



NEW YORK CITY
BOARD OF CORRECTION

February 10, 2015

MEMBERS PRESENT

Gordon Campbell, Esq., Chair
Derrick D. Cephas, Esq., Vice Chair
Jennifer Jones Austin, Esq.
Robert L. Cohen, M.D.
Honorable Bryanne Hamill (Via telephone)
Michael Regan

Excused absences were noted for Alexander Rovt, Ph. D., and Steven M. Safyer, M.D.

DEPARTMENT OF CORRECTION

Joseph Ponte, Commissioner
Martin Murphy, Acting Chief of Department
Erik Berliner, Deputy Commissioner
Peter Thorne, Deputy Commissioner
Winette Saunders-Halyard, Acting Deputy Commissioner for Youthful and Adult Offender Programs and Assistant Commissioner for Community Partnerships and Program Development
Patricia Feeney, Assistant Commissioner of Environmental Health
Heidi Grossman, Esq., General Counsel
Danielle Leidner, Director for Intergovernmental Affairs
Valarie Levshin, Executive Director for Re-entry Services and Program Innovation
Jeff Thamkittikasem, Chief of Staff
Errol Toulson, Jr., Deputy Commissioner of Operations
Sean Jones, Deputy Chief of Staff
America Canas, Senior Policy Advisor
James Perrino, Acting Assistant Chief
Shepard Elliot, Director of Data Management
Eve Kessler, Director of Public Affairs
Carleen McLaughlin, Director of Legislative Affairs and Special Projects
Robert Kelly, Deputy Warden
Marc Von Braunsberg, Captain
Antoinette Cort, Captain
Ana Billingsely, Urban Fellow

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Homer Venters, M.D., Assistant Commissioner, Correctional Health Services
Sonia Angell, M.D., Deputy Commissioner, Division of Prevention and Primary Care

George Axelrod, Chief Risk Officer
Sarah Glowa-Kollisch, Director of Policy and Evaluation
Patrick Alberts, Agency Attorney, Division of Prevention and Primary Care
Lucia Caltagirone, Agency Attorney Intern
Nathaniel Dickey, Special Assistant

OTHERS IN ATTENDANCE

Alex Abell, Urban Justice Center
Skylar Albertson, Bronx Defender Services (BDS)
Amanda Becker, Jails Action Coalition (JAC)
Reuven Blau, NY Daily News
Dahianna Castillo, Office of Management and Budget (OMB)
Jared Chauson, Bronx Defenders Services
David Condliffe, NYC Bar Association
Julia Davis, Children's Rights
Laurie Davison, Doctors Council
Kelsey Deavila, JAC
Agata Dera, JAC
Riley Evans, Brooklyn Defenders Services/JAC
Alex Gapachriston, Public
Dashone Hughey, OMB
Elissa Hyne, Children's Rights
Michael Kenny, OMB
Sarah Kerr, Esq., Legal Aid Society, (LAS)
Jeff Kesner, NYS Office of Mental Health
Martha King, Senior Policy Analyst
Elena Landriscina, Disability Rights NY (DRNY)
Neil Leibowitz, M.D., Director, Mental Health, Corizon
Evelyn Litwok, JAC
Jeff Mailman, City Council
Amanda Masters, NYC Public Advocate – Hon. Letitia James
Elizabeth Mayers, JAC
Mark Murphy, DRNY
Jennifer Parish, Urban Justice Center/JAC
Jake Pearson, Reporter, Associated Press
Steve Riester, NYC Council, Finance Division
Vincent Schiraldi, Mayor's Office of Criminal Justice
Michael Schwartz, New York Times
Deirdre Shore, JAC
Molly Snyderfink, Public
Jane Stanicki, JAC
Marc Steier, COBA
Sister Tesa, Hour Children
Amy-Monique Waddell, Board of Correction
Gale Weiner, JAC
Michael Winerip, NY Times
Milton Zelermyer, LAS

Chair Gordon Campbell opened the meeting. Members Jennifer Jones Austin, Derrick Cephas and Bobby Cohen introduced themselves. Noting the lack of a quorum, Chair Campbell said the meeting would begin with agenda items that did not require a vote. He presented opening remarks, as follows:

As noted at the last BOC meeting, Amanda Masters has left and taken a position as deputy counsel for the Public Advocate. In the interim, the Board is very fortunate to have Richard Wolf working with it. Mr. Wolf served as executive director at the BOC for almost thirty years. The Board is seeking an executive director and has posted a job description on the BOC website, which includes contact information for candidates interested in the position. The Board has established a search committee, consisting of Members Bryanne Hamill, Michael Regan, Steve Safyer, and Chair Campbell.

DOC will address two issues. One is that there was flooding in AMKC's Quad 16 Lower housing unit caused by a clogged sewage line, and it is our understanding from a BOC staff investigation that DOC officials required inmates to mop and clean up human waste and raw sewage without providing them with proper protective gear. Second, a newspaper article appeared yesterday reporting that 1/3 of the officers assigned to Rikers Island jails missed work due to the snowstorm, and as a result, inmates were locked in their cells.

Yesterday the Board received a helpful letter from Sarah Kerr from the Prisoners' Rights Project of the Legal Aid Society. The letter is consistent with what the BOC staff is doing regarding monitoring and reporting, and is supportive of what the Board is and will continue to do.

Chair Campbell reported that the amendments to the Minimum Standards authorizing the Department to operate Enhanced Supervision Housing Units (ESHU) and changing some rules regarding punitive segregation were published on January 21st, and are effective beginning on February 21st. He said DOC may open ESH units on that date, and that to prepare for monitoring implementation, BOC will be asking DOC for Operations Orders, Directives, Intradepartmental memoranda and other pre-opening information. Noting that the Board is committed to working collaboratively with the Department, Chair Campbell asked DOC Commissioner Joseph Ponte to discuss ESH and plans for implementing the recent amendments.

Commissioner Ponte said that physical plant for the first unit is on task. He noted that mechanicals are completed, cameras are in place, policies and procedures have been written, staff have been selected and trained, and the unit should open on time with a small number of inmates initially. The Commissioner then asked Deputy Warden Robert Kelly, who will be in charge of ESH operations, to brief the Board on progress and plans. Deputy Warden Kelly reported as follows:

Showers, lighting and electrical issues have been resolved. Cell doors, vents, and electrical outlets are in proper working order. Staff will include a unit manager, with the rank of assistant deputy warden. There will be 4 captains and 26 correction officers. All have received the additional 40 hours of training required by the Board. Training includes an approximately 24 hour course in safe crisis management (de-escalation and use of interpersonal communication skills), an additional 8 hours of mental health

training, review of security procedures with the Emergency Services Unit, including cell extractions, escorting, and K-9 procedures.

Board Member Derrick Cephas asked for a description of the process by which DOC selected staff for EHS. D/W Kelly said some staff members volunteered; others were selected based upon having current training and no use of force charges pending against them. Board Member Dr. Robert Cohen said that when he inspected the soon-to-open unit, he saw 4 cells that had been constructed to facilitate suicide watches. He asked whether inmates on suicide watch will be confined in ESH. D/W Kelly said yes, noting that he worked with Deputy Commissioner Eric Berliner and DOHMH on the policy. D/W Kelly continued his report, as follows:

Technology is ready. Cameras and televisions are up. Each television is equipped with a transmitter, enabling each inmate to listen through headphones to the audio of the television he chooses to watch. This will reduce noise levels and improve the unit's environment. To limit escorting needs, mandated programs and services will be provided within the unit or nearby, including recreation and law library. Multi-purpose rooms have been created, and religious services will be conducted therein.

A three-point search area has been constructed, and all inmates entering or leaving the area will be subjected to strip, BOSS chair, and magnetometer searches. The first unit is scheduled to open on February 22nd with 20 inmates, to enable DOC to work through new procedures with fewer inmates. The goal is to reduce violence and improve morale.

In response to a question from Mr. Cephas, D/W Kelly said the 20 selected inmates currently are housed throughout the Department's facilities. Dr. Cohen asked if they are in general population, and D/W Kelly said that some are and some will come from punitive segregation. He said selection by a committee is an ongoing process. Commissioner Ponte said the process will include a hearing before a hearing officer. Dr. Cohen asked if inmates in ESH will have a special designation. Commissioner Ponte said no. Dr. Cohen asked if there will be an ESH policy to lock down the unit after two inmates have a fight. D/W Kelly said if the unit manager or tour commander believe it is an emergency situation, they may order a lockdown. Commissioner Ponte said that sometimes a fight between two inmates has larger implications, including gang issues, and DOC would typically lock down to get a good sense of what might be going on. Chair Campbell asked about DOC maintaining steady posts, as required by the amendment. D/W Kelly and the Commissioner each said all staff in ESH will be steadily assigned. [Board Member Michael Regan joined the meeting.]

Chair Campbell asked for an update on the Adolescent Advisory Committee, noting the participation of Board Member Bryanne Hamill and BOC staff, as well as representatives from other City agencies and stakeholders. Commissioner Ponte said DOC is still finalizing some of the policies for TRU, which currently is known as the "Therapeutic Repair Unit". He said the group is being taken on a tour of Crossroads, a juvenile facility. He said the process seeks to identify good practices in the juvenile system and apply them to adolescents confined by DOC. He then asked Assistant Commissioner Winette Saunders to provide an update, who reported as follows:

The Advisory Committee has approximately 25 members, including new participants from the Jail Action Coalition, the Legal Aid Society, Urban Justice Center, and Bronx Defenders. Finalizing the TRU is a priority, and the results of a vote to change TRU's

name will be announced on Tuesday. The Committee is looking at best practices regarding alternatives to punitive segregation, and will be speaking with other jurisdictions. The group will be determining resources to be available to parents of incarcerated children. Blended learning is also being explored, including the use of tablets in conjunction with studies. DOC is speaking with technology companies to determine how to best use tablets on school sites and in housing areas.

Dr. Cohen asked, on behalf of Councilwoman Elizabeth Crowley when DOC will be moving 16 and 17 year-olds away from Rikers Island. Commissioner Ponte said the Mayor is supportive of the legislation to change the age. He said that if the bill passes, 16 and 17 year-olds would be the responsibility of another agency so, even though DOC has examined some off-Island sites, it will not move them until the fate of the pending bill is known. Chair Campbell said he assumed the agency would be ACS. Mr. Regan asked if ACS would maintain a custodial setting, and Commissioner Ponte said yes. Mr. Regan asked if DOC had considered the Brooklyn House of Detention. The Commissioner said that neither Brooklyn nor Queens would be suitable, due to the lack of program space.

In response to a question from Chair Campbell, Commissioner Ponte said DOC will be forming an advisory committee to focus on 18 to 21 year-old inmates, and noted that this cohort presents different challenges from those of adolescents. He said that at RNDC, 33-bed cell blocks house 15 adolescents, a situation DOC cannot replicate for young adults because there are 1200 of them. Assistant Commissioner Saunders said some participants in the Adolescent Advisory Committee have expressed interest in working with the young adults. She said DOC is creating a subcommittee, including the Mayor's Office and Pinkerton Foundation, and is seeking consultants to develop a model. Commissioner Ponte said DOC is looking to establish best practices for this group in New York City.

Chair Campbell asked the Commissioner to comment on a press report on paring back the number of inmates housed at the Brooklyn House of Detention (BkHDM). Commissioner Ponte said DOC does not intend to close BkHDM, and that the inmate population was temporarily reduced due to a decrease in the number of arrests Citywide, which exceeded the seasonal drop anticipated for December. He said Chief Murphy suggested downsizing Brooklyn and relocating staff temporarily to fill overtime slots elsewhere in Brooklyn. Acting Chief Martin Murphy reiterated the Commissioner's comments. Mr. Regan asked if DOC continues to believe that BkHDM is a good facility. Acting Chief Murphy said yes, noting that it has a capacity of 759 single cells, making it conducive to house high-security inmates in small, 14-bed upper and lower tiers with separate dayrooms. Board Member Jennifer Jones Austin asked for confirmation that the recent experience was a bed utilization initiative, that it does not represent a permanent paring-down, and that DOC will continue to assess its bed needs going forward. Acting Chief Murphy agreed, noting that three weeks ago DOC's census was 9400 inmates and it has risen back to approximately 10000 inmates, causing DOC to reopen 28 beds in Brooklyn. Dr. Cohen said it is important that when DOC should have a plan to take advantage of a capacity to decrease the number of inmates in housing units rather than to be efficient. He said that as DOC moves to end solitary confinement for 18 to 21 year-olds, it should reduce the number of inmates in housing areas, thereby making them safer for everyone. Commissioner Ponte said that being efficient did not result in crowding, and said he agrees with Dr. Cohen's statement.

Chair Campbell next asked the Department to comment on the report of unsanitary conditions in AMKC's Quad Lower 16 housing area. Commissioner Ponte said infrastructure on

Rikers Island is in poor shape, and asked Assistant Commissioner for Environmental Health Patricia Feeney to address the issue. Ms. Feeney reported as follows:

On February 2nd, DOC received a complaint about unsanitary conditions in both 4 Upper and 16 Lower. On February 3rd, Ms. Feeney's deputy, Monique Antoine inspected 4 Upper and found no sanitary violations, although Ms. Antoine reported that the inmates claimed that when they were moved to the area they were required to clean it. On Thursday, DOC received a second complaint, including findings from the Office of Compliance Consultants (OCC) that inmates had been required to clean sewage without protective equipment. Ms. Feeney interviewed the inmates who said that, although they had not been given protective overalls, they had been given boots and latex gloves, and three or four had been given goggles. The procedures were not how DOC normally cleans sewage, which is typically done under the supervision of a trained correction officer and coveralls would have been provided. To ensure that this does not happen again, a reminder memo was sent yesterday to all wardens, which included a request that tour commanders contact Ms. Feeney personally in the event of a future sewage backup. This will ensure that appropriate protective equipment is available. Clean-up protocols are available in each housing area, and additional staff can be trained as needed.

Chair Campbell thanked Legal Aid for bringing the matter to everyone's attention. He then asked the Department to comment on the press report that one-third of the correction officers missed work due to a snowstorm. He said it raised concerns about the Minimum Standards lock-out provisions, and about safety and security. Commissioner Ponte said facilities experienced some short-term lock-ins, and in the middle of the storm, there were transportation issues everywhere and some staff reported late. He said lock-ins were lifted as sufficient staff arrived at the jails. Acting Chief Murphy said that on January 26th, 419 staff members called in sick; 780 called in sick the following day. Mr. Regan if DOC has "face to face replacement". Acting Chief Murphy said yes, particularly in housing areas. Mr. Regan said this means an officer cannot leave unless a replacement arrives. Acting Chief Murphy noted that some staff called, reporting that they had attempted to come to work, but were not allowed onto the roads because they were not in emergency vehicles. He said that when the ban was lifted, staff began arriving and lockdowns were lifted. Ms. Jones Austin said the article reported that the NYPD had 2% of staff calling out. She said the report suggested that nothing might be done about staff who called out or didn't show up for work. She asked how DOC addresses the fact that staff calling in "sick" were not sick. Ms. Jones Austin also asked what DOC does to prepare in advance of a snowstorm. Acting Chief Murphy said managers stress the importance of everyone coming to work, and relieving those who would be going off duty. He said teletypes are issued reminding officers that they are emergency service personnel and are expected to come to work. He added that sick-day is a collectively-bargained issue. Chair Campbell asked if there might be a City-wide response to the problem of emergency service workers having access to roadways when they are closed. Acting Chief Murphy said the Rikers Island Command Center was in contact with the Office of Emergency Management seeking to address this.

Dr. Cohen raised the issue of DOC's efforts to acquire funding to enable it to eliminate punitive segregation for 18 to 21 year-olds. The Commissioner said that once DOC develops a plan, it will submit a budget request. Chair Campbell reiterated that the BOC is committed to working with DOC to obtain necessary funding.

A motion to approve minutes from the January 13, 2015 meeting was approved without opposition.

Chair Campbell asked if there was a motion regarding election of a Vice Chair. Mr. Regan nominated Mr. Cephas, who he described as showing great leadership, wisdom and understanding of the issues with which the Board must deal. Ms. Jones Austin seconded the nomination, noting Mr. Cephas' balanced approach to the concerns of the inmates and DOC staff. The motion passed without opposition. Chair Campbell said he was excited to be partnering with Mr. Cephas, particularly on Board governance issues and establishing committees to facilitate the Board's work.

Chair Campbell said the next agenda item is suicide watch inmates in the central punitive segregation unit, and he thanked Dr. Cohen for bringing this to the Board's attention. He said that on January 29th, Dr. Cohen was on Rikers Island with Richard Wolf, and at that time 10 inmates were on suicide watch in CPSU. He said this was a major concern to the Department of Health & Mental Hygiene (DOHMH), that when Dr. Cohen sent an email addressing the problem there were still six CPSU inmates on suicide watch, and that this is the third time this happened since the summer of 2014. Chair Campbell noted that in its recent rulemaking the Board reiterated DOHMH's authority to remove inmates from punitive segregation who are at risk for self harm. He said that within 24 hours of his conversation with Commissioner Ponte, the inmates were transferred out of CPSU. Commissioner Ponte said it was his understanding that inmates in CPSU were on suicide precautions and were waiting days for appropriate housing elsewhere for suicide watch. He said DOC was working on a plan to temporarily exceed the planned number of beds in RHU when a CPSU inmate needed a bed for suicide watch. Deputy Commissioner Eric Berliner said that when a watch is initiated, a search for an appropriate bed is begun at once. He said that where bed space is a challenge, DOC has ceased putting suicide watch inmates in OBCC dormitories, noting a "very bad incident" in the fall. He said the plan is to use the RHU in 5 North for suicide watch assessments, where 35 inmates are housed in a 50 bed unit, and he has discussed this plan with Dr. Venters. He added that the move from CPSU to RHU should happen "almost immediately" after a suicide watch is initiated. Dr. Cohen said the plan has problems, but if it is necessary to temporarily increase the RHU census above capacity this will be acceptable if DOHMH approves. He said it was weeks, not days, that inmates were waiting in CPSU and asked how this could happen when DOHMH said it was not safe to house the inmates on suicide watch in CPSU. Dr. Cohen said he spoke about the matter with Warden Stukes, who said he knew about it but could do nothing. He said there should be a procedure calling for resolution in the future at a higher level, given that this is a circumstance that no one wants to happen. He said two weeks was too long, and the President of the Correction Officers' union, at the Board's last meeting, objected to DOHMH being able to order that an inmate must be removed from CPSU because of their medical or mental health status. Mr. Berliner said DOC now monitors the situation 24 hours/day, 7 days/week; Corizon sends out an alert every two hours regarding any CPSU inmate who has had a suicide watch initiated and if by the next Corizon report the inmate has not been moved, Mr. Berliner can resolve the matter or escalate it. He said this mechanism should prevent a recurrence.

Chair Campbell invited DOHMH Assistant Commissioner Dr. Homer Venters to provide updates on special housing areas. Dr. Venters reported as follows:

Following the most recent tragic suicide, we set up a notification system about people who are in CPSU who need to come off the unit, but also people we want to go to the

Mental Health Center at AMKC and C-71. The two-hour notification helps us speed the transfer. Neither CPSU nor ESH is an appropriate place to do suicide watch, so the “watch” cells in ESH may be helpful in observing someone who needs to go somewhere else, such as an MOU or the hospital. It is very important that accurate suicide assessments occur without delay; they are complex and need to occur in a setting that is not punitive. Both DOC and DOHMH agree that the appropriate place to do an assessment is in RHU. The resolution of this issue was helped along by the Board’s view on it, but Chief Murphy and Mr. Berliner had discussed the solution with mental health earlier in the week.

There is a second PACE unit now open. One and one-half years ago we opened a CAPS Unit – Clinical Alternatives to Punitive Segregation – for people with serious mental illness who in the past would have gone into solitary confinement following an infraction conviction. It is an all-treatment unit and has been very successful. Patients in CAPS have much lower rates of self-harm and much better rates of medication compliance. A decision was then made to apply the model to patients in regular MO housing. There are approximately 20 mental health units throughout the system, and we believe that these should have the same commitment to staffing and programming found in CAPS, not just for people with infraction convictions. Funding was obtained from OMB for four PACE units, with programming all day, treatment aides on site, and steady staff. The first PACE unit opened a month ago in AMKC as a hospital return unit. Last week a second PACE unit opened in GRVC. The contrast between the former MHAUII and PACE is extraordinary.

The TRU for adolescents is a credit to Commissioner Ponte and Assistant Commissioner Saunders and is working well.

Both DOC and DOHMH are committed to changing the approach to the RHUs, and a small group of officials are meeting to accomplish this. A central goal is to enable most people to engage in programming. There are health staff on these units, but because of the complexity of the rules regarding who is allowed to come out of their cells, it is difficult for patients to be able to engage in the care we are ready to provide, given the security concerns DOC has about a small group of these people.

Chair Campbell asked about the timing for the expected changes to RHU. Dr. Venters said he hoped that by the next BOC meeting, there will have been enough collaboration that some details of a plan could be shared. He said staff has already been allocated for the units; the issue is enabling them to engage more with patients. Chair Campbell said the issue will be on next month’s agenda. Dr. Cohen said he’s pleased that the RHU model is being reconsidered, especially given Commissioner Ponte’s past comments that RHU was ill-conceived. He said he recently visited the RHU with Mr. Wolf, and saw that prisoners in RHU were not getting out of their cells, mental health staff were not conducting groups or individual therapy. He said that patients were sometimes seen cell-side, which meant that the mental health person could not see the patient as they spoke because one can only hear by standing to the side of the cell door. Dr. Cohen reported that mental health staff said this occurred because there were no escort officers or no handcuffs to move inmates out of cells – the same thing he was told a year ago when RHU opened at OBCC. He said that RHU inmates were earning increases in their RHU “levels” – earning increased out-of-cell time without participating in therapy – but they were not getting out of their cells. Dr. Cohen said that RHU is like MHAUII, but BOC staff have documented that

rates of violence in the RHUs are three to four times higher than in other units, including CPSU. He said the problem is urgent. Dr. Venters said that the problem with RHU is that an area that is mostly about solitary confinement and punishment, the model then attempts to pour in clinical interventions, which cannot contest with an environment built for punishment. He said the two must be disaggregated, noting that for a small number of people who are actively creating security problems, a different approach is needed. Dr. Venters said that the lessons are in the data – people in CAPS have much lower rates of self-harm than those in the RHUs. He added that patients who spend time in both CAPS and RHU have rates of self-harm and injury in CAPS that are less than half their rates in RHU. He agreed with Dr. Cohen that there must be a commitment to clinical intervention; one cannot have a place that is about security and then think a good job can be done clinically.

Chair Campbell opened the public comment period, calling upon Evelyn Litwok from the jail action coalition. Ms. Litwok said she was released from federal prison in August, having spent the last two months in solitary confinement. She said she was concerned about the physical and mental well-being of anyone who is placed in solitary, and to measure its effects one needs a baseline: what is a person's condition upon entering solitary? She said only by testing the person while in solitary and comparing the results to the baseline findings can one assess the effects of solitary confinement. Ms. Litwok said she suffered from 24-hour vertigo and 24-hour migraines while in solitary, conditions she had never before had. She said that although a medical officer and a psychologist walked through the area where she was confined, they never spoke with her. She added that she continues to suffer from the same ailments since her release, and opined that if the testing she recommends had been done, the impact of fluorescent lights and cold temperatures in her cell might have been understood.

Jared Chausow from Brooklyn Defender Services (BDS) reported that BDS represents 5000 people who pass through City jails each year. He said BDS is particularly concerned about the hundreds of inmates who comprise the "backlog for the box". He said BDS assumes many inmates have sentences far in excess of the 30-days maximum sentence allowed under the new rules, and is concerned that DOC will impose the long sentences despite the new rules. He asked the Board and DOC to review the lengthy sentences in light of the new rule and, if necessary, the Board should engage in further rulemaking. He said it is absurd to impose lengthy sentences on individuals after they have lived peacefully in the general population for months, especially in spread-out increments of 30 days. Mr. Chausow added that reducing or eliminating old, long sentences, and reducing maximum sentences to 15 days would advance the interests of justice. He said that, given Dr. Venters' comments about RHU, he wonders why RHU is the first place an inmate will go when a suicide-risk assessment is to be done.

Deidre Shore, from the Jail Action Coalition, said she would read a statement from a man who was first imprisoned as an adolescent and spent considerable time in solitary. Ms. Shore read that the author did not believe prison guards are capable of rehabilitation, and that 40 hours of training is insufficient. She further read the author's statement that there should be an increase in therapeutic workers in jails and prisons, that there should be oversight of DOC by a community review board, and that ESH should be ended because it is an extension of solitary.

Chair Campbell announced that the next Board meeting is scheduled for March 10. The meeting was adjourned.

