



NEW YORK CITY
BOARD OF CORRECTION

May 26, 2016 - Public Meeting Minutes
1 Centre Street, New York, NY 10007 – Room 2209

MEMBERS PRESENT

Stanley Brezenoff, Chair
Derrick D. Cephas, Esq., Vice Chair
Gerard W. Bryant
Robert L. Cohen, M.D.
Honorable Bryanne Hamill
Stanley Richards

Martha W. King, Executive Director

Absences were noted for Jennifer Jones Austin, Michal Regan, and Steven M. Safyer, M.D.

DEPARTMENT OF CORRECTION

Timothy Farrell, Deputy Commissioner
Jeff Thamkittikasem, Chief of Staff
Heidi Grossman, Esq., Deputy Commissioner of Legal Matters/General Counsel
Danielle Leidner, Director for Intergovernmental Affairs
Anna Marzullo, Senior Policy Advisor
Joseph Caputo, Deputy Warden in Command
Vincent Perillo, Acting Deputy Warden
Dina Montes, Press Officer

OTHERS IN ATTENDANCE

Mike Balsamo, Associated Press
Kelsey De Avila, Brooklyn Defender Services
Dennis Gonzalez, Nunez Mentorship
Courtney Gross, NY1
Sara Kerr, Legal Aid Society
Deandra Khan, New York Civil Liberties Union
Amanda Masters, NYC Public Advocate – Hon. Letitia James
Celia Rhoads, Law Department
Kathleen Rubenstein, Law Department
Michelle Zhang, Children's Rights

The meeting commenced with Vice Chair Cephas and Members Bryant, Cohen, and Hamill in attendance. Member Hamill asked the Department of Correction to present its variance request for a 30-day extension of time – from June 1, 2016 through and including June 30, 2016 – to end punitive segregation for inmates ages 18-21 (“young adults”).

Department’s Variance Request

The Department’s Jeff Thamkittikasem (Chief of Staff) stated that the Department had made significant strides to end punitive segregation for young adults. He said the alternatives to punitive segregation encompass Second Chance, TRU, and Secure housing, but that construction of the Secure Units had not yet been completed. He noted that the Department has made great progress in limiting the use of punitive segregation, and, as of this meeting, only 23 young adults are in punitive segregation. By Monday or Tuesday of next week, there would be only 17 young adults remaining in punitive segregation. They are currently in OBCC 3 South.

The Chief of Staff explained that because construction of the Secure Units is still ongoing, the Department requires a variance allowing punitive segregation to continue for an additional 30 days. The Department is still waiting on the Department of Transportation (DOT) to lay asphalt in the recreation yard which is being built for the Secure Units. Member Hamill asked what the problem was with laying the asphalt. Mr. Thamkittikasem said that the laying of the asphalt is being done in accordance with DOT’s schedule, which is not subject to the Department’s control. After DOT lays the asphalt, the Department will install additional fencing and a basketball court.

Member Cohen asked how long the Department has been waiting upon DOT. The Chief of Staff responded that, for at least a month, the Department has engaged in formal discussions with DOT to finalize a Memorandum of Understanding pursuant to which DOT would do the necessary work. It will take two days to lay down the asphalt and a week for the asphalt to settle before the Department can install fencing. Later in the meeting, the Chief of Staff and Deputy Commissioner Farrell said that the Department would be able to open the Secure Units and use an interim recreation site pending completion of the yard, but had not yet identified an interim site.

The Chief of Staff stated that construction of an additional wall was required to address security concerns and that an extra door had been installed for fire safety purposes. Fully resolving these issues required the Department to request the variance. The Chief of Staff said that 40 inmates had been moved from punitive segregation into SCHU and TRU. Some of them had initially been transferred into general population but had not done well there; as a result, they were placed in SCHU or TRU or transferred back to punitive segregation. Member Bryant asked what tasks remained that were essential to opening the Secure Units. The Chief of Staff and Deputy Commissioner Farrell confirmed that the only work remaining was completion of the recreation yard and construction of an additional wall.

Vice Chair Cephas asked if there are any other issues that might cause further delay in opening the Secure Units. In response, the Chief of Staff stated there were no issues other than the ones he had already noted. He added that Cognitive Behavioral Therapy (CBT) training has been completed; the Department has identified counselors; and they are working on policy issues; none of which would cause additional delay.

Member Cohen asked whether young adults who are discharged from punitive segregation will automatically be placed in a Secure Unit. Deputy Commissioner Farrell responded that if a person is returned from punitive segregation to Enhanced Restraint status, he might be considered for placement in a Secure Unit. Otherwise, the young adult would probably be returned to General Population unless he had newly engaged in behavior that warranted otherwise.

Member Cohen asked whether program counselors are engaging the 23 young adults currently housed in punitive segregation. Mr. Thamkittikasem responded not currently, but that the Department potentially could have counselors make rounds during the pendency of the requested variance.

Chair Brezenoff joined the meeting and the Board now had a quorum.

Member Hamill asked when the Department anticipated identifying the inmates for the Secure Units and whether it had commenced due process hearings for them. The Chief of Staff responded that the Department does not have a firm date yet, but assumed it would happen in the next two weeks or so.

Member Hamill stated that the Department had provided the Board with a draft directive on the Secure Units as required by the variance that the Board had approved at its May 10 Board Meeting. She understood that the *Nunez* Federal Monitor had approved the TRU and SCHU directive and asked what role the Federal Monitor would play with respect to the Secure Unit directive. The Department's General Counsel, Heidi Grossman, responded that the Department had been working on that directive in consultation with the Monitor and given this collaboration, whether or not the Consent Judgment requires the Monitor to approve the directive is not an issue.

Member Hamill asked whether the Department is designing performance metrics for Secure, TRU, and SCHU. In response, Mr. Thamkittikasem responded that metrics have been developed and the Department is in the process of tweaking them. He provided three baseline metrics: (1) agreement to comply and compliance with treatment plans; 2) incidents of violence; and (3) staff training and protocol.

Member Cohen asked why young adults still in punitive segregation could not have two (2) to seven (7) hours out of cell for congregate activities, as they will be afforded such out-of-cell time when the requested variance ends in 30 days. Member Bryant asked the Department whether part of the reason why this would not be possible is the inability to separate the young adults. Deputy Commissioner Farrell responded that the current punitive segregation area is a wide open floor that does not allow for separation. Mr. Thamkittikasem said the Department could extend individualized recreation time pending the variance period.

Member Hamill stated for the record that although she had been reminding the Department to seek a variance for weeks, the Board received a variance request only two days ago. She noted that the Department had largely stopped sentencing young adults to punitive segregation and asked whether it would be willing, during the pendency of the variance, to place young adults in punitive segregation subject to the Chief's review and approval. Mr. Thamkittikasem said yes. In response to Member Hamill's request, the Chief of Staff also confirmed that there is no backlog for punitive segregation.

Proposed Conditions

Member Hamill proposed additional variance conditions as follows: (1) during the pendency of the variance, program counselors would provide daily rounds and offer counseling services to young adults in punitive segregation; the Chief of Staff stated that the Department could agree to this condition; (2) during the pendency of the variance, the Department will provide two (2) hours of recreation for young adults in punitive segregation; Deputy Commissioner Farrell stated that the Department could agree to this condition; and (3) during the pendency of the variance, the Department shall provide the Board with a weekly report, commencing on Friday, June 3, 2016 and on every Friday thereafter, of the status of construction of Secure Units, which shall include (a) all steps necessary to complete construction, including the granting of all permits and other approvals required to open these Units, (b) the adequacy of staffing and training levels for the Secure Units. Mr. Thamkittikasem stated that the Department could agree to this condition.

Chair Brezenoff then opened the floor for public comment.

Public Comment

Sarah Kerr addressed the Board. Her comments are available at <https://youtu.be/fdqfaFwrhNE?t=25m20s>.

Member Cohen asked the Department why it could not release today the young adults who are in punitive segregation. Mr. Thamkittikasem responded that the Department could not do so without staff being trained and prepared for transfer of these young adults to other housing units.

Member Richards asked how long it would take for the Department to determine alternative housing placements for the young adults in punitive segregation. The Chief of Staff responded that this process had already begun.

Chair Brezenoff then called for a motion on the variance. Member Hamill moved the item; and Vice Chair Cephas seconded. Chair Brezenoff asked that each of the conditions be stated and then discussed.

Proposed Condition No. 1

Member Hamill proposed and read out loud the first condition: "During the pendency of this Variance, the Department shall not place any Young Adult in punitive segregation for any infraction unless it is reviewed and approved by the Chief of the Department." Chair Brezenoff asked the Department to respond, whereupon Mr. Thamkittikasem agreed to this condition.

After further discussion, Chair Brezenoff assumed a motion and a second, and the condition passed unanimously (Chair Brezenoff, Vice Chair Cephas, Members Bryant, Cohen, Hamill, Richards).

Proposed Condition No. 2

Member Hamill proposed and read aloud the second condition: "During the pendency of this Variance, the Department shall have program counselors provide daily rounds of and counseling to Young Adults in punitive segregation."

Mr. Thamkittikasem agreed to this condition. Member Cohen asked where such counseling would be provided. The Chief of Staff said it would be provided in the housing area, either in cells or in the day room. Member Cohen remarked that there is no confidentiality in the cells. He asked why inmates could not be taken out of their cells for counseling, as occurs when they are taken to medical or mental health appointments or showers. The Chief of Staff responded that the Department would seek to provide such counseling in the most appropriate setting available.

After further discussion, Chair Brezenoff assumed a motion and a second, and the condition passed unanimously (Chair Brezenoff, Vice Chair Cephas, Members Bryant, Cohen, Hamill, Richards).

Proposed Condition No. 3

Member Hamill proposed and read out loud the third condition: "During the pendency of this Variance, the Department shall provide at least two hours of individualized daily recreation to Young Adults in punitive segregation."

Mr. Thamkittikasem agreed to this condition. After further discussion, Chair Brezenoff assumed a motion and a second, and the condition passed unanimously (Chair Brezenoff, Vice Chair Cephas, Members Bryant, Cohen, Hamill, Richards).

Proposed Condition No. 4

Member Hamill proposed and read out loud the fourth proposed condition: "During the pendency of this Variance, the Department shall provide the Board with a weekly report, commencing on Friday, June 3, 2016 and on every Friday thereafter, of the status of construction of Secure Units, which shall include (a) all steps necessary to complete construction, including the granting of all permits and other approvals required to open these Units, (b) the adequacy of staffing and training levels for the Secure Units."

Mr. Thamkittikasem agreed to this condition. Member Richards asked if the Department could provide a report on the number of young adults in punitive segregation who utilized the two hours of recreation and the number of them who accepted counseling services. Mr. Thamkittikasem agreed to provide such a report.

After further discussion, Chair Brezenoff assumed a motion and a second, and the condition passed unanimously (Chair Brezenoff, Vice Chair Cephas, Members Bryant, Cohen, Hamill, Richards).

An Additional Condition Proposed by Member Cohen

Member Cohen proposed the following additional condition: "During the pendency of this variance, the Department shall provide programs in punitive segregation which are planned for the Secure Units, including cognitive behavioral therapy."

Mr. Thamkittikasem responded that the officers in punitive segregation were not trained to provide cognitive behavioral therapy. He explained that the Department had provided this training to officers in GRVC who are working with young adults in TRU and SCHU and that the officers had bid for these posts. Chair Brezenoff acknowledged that Member Cohen had made his point, but that there did not appear to be consensus on this proposed condition. The condition was not brought to a vote.

Chair Brezenoff then asked for a vote on the variance with all of the approved conditions. The variance passed unanimously (Chair Brezenoff, Vice Chair Cephas, Members Bryant, Cohen, Hamill, Richards).

Thereafter, the meeting was adjourned.