

RE: Polanco Public Report Recommendations

A. Introduction

The Department of Correction is dedicated to ensuring that all individuals in custody are provided a safe and secure environment during their stay. The Department prides itself on executing duties effectively and takes the loss of Layleen Polanco while in custody with utmost seriousness. This loss enforced remedial measures to be put in place, that ensures all individuals, with emphasis on the Department's LGBTI-GNC-GNB population, continue to receive appropriate treatment.

DOC appreciates the Board's continued partnership in creating a safer, fairer, and more humane system for individuals in custody. Please see the following responses to the Board's related questions.

B. DOC Responses to BOC Questions and Recommendations

BOC Questions (#1): The Board's February 2018 Assessment of the Transgender Housing Unit and June 2020 Polanco report recommended that DOC develop an action plan for managing interpersonal conflict in the Special Considerations Unit (formerly known as the Transgender Housing Unit). Has such a plan been developed and what is the Department's current strategy for managing conflict in the unit? When individuals must be rehoused from the SCU due to conflict, has the Department updated policies to require staff consider all other housing options aligned with an individuals' gender identity, including placing transgender women in GP units with cis-women in lieu of transfer to a men's facility or de facto isolation? (DOC recommendations 1 & 2)

DOC Response:

The Department responds to conflicts within the SCU by holding unit-wide mediation facilitated by the Director of LGBTQ+ Initiatives. Prior to COVID-19, the Director of LGBTQ+ Initiatives and the Social Service staff on the unit would hold weekly community meetings, during which unit residents were encouraged to discuss issues or concerns on the unit. Such meetings will continue once appropriate following the COVID-19 pandemic.

In addition, the Department instituted an LGBTQ+ hotline in September 2020 that provides LGBTQ+ individuals an opportunity to directly discuss any issues they are experiencing with members of the Programs Division's LGBTQ+ unit. The hotline serves as a resource on a range of topics, including assistance for individuals in SCU with concerns related to interpersonal conflict on the unit. All calls and concerns are reviewed by the Director of LGBTQ+ initiatives.

In addition to the SCU, transwomen at RMSC are presently housed in a range of housing options, including GP, MO, CAPS/PACE, and drug treatment housing. The Department will continue to house transwomen in other units outside of the SCU when appropriate for their individual health and safety needs in accordance with the Department's applicable directive.

BOC Question (#2): The Board's report found that in the case of Layleen Polanco, RMSC's Special Considerations Unit New Admissions was functioning not just as temporary new admissions housing, but as a waystation for transgender individuals for whom there were no other housing options. The Board has learned this is still happening, as recently as January of this year. Please update the Board on the status of the Board's recommendation to issue a formal policy on how new admissions areas are to be operated, including time limits and placement criteria, as well as what's been done to label units like SCU new admissions in the DOC system to enable better oversight. (DOC recommendation 3)

DOC Response:

The Department's LGBTI-GNC-GNB policy addresses Department efforts to support TGNBI individuals in custody and gives specific guidelines on how TGNBI new admissions areas are to be operated. It states that a determination for SCU placement must be made within 3 business days. An individual should not be housed in new admissions housing beyond that time frame.

BOC Questions (#3): The Board's review found that DOC's and CHS's copies of NYPD Medical Treatment of Prisoner form that contained critical information about her health were barely legible. What progress has DOC made to ensure that collateral medical information accompanying someone into custody is maintained and relayed in a legible format? (DOC recommendation 4)

DOC Response:

The Department currently uses a form to capture medical information in a manner that aligns with this recommendation.

The Department has also updated a teletype, which indicates that a new logbook was implemented for tracking purposes. The Department will be conducting weekly audits to confirm legibility of the logbooks.

BOC Questions (#4): What if any steps have been taken (retrofitting, renovation, etc.) to ensure that people are held in cells with adequately large observation windows? What are the specifications for cell windows in the new borough based jail plan? (DOC recommendation 5)

DOC Response:

As the Board notes, most cells in RHU at RMSC fit the Board's recommendation. There are additionally other locations across the facility with larger observation windows. The Department will consider this recommendation as borough-based jail designs are finalized and implemented.

BOC Question (#5): What is the status of the DOC policy revisions that the Board recommended in its report, and related staff training on those revisions? (DOC Recommendations 6-8)

DOC Response:

The Department has determined 30-minute watch tours are appropriate. The policy has been amended to reflect 30-minute watch tours. This edit resolves any ambiguity in the applicable section of the policy. The revised Constant Supervision policy states tours in PSEG areas need to occur in 30-minute intervals and the PSEG directive will be aligned for 30-minute tours. As such, the watch tour system will not be altered, and a CLO is not needed.

The Department and CHS are working to revise the section of policy referencing placement and medical clearance. CHS and DOC are in the process of consolidating RHU and PSEG through the creation of a single policy.

The Department updated the RHU directive to make explicit the requirement that officers to look for and confirm signs of life during rounding. The directive defines “signs of life” as ensuring that the individual is breathing, audible cues such as snoring, and other body movements. Officers are responsible for checking signs of life in 30-minute intervals. This will also be included in future revisions to applicable directives.

BOC Question (#6): When can the Board expect the Department to move away from its practice of keeping paper logbooks towards an electronic log system? (DOC recommendation 10)

DOC Response:

The Department agrees with the overall recommendation of transitioning to electronic logs and is in the early stages of implementing an electronic jail management system. The creation and implementation of this system will take time and the Department will continue to utilize paper logbooks until an electronic process can be rolled out. Please understand, however, that the creation of a secure electronic logbook system that can be safely and securely accessed on housing units requires significant infrastructure improvements and may not be feasible in the Department’s current facilities.

In response to this recommendation, facilities with PSEG/RHU units monitor their watch tours on a weekly basis. Facility Operations additionally reviews these reports, including comparing report findings to Genetec. Facility Operations also participates in a weekly call with supervisors and captains from these housing units to address deficiencies, develop solutions to any barriers to compliance, and ensure appropriate discipline has been issued when necessary and appropriate.

Going forward, the Department will further supplement this monitoring by conducting an additional quarterly review of PSEG/RHU units watch tour and logbook compliance.

BOC Question (#7): What if any changes has DOC made to the Observation Aide program since the report? (DOC recommendation 12)

DOC Response:

The Department revised its Observation Aide policy and clarified relevant language. In July 2020, and in response to this recommendation, the Department addressed with all Wardens their responsibilities surrounding observation aide rosters and the need for appropriate coverage. The Department further reissued its Observation Aide policy in February 2021, to update and reiterate the roles and responsibilities of observation aides, as well as expectations surrounding documentation. The Department’s Compliance and Safety Center will continue to assist with monitoring for observation aide presence and make calls to facilities if observation aides are observed to be off-post or otherwise performing tasks outside their scope of duty.

In the absence of observation aides, per policy, staff conduct more frequent tours and /or call in additional MOS to assist in touring where feasible.

C. DOC and CHS Updates on Joint Recommendations 1-4:

BOC Recommendation #1: Informing housing area officers when someone in their charge has a serious medical condition and address lapses in medication administration due to people being transferred to new housing placements.

DOC Response:

The Department defers to CHS for this update.

BOC Recommendation #2: Reporting system for CHS staff to inform management when undue pressure on exclusion determinations is being exerted by DOC personnel, and related accountability system for such DOC personnel.

DOC Response:

As previously discussed with the Board, CHS provides DOC a daily list of persons with medical exclusions from placement in restricted housing. This considers placement of individuals in PSEG, PSEG II, RHU, ESH (all levels), and Secure Unit (all levels) based on their medical history or status. Department security staff conduct a review of the daily exclusion list prior to every placement in restrictive housing, and additionally every day to ensure no individuals currently housed in restrictive housing are on the daily list.

BOC Recommendations 3 and 4: Ensure that staff and people in custody receive adequate support following traumatic incidents.

DOC Response:

The Department directs and encourages members of staff to take full advantage of the staff wellness center if they need or could benefit from additional support. Absent extenuating circumstances, and when desired, staff can receive coverage for some or all of their tour following involvement in a serious event.

As noted, the Department finalized an Operations Order describing the above response following a significant event, including providing support to people in custody and staff. This policy additionally formalized an existing process of dispatching Chaplaincy support to individuals housed in a unit where a recent serious injury or death occurred. The policy makes clear that CHS staff, along with DOC staff, can avail themselves of DOC wellness services following involvement in the response to such an event.