people with empathy when discussing their trauma.

Vice-Chair Richards asked Dr. Ford to discuss the mental health services provided to people in Enhanced Supervision Housing (“ESH”) and describe CHS’ role in the placement of people in restrictive housing. Dr. Ford responded that CHS provides mental health services to people in ESH as needed, and clinicians see patients in an interview room in the unit or at the clinic. Regarding restrictive housing placements, mental health reviews every person in the mental health service who is served an infraction; if they are seriously mentally ill, they are excluded from restrictive housing and placed in CAPS. Mental health staff also performs rounds in restrictive housing units and notifies DOC if any individuals should be moved out of the unit.

Member Sherman inquired about CHS’ efforts to meet the needs of individuals with IDD. Dr. Ford responded that people with significant IDD impairment are housed in PACE, where the treatment model calls for less emphasis on medication and a more structured and supportive environment. CHS also works closely with the Office for People with Developmental Disabilities and the criminal justice system to expedite criminal cases for individuals with IDD.

Dr. Cohen stated that, according to the Board’s data, the Department fails to produce approximately 25% of the patients that CHS requests to see. He inquired about the causes of this problem and how CHS and DOC were collaborating to address it. Dr. Ford responded that generally, mental health clinics everywhere struggle with missed appointments, and the “no show” rate for mental health appointments in the community is between 12% and 60%; additionally, the no show rate is much higher for racial and ethnic minorities. As in the community, some people in custody do not want to go to mental health appointments because of stigma, lack of insight, and the inability to see the same clinician at every appointment, which is important to developing an effective therapeutic relationship. She deferred to DOC on production challenges and said CHS cannot implement treatment teams and improve care in the clinics unless they see patients more regularly.

Dr. Cohen inquired about the clinical treatment of attention-deficit hyperactivity disorder (“ADHD”) on Rikers and at the Horizon Juvenile Detention Center. In response, Dr. Ford said CHS provides ADHD treatment similarly to how it is provided in the community. She noted that ADHD is one of the only mental health diagnoses where medication is the standard of care.

Judge Hamill asked what the criteria is for transfer of a person in custody to Bellevue Hospital. Dr. Ford responded that generally, the transfer is based on New York State’s civil commitment criteria, i.e., a reasonable probability that someone has a mental illness and, as a result, poses a danger to himself or others). Dr. Ford noted that, due to fiscal challenges in recent years, Bellevue has half the amount of beds it had 5-6 years ago. However, CHS is actively working to re-open more beds.

► DOC Presentation

DOC’s Deputy Commissioner of Health Affairs, Dr. Nichole Adams-Flores (“Dr. Adams-Flores”), invited questions from the Board.

ED King inquired about staffing ratios in the MO units. DOC’s Acting Warden John Gallagher, (“Warden Gallagher”) responded that several months ago, the staff in some MO units at AMKC were increased. In these housing areas, one officer performs standard duties, such as count, while another officer works with the treatment team (e.g., helps with groups and ensures that

people are taking their medications). ED King also asked about the collaboration between DOC and CHS in moving patients between MO units. Dr. Ford explained that entrance into the MO, PACE, and CAPS units at AMKC is controlled by the mental health service. Specifically, CHS conducts an assessment and completes a form titled Transfer Notification Form (“TNF”) for DOC to initiate movement within the facility.

Dr. Cohen asked why the Department moves people out of the unit or facility after a fight instead of temporarily separating them. Warden Gallagher responded that DOC has learned that every incident must be handled uniquely and transferring people after a fight is no longer the Department’s standard practice.

ED King asked the Department to discuss the Crisis Intervention Teams (“CIT”) — specifically, where they are operating, how many staff have been trained, the increased or decreased use of the teams, and their impact on violence. Dr. Adams-Flores explained that under the CIT model, a clinician and officer respond together to deescalate an incident involving a person in the mental health service. The goal is to understand why a person is in crisis and determine ways to respond. Crisis intervention training was implemented in 2015, and CITs are currently available in 24 different housing areas in five (5) jails. Initially, DOC was only documenting formal “activations” by the CITs, while instances of informal de-escalation (e.g., without the entire team or without completing formal paperwork) were not tracked. DOC has now begun tracking both formal and informal activations, and as of today, there have been 950 total CIT activations, the majority of which have been informal.

Warden Gallagher noted that the high rate of informal activations is because many officers are successfully de-escalating situations on their own without the need to enlist the help of mental health staff. Dr. Ford said when DOC and CHS conceptualized the CIT program in 2015, they planned to have one to two teams responding to all incidents in each facility. However, the number of teams proved insufficient and resulted in more informal activations. CHS has now increased its staff involved in the CIT program.

ED King asked if the Department plans to have an independent entity evaluate the implementation of the CIT program. Dr. Adams-Flores responded that DOC is tracking and documenting the program’s effectiveness. Warden Gallagher noted that the program has an advisory board, which includes the National Alliance on Mental Illness and the Legal Aid Society; the Department also sends information to the Mayor’s Office of Criminal Justice. Vice-Chair Richards requested to review any report that DOC has on the CIT program. Dr. Adams-Flores said the Department could provide the Board with a CHS report on the subject.

ED King asked if the Department and CHS collaborate on providing programming in MO units, and what type of programming is offered. Michael Tausek, DOC’s Deputy Commissioner of Adult Programming and Community Relationships (“DC Tausek”), responded that both agencies are evaluating their resources to expand services and programs in MO units. As of yesterday, RMSC partnered with the City University of New York and Fordham University to offer theater education by two credentialed instructors. The agencies plan to continue expanding creative arts and recreational programming in the MO units.

DOC Update on Women’s Initiatives

► Introduction

ED King stated since 2013, the number of women in the City’s jails has decreased by 36%. Today, women comprise approximately six (6) percent (n=461) of the jail population. The Department recently announced new initiatives for women in custody, and invited DOC to update the Board on its new programs.

► **DOC Presentation**

Anne Penson, DOC's Executive Director of Women's Initiatives, said that in February 2018, the first lady of NYC, Chirlane McCray, in partnership with DOC and the Mayor's Office of Criminal Justice, announced an initiative to address the unique needs of women in custody. She presented on the initiatives as follows:

(i) Mother-Child Bonding

In April 2018, DOC launched a program called Crafting Family Connections, which nurtures positive relationships between women in custody and their children through monthly visits at the Children's Museum of Manhattan. Each visit includes creative arts programming and facilitated family engagement activities. Each participating family receives a free one-year membership to the Museum, and the membership is renewed when the mother is released from custody. To date, there have been nine (9) such visits, involving 28 mothers and 50 children.

In June 2018, DOC expanded the Children of Incarcerated Parents Program at RMSC in partnership with the Administration for Children's Services ("ACS"). This program now offers two-hour visits for mothers with children involved in the child welfare system every Saturday and every other Tuesday. Since June 1, 2018, there have been over 175 visits through this program.

DOC has created a new uniformed staff post at RMSC that will allow mothers to play with their children in a designated area of the RMSC visit floor. DOC also submitted a proposal to the State Commission of Correction (SCOC) to create a visiting area with more family-friendly tables and seating.

(ii) Gender Responsive Services

The Department hired Ms. Penson and three family engagement specialists to develop and implement comprehensive, integrated, and culturally-relevant programming and services for women. DOC is in the process of hiring a Director of LGBTQ Initiatives who will implement transgender responsive programming for transgender women.

The Department has had a long-standing partnership with Steps to End Family Violence, which provides supportive services to women who have open criminal cases related to histories of domestic abuse. In 2017, DOC began a partnership with Green Hope Services for Women, which provides support in the jails and in the community, a residential alternatives-to-incarceration program, substance abuse counseling, and vocational and educational services. In January 2019, DOC expanded its partnership with the Women's Prison Association to provide discharge planning services at RMSC. DOC providers also implemented the Seeking Safety Program, which supports the needs of women with co-occurring trauma and substance use disorder, and Beyond Trauma, a gender-responsive curriculum designed to help women recover from the effects of trauma.

To address gender-specific anger-management needs, the women at RMSC have recently begun participating in Beyond Violence, a curriculum designed to serve women in criminal justice settings with history of aggression and/or violence. The Department is currently working towards implementing additional gender-responsive curricula to address anger management, parenting, substance use disorder, and trauma for all women in custody. Upon release, women are provided the opportunity to engage in ongoing support services through partner agencies in the community, such as Green Home Services for Women, the Osborne Association, and Fortune Society.

(iii) Support Networks

The Department is working with the Mayor's Office of Data Analytics to study RMSC's visit process and identify opportunities to expand visiting access for women. DOC is also in the process of hiring a Visit Greeter at RMSC who will assist visitors in the waiting area and answer questions regarding the visit process. DOC's partner agencies offer Moving On, a program for at-

risk women, which helps women identify and mobilize personal and community resources. The Department's partner agencies, such as Fortune Society, also provide post-release services such as housing, job training, internships, and substance use and mental health treatment.

► Board Discussion

Judge Hamill said she was pleased with the progress at RMSC. However, she was disappointed that the nursery appears to be underutilized, as DOC recently received three (3) applications to the nursery but only one (1) applicant was admitted. She asked the Department if it intends to increase the maximum age of children who can be housed in the nursery from one (1) to two (2) years old. Heidi Grossman, DOC's General Counsel ("GC Grossman"), said the Department will discuss this with ACS to understand what obstacles or legal implications exist. Member Jones Austin requested that DOC review both the legal and child welfare implications of this option.

Member Jones Austin said the Department should consider how it will determine the effectiveness of these initiatives, both qualitatively and quantitatively. Ms. Penson said a national news outlet recently covered the visits at the Children's Museum of Manhattan, which qualitatively captured the program's success. However, DOC needs additional time to capture data to measure the quantitative success of the initiatives. DC Tausek added that his strategic planning team will be reviewing these initiatives to determine their effectiveness.

Judge Hamill asked for an update on the Department's requirement to house individuals consistent with their gender identity as opposed to their external anatomy. GC Grossman said DOC is currently housing individuals consistent with their gender identity, in accordance with federal Prison Rape Elimination Act (PREA) standards and BOC's Minimum Standards on Sexual Abuse and Sexual Harassment. Judge Hamill asked if transgender women are housed only in RMSC's Transgender Housing Unit ("THU") or if they can choose to be housed in a different unit within RMSC. GC Grossman responded that placement in the THU is voluntary. She was not able to provide information about the number of transgender women at RMSC who are housed outside of the THU, but said the Department could provide such information. Judge Hamill inquired about DOC's draft THU policy. GC Grossman said the policy is close to being finalized, and DOC has already implemented many of its terms.

Dr. Cohen reflected on the City's plan to close Rikers Island and create borough-based facilities with a smaller population. He asked the Department how the Board could help minimize the number of women in custody. DOC's Chief of Staff, Brenda Cooke, said that in collaboration with Mayor's Office of Criminal Justice, DOC has been engaged in aggressive efforts to reduce the overall population through a myriad of reforms. Member Jones Austin discussed the intersection between poverty and criminal justice involvement and said the City must address this in its efforts to reduce the jail population.

Public Comment and Adjournment³

The Board heard public comment from Valentia Morales (Fedcap), Brittany Cooper (BDS), and Albert Craig (COBA).

The public comments are available at: <https://www.youtube.com/watch?v=YmyY8guTgUQ>.

Following public comment, Chair Cephas adjourned the meeting.

³ Written testimony from Kelly Grace Price is available here: <https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2019/March/KGP-Testimony-March-12-2019.pdf>