

NEW YORK CITY
BOARD OF CORRECTION

January 9, 2012

MEMBERS PRESENT

Gerald Harris, Chair
Alexander Rovt, PhD, Vice Chair
Catherine M. Abate, Esq.
Robert L. Cohen, M.D.
Michael J. Regan
Milton L. Williams, Jr., Esq.

Excused absences were noted for Members Pamela S. Brier, Rosemarie Maldonado, Esq., and Hildy J. Simmons.

DEPARTMENT OF CORRECTION

Dora B. Schriro, Commissioner
Michael Hourihane, Chief of Department
Lewis S. Finkelman, Esq., First Deputy Commissioner
Thomas Bergdall, Esq., General Counsel
Sharman Stein, Deputy Commissioner
Sara Taylor, Chief of Staff
Martin Murphy, Deputy Chief of Staff
Maggie Peck, Director, Office of Constituent Services
Carleen McLaughlin, Legislative Affairs Associate

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Homer Venters, M.D., Assistant Commissioner, Correctional Health Services
George Axelrod, Director, Risk Management
Farah Parvaez, M.D., Public Health Services

OTHERS IN ATTENDANCE

Joseph Antonelli, Office of Management & Budget (OMB)
David Cloud, Columbia University Mailman School of Public Health, student
Jay Cowan, M.D., Medical Director, Corizon
Christina Fiorentini, Independent Budget Office
Allegra Glashausser, NYC Bar Association
Susana Guerrero, State Commission of Correction
William Hongach, City Council
Jean-Claude LeBec, OMB
Neil Leibowitz, M.D., Mental Health Director, Corizon
Danielle C. Louis, OMB
Jeff Mailman, Legislative Director, NYC Council
Nashla Salas, Independent Budget Office (IBO)

Eisha Wright, Finance Division, NYC Council
Milton Zelermyer, Esq., Legal Aid Society, Prisoners' Rights Project

At 9:05 a.m., Chair Gerald Harris began the meeting by introducing himself, noting that he spent half of his 50-year career as a practicing attorney and half in public service. He said he has been a prosecutor, defense lawyer, judge, public administrator, monitor of police conduct, a Deputy Commissioner at the Administration for Children's Services, and the head of a county law department. Chair Harris reported that he was one of the founding participants in the Vera Foundation's Manhattan Bail Project, which was institutionalized as the Criminal Justice Agency. He said he currently sits as a Judicial Hearing Officer in Manhattan Criminal Court and serves as an arbitrator for the American Arbitration Association. Chair Harris said he comes to the Board with no predetermined agenda, other than to gather information, take counsel from others, and contribute to the important work of the Board of Correction. He reported that he has spoken with members of the Board, past and present, met with Commissioner Schriro and her staff, and with BOC staff, and has reviewed the Minimum Standards, minutes of past meetings, reports, and recent relevant court decisions. Chair Harris said he will reach out to other stakeholders, noting that however viewpoints differ, there are certain shared goals: enhancing the safety of inmates, staff and the public, furnishing quality health and mental health care, and increasing opportunities for inmates to participate in educational and vocational training to promote successful reentry. Anticipating cooperative working relationships, Chair Harris said he looks forward to working with everyone.

A motion to approve the November 14, 2011 meeting minutes was approved without opposition.

Chair Harris, noting that the position of Vice Chair is subject to election each year, said he had spoken with Vice Chair Michael Regan. Mr. Regan, noting that he has served as Vice Chair for several years and been a member of BOC for ten years, nominated Member Alex Rovt to succeed him as Vice Chair. A motion to elect Mr. Rovt was approved without opposition.

Corrections Commissioner Dora B. Schriro presented a report, as follows:

As follow-up to the last BOC meeting, the Department submitted materials requested by BOC Executive Director Richard Wolf.

Some of the Department's big initiatives for 2012 address the safety and security of everyone in the system, and others pertain to the long-term impact of incarceration (referred to as "Safety Later" in DOC's Strategic Plan), and there is considerable intersection between initiatives addressing jail safety and those aiming to reduce recidivism. [The Commissioner distributed a document entitled, "Timeline: NYC DOC Strategic Initiatives" (copy attached)]

With recalibration almost completed, the custody management/risk assessment instrument will be rolled out in late February or early March, as soon as some programming is completed. Incoming inmates will be classified using both the old and new instruments until all bugs are ironed out, after which DOC will use only the new one. A related recalibration will identify inmates who are known

members of security risk groups with extraordinary abilities to carry out crimes within jails and in the community. Improved identification will enhance day-to-day management, and facilitate the separation of such individuals from one another. Gang identification will precede implementation of the new instrument.

Regarding swing space, the Brooklyn Detention Center (BkDC) will be reopened during the first week of February. It will retain its old capacity of 759 beds, and by the end of the first quarter of 2012 Brooklyn will be full. Previous court obligations to establish an advisory committee have been met – a first meeting has occurred, and the committee will meet quarterly for the next six years. DOC General Counsel Thomas Bergdall serves as chair of the advisory group.

Member Catherine Abate asked how many beds will be closed at Rikers Island when Brooklyn opens. Commissioner Schriro said some units will be closed temporarily to enable repairs to be done, and noted that approximately 50 housing units are scheduled for demolition. She said that 4000 beds will be demolished pursuant to the *Benjamin* litigation, which has been in existence for more than 30 years. She identified the four remaining *Benjamin* issues that impact almost all DOC beds: ventilation, sanitation, fire safety and lighting, noting that all have been addressed at BkDC. Vice Chair Alexander Rovt asked for the address of BkDC, and was told it is 275 Atlantic Avenue. Chair Harris asked if the BkDC prisoner population would be drawn primarily from Kings County. Commissioner Schriro said it will be drawn from Brooklyn and Staten Island. She said prisoners with Brooklyn cases will be escorted by foot via tunnel from jail to court, and many visitors are expected to come from Brooklyn, making visiting easier.

Commissioner Schriro reported that the Queens Detention Complex will reopen in FY 13. She said that with additional funding for more trades people, DOC expects to be able to conclude work on all *Benjamin* issues within several years.

Member Robert Cohen, M.D. asked how DOC decided where to place additional surveillance cameras. The Commissioner said DOC upgraded and added new cameras in BDC. She reiterated that the Department is adding 1400 cameras throughout the jails, especially in areas where incidents have occurred and in areas where they might be expected to occur based upon locations of incidents in other jails. She said decisions on camera placement are made in consultation with DOHMH to address privacy issues arising from medical treatment, citing CPSU where some “hot spots” are now subject to camera surveillance. The Commissioner said all of the old CPSU time-lapse cameras are being replaced to provide better oversight. In response to a question from BOC Deputy Executive Director Cathy Potler, Commissioner Schriro said the new cameras will be connected to the Genetec system. She then continued her report, as follows:

DOC is developing more tools to allow staff to respond to an inmate’s pro-social conduct, and to also respond to untoward activity. The Department has been working in several ways to address the backlog of inmates who owe bing time. Because most of these inmates have an “M” designation, DOC is working with DOHMH, making refinements to the process by which inmates must be cleared

by mental health prior to entering punitive segregation. Where clearance is not appropriate, some alternatives are being developed to respond immediately to this population and their mental health needs while protecting the inmate population. The Commissioners of DOC and DOHMH meet every month.

Dr. Cohen said the policy of having inmates “owe” bing time has not always existed in DOC, and he suggested that the policy be eliminated. He noted this would result in additional swing space. Commissioner Schriro said this was incorrect, and that the policy has been in place continuously since before she left DOC some 20 years ago. Dr. Cohen said many systems work efficiently without such a policy. Commissioner Schriro said most systems do not carry over bing time from prior incarcerations, but those systems have far greater discretion in determining when to lock in and lock out inmates. She said she will talk more about this at a later date. The Commissioner continued her report, as follows;

DOC is working with the unions to establish a system of graduated sanctions, and may return to the Board to seek “flexibility”. On most days, most housing areas are free of incidents, but incidents often occur among high custody inmates. [Commissioner Schriro distributed a DOC quarterly report, “NYC DOC at a Glance”. Copy attached.]

As the “DOC At a Glance” report for the first quarter of FY12 shows, incidents are most likely to occur among adolescents (7% of population but 21% of prisoners involved in incidents), prisoners with an “M” diagnosis (34% of population, 49% involved in incidents), high custody prisoners (17% of population, 47% involved in incidents), and gang members. For a year, DOC has piloted a program for Brad H inmates confined in mental health housing areas. This has been expanded to include the women at RMSC, and the result is an appreciable decrease among program participants in fights and other assaultive behaviors. DOC staff are trained and participate in treatment teams. Through consolidation, the roll-out will continue at all facilities with MO housing. DOHMH continues to evaluate the pilot. Uniformed staff now are assigned largely on a word-of-mouth basis, and receive excellent training.

Dr. Cohen said it was exciting to hear about the programs and reductions in violence, especially with programs as an alternative to solitary confinement for the mentally ill. He said he did not understand why DOC was building more punitive segregation beds, when the rest of the country is decreasing reliance on solitary confinement, including Colorado and Mississippi, where DOC’s own expert James Austin has said there are too many prisoners in solitary confinement. Dr. Cohen also cited Maine and Illinois as jurisdictions that have decreased solitary confinement beds, and said the United Nations Special Rapporteur recently issued a report specifically noting that prisoners with mental illness and juveniles should not be placed in solitary confinement, and that no one should be in solitary for more than a couple of weeks. He said he is disappointed that increasing solitary beds by 63% over the next two years is a major element of the Department’s capital plans. Commissioner Schriro said the

proportion of punitive segregation beds in the City's jails will be consistent with levels in other jurisdictions. She continued her report, as follows:

DOC's plan to provide additional incentives for inmates to modify their behavior includes credits for program participation, which reduce an inmate's classification score and results in transfer to less-restrictive housing. In minimum security housing areas, a second television will be installed. Commissary spends will be increased in minimum security and modulated down in maximum security. The environment still requires that every inmate who is not in punitive segregation be afforded the option to lock out for 14 hours per day. DOC will soon provide to the Board information demonstrating that inmates who are identified as having a propensity for violence act out during lock out time.

Mr. Regan, noting that punitive segregation beds increased by 27% in 2011, and that the plan is to increase 69% by the end of 2013, asked how many beds will be added and whether the totals include the planned reopenings of the Brooklyn and Queens facilities. Commissioner Schriro said she was talking about system-wide totals. She said the total beds will increase from 700 to approximately 1200. Commissioner Schriro said the system needs a continuum. Dr. Cohen asked Commissioner Schriro if she believes that placing adolescents in punitive segregation helps to make them better people. She said DOC is focusing punitive segregation on areas where there is jail violence, especially inmate-on-inmate, inmate-on-staff, and weapons. She said less serious offenses can be handled with alternative strategies, but these must be implemented through labor negotiations. Ms. Abate said she appreciates the need for punitive segregation, and asked if there are studies that demonstrate the "tipping point" for adolescents: how long does someone have to be in CPSU to change behavior, and at what point does CPSU confinement affect outcomes adversely? Commissioner Schriro said it depends on the population and their underlying characteristics: those who are "determined to be mean" and "hell-bent on establishing a reputation" are not as amenable as others to modifying their behaviors. She said the number of beds for adolescents is relatively small, noting that swiftness and certainty of sanctions enables one to rely less on length. Ms. Abate asked what the minimum amount of CPSU time could be to give an adolescent a "taste" of the bing. The Commissioner said that long-established guidelines exist, and DOC policy allows for discretion to impose a lesser bing sentence. Chief Hourihane said conditional discharge on a Grade III offense could result in a stay of four or five days. Mr. Wolf asked if DOC has information on the average length of stay in CPSU. Commissioner Schriro said she would provide it. Commissioner Schriro continued her report, as follows:

Regarding adolescents' education, inmates are now afforded two tracks: a GED track and a Regents track. Many inmates want to do both and more inmates are earning Regents credits. Study groups continued through the DOE winter break. DOC is securing funds to create a "wrap-around" program for 16 to 18-year olds who attend school. The idea is to address the time when inmate-students are not in school.

DOC is releasing an RFP for a second-generation RIDE program. RIDE provided discharge-planning services only for City-sentenced prisoners in the last days of incarceration. During classification, DOC will make “evidence-based” assessments of an inmate’s needs and amenability for treatment, forecast his/her anticipated length of stay, and assess risk of readmission. 85% of City inmates return directly to the community. Consistent with the literature, reentry efforts will focus on inmates with high risk of readmission and significant treatment needs. The program will abate idleness and reduce the likelihood of a return to custody.

Ms. Abate praised DOC’s “Timeline: NYC DOC Strategic Initiatives” and asked that the Department provide updates on its progress towards achieving the four enumerated goals. Commissioner Schriro continued her report, as follows:

The steering committee created by the Mayor to look at the mentally ill in the criminal justice system is moving ahead with its work. 46% of inmates with mental illness are adolescents, and additional information could enable the system to divert some of them at the front-end. Mentally-ill inmates are most likely to engage in violence during incarceration, are most likely to return to jail, and are least likely to “age out”. DOC and DOHMH, partnering with the Council of State Governments (CSG), are conducting focus groups. One will include BOC and the State Commission of Correction.

DOC has prepared an Events Calendar for 2012 and 2013 (copy attached), focusing on a wellness program for DOC staff. Disproportionately large numbers of uniformed staff members die at early ages, often from chronic illnesses.

DOC is partnering with restorative justice programs at Pace University, where criminal justice students, guided by faculty members, work with victims’ rights organizations. [The Commissioner distributed gift bags with sachet made from plants cultivated by inmates on Rikers Island, together with the Horticultural Society.]

Ms. Abate noted that when she was DOC Commissioner in the 1990s, she participated in many meetings at which adolescents, who could not appreciate the effects of their crime on victims, discussed their own victimization by family members and peers. Commissioner Schriro agreed with Ms. Abate’s observations, and thanked the Board for the opportunity to discuss DOC’s upcoming and ongoing plans and programs.

At the request of Chair Harris, DOHMH Assistant Commissioner Dr. Homer Venters reported that DOHMH is working with DOC to take a fresh look at how mentally-ill inmates go through the system, and how they are impacted by the infractions/disciplinary process. He said DOHMH has a very robust surveillance system, and is providing information for the CGS study, adding that lengthy detainee stays and institutional misbehavior often are connected to underlying mental health issues.

Dr. Farah Parvaez reported on the tuberculosis screening pilot project at the Rose M. Singer Center (RMSC), as follows:

Historically a tuberculin skin test (TST or PPD) was administered to all newly-admitted inmates. The PPD is still used for all male prisoners. A new technology, which is a blood-based laboratory test, was implemented in RMSC in March 2011. RMSC was selected because electronic medical records have been used there longer than in other facilities.

From March 14, 2011 through December, 97% of the more than 4700 women admitted to RMSC were tested. 9.5% were positive for latent tuberculosis infection, meaning that at some point in their lives they were exposed to TB and developed an infection. This does not mean that they are symptomatic or contagious. A positive test requires a work-up to determine whether the patient is contagious. The new test identifies more TB infection than the TST, and DOHMH is analyzing data to determine why. When a woman tests positive, she receives a chest x-ray. If active disease is found, the patient goes to a communicable disease unit (CDU). Women found with latent TB are offered full prophylaxis, as well as referral to a case management system for follow-up in the community.

The new test, called QuantiFERON (QFT), eliminates the possibility of a false positive test resulting from prior TB vaccination in a foreign country.

Chair Harris asked if there was any reason not to extend the new test to all prisoners. Dr. Venters said that although the new tests saves staff expenses for time needed to locate inmates and read their PPD skin implant, the blood test is more expensive. He said DOHMH is carefully assessing the pilot project's results to determine whether the new test could be implemented in a revenue-neutral way. Dr. Parvaez said the new test's big advantage is that practitioners receive results more rapidly than with the PPD test, which takes 2-3 days before a result can be read and results in a loss of 20-25% of the inmate-patients who leave the system. She said that QFT results are posted directly into the inmate's electronic medical record, so when the inmate returns to DOC, the records note the positivity result and there is no need for a new test. Dr. Cohen praised Drs. Venters and Parvaez for their work. He speculated that the higher positivity rate may be due to fewer false negatives, and asked DOHMH to report its future findings. Ms. Potler asked how the positive rate among prisoners compares to the public at large. Dr. Venters said the rate among prisoners is much higher, adding that the QFT is used at DOHMH health clinics and by the Health & Hospitals Corporation. Dr. Parvaez said DOHMH will look at rates among various prisoner subgroups, including IV drug users, prisoners who are HIV+, and foreign-born prisoners. She noted that the QFT may "do a better job" than the PPD among certain populations, such as prisoners who are HIV+. Dr. Parvaez said she expected from the literature to see a lower positivity rate when using the QFT, so DOHMH will be studying the prisoner population sub-groups to understand the higher positivity rates.

Dr. Venters gave an update on the Rikers Island Infirmary, as follows:

There are approximately 100 very ill patients at the Infirmary. Beginning in the spring of 2011, DOHMH and its vendor Corizon's (Prison Health Services) leadership – Medical Director Dr. Jay Cowan and Mental Health Director Dr. Neil Leibowitz – completely revamped staff and services at the Infirmary.

Four metrics are gauged to measure quality of care: Are patients seen promptly? Is a level of acuity assigned? Are patients receiving medications in a timely fashion? Are the nursing staff writing wound care notes into the records every day? All metrics are positive in the high nineties, so DOHMH is very satisfied with the progress.

Noting that Dr. Cohen had been told by DOC staff during an inspection at the Otis Bantum Correctional Center (OBCC) that fresh linens were not exchanged each week as required by the Minimum Standards, Mr. Wolf asked for a status report from the Department. Chief Hourihane responded that he learned there had been a search in the affected OBCC housing area earlier on the day of Dr. Cohen's visit, and linens had been confiscated and returned later in the day. He said OBCC has a fixed weekly schedule for exchanges. He noted that when dogs search the area, all linens are pulled. The Chief said his staff checked throughout OBCC, and also at GRVC and AMKC, and confirmed that linens are exchanged weekly. He added that each facility maintains 10% more linens than would be needed for a one-to-one exchange. Dr. Cohen asked about pillows. Chief Hourihane said he would have to check with the storehouse.

Mr. Wolf asked again whether DOC could present data demonstrating whether the Department's institutional footwear policy had contributed to a reduction in jail violence. Chief Hourihane said there was no data proving, for example, a reduction in violent incidents precipitated by one inmate extorting sneakers from another, but he said that based on his 30 years' experience "the footwear policy is a good policy". He said that in the past, an inmate might have five or six pairs of footwear, which created more areas to hide contraband. He said the jails mirror what goes on in communities, and he noted that violence had erupted at some shopping malls over the sale of new Air Jordan sneakers. He said jailed adolescents look for status symbols and "fancy" sneakers could cause fights. [Chief Hourihane distributed a news article reporting on a stabbing incident at a New Jersey shopping mall. Copy attached.] The Chief showed the Members the new Velcro-secured sneakers distributed by DOC and compared them to the old slip-on sneakers.

Ms. Abate asked about DOC's quarterly violence reports. Commissioner Schriro said indicators are presented quarterly on page 4 of "DOC at a Glance".

A motion to renew existing variances was approved without opposition.

Chair Harris adjourned the meeting at 10:15 a.m.