

NEW YORK CITY
BOARD OF CORRECTION

March 14, 2011

MEMBERS PRESENT

Michael J. Regan, Vice Chair
Catherine M. Abate, Esq.
Robert L. Cohen, M.D.
Stanley Kreitman
Milton L. Williams, Jr., Esq.

Excused absences were noted for Chair Hildy J. Simmons, and Members Pamela S. Breier, Rosemarie Maldonado, Esq., and Alexander Rovt, PhD.

DEPARTMENT OF CORRECTION

Dora B. Schriro, Commissioner
Larry W. Davis, Chief of Department
Lewis S. Finkelman, Esq., General Counsel/Deputy Commissioner for Legal Matters
Sharman Stein, Deputy Commissioner, Public Information
Sara Taylor, Chief of Staff
Erik Berliner, Associate Commissioner
Maggie Peck, Director, Constituent Services

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Louise Cohen, Deputy Commissioner
Homer Venters, M.D., Medical Director, CHS
George Axelrod, Esq., Executive Director, Quality Improvement, CHS

OTHERS IN ATTENDANCE

Harold Appel, M.D., Doctors' Council
Luis Cintron, M.D., Deputy Medical Director, Prison Health Services (PHS)
Jay Cowan, M.D., Medical Director, PHS
Susana Guerrero, State Commission of Correction
Michael Keogh, General Counsel, Bolton-St. Johns, LLC
Danielle Louis, Office of Management & Budget (OMB)
Lindsey Oates, OMB
Margaret Pletnikoff, OMB
Natasha Salas, Independent Budget Office
Irene Salas-Menotti, Intern, Board of Correction
Milton Zelermyer, Esq., Legal Aid Society, Prisoners' Rights Project

Vice Chair Michael Regan called the meeting to order at 9:05 a.m., and asked Board Member Robert Cohen, M.D. to report on a recent visit to Rikers Island. Dr. Cohen reported as follows:

On February 10, he and Deputy Executive Director Cathy Potler met with Drs. Venters and Selling from the Department of Health & Mental Hygiene (DOHMH). They visited the Anna M. Kross Center (AMKC) and observed the new mental health program. A group therapy meeting was conducted in adequate space. Participating prisoners seemed interested.

At the suicide prevention area in C-71 (Mental Health Center), there were 29 prisoners in Dorm 12A, but only 12 were on suicide watch. All prisoners, regardless of status, were dressed in suicide smocks. DOHMH and PHS seemed to have lost control of the area. The providers knew that most of the prisoners in 12A were no longer on suicide watch – they had been discharged from that status. Although movement into and out of the unit should be routine, it was not. It was disappointing to see that providers had failed to achieve control over their unit. Except in extreme circumstances, the populations of areas defined as “medical” or “mental health” should be controlled by the providers. Further, the presence of non-suicide watch prisoner-patients in 12A, and the requirement that they wear smocks, violated the terms of the BOC variance. It is humiliating for a prisoner to have to walk through a corridor wearing a smock, particularly when he no longer is in suicide-prevention status. This too violates the variance conditions. Prisoners in other suicide-watch areas were issued paper smocks.

Subsequent discussions resulted in the removal from 12A of prisoners who are not on suicide watch.

Last fall, Dr. Cohen was told during a tour that there were plans to have students run mental health groups to be instituted as components of the new mental health programs. This was confirmed during the February visit. Deputy Commissioner Louise Cohen has described the new programs as “budget neutral”, which does not seem possible, given the increasing numbers of mentally-ill prisoners. If neutrality is accomplished by using students to independently run groups, this would not be consistent with New York State law and would not be good clinical practice. The Board has been asking for staffing plans for the past several months.

DOC Commissioner Dora Schriro responded to Dr. Cohen, as follows:

The practice is that inmates who are taken off suicide watch are removed from the area within hours. A backlog developed, and has been resolved. The use of suicide smocks should occur in a more “uniform” manner than it did, due to the backup in removing prisoners from the suicide watch area. The use of smocks is an almost universal practice in corrections; nonetheless DOC is surveying the literature to determine if there are new approaches elsewhere. Smocks are not

intended to be punitive or retributive in any way, but rather are to protect persons from themselves. Paper smocks raise concerns, because they can be ingested. Prisoners in other jurisdictions have ingested paper products, to bad results.

Dr. Cohen asked about prisoners on suicide watch having to wear the smocks in corridors when moving from one area to another inside a jail. The Commissioner said she was unfamiliar with this practice. Deputy Executive Director Cathy Potler said that prisoners walked down jail corridors in suicide smocks when going to clinic appointments. She said the BOC variance authorizing the use of suicide smocks requires that when a prisoner leaves the housing area, he/she must be given a jumpsuit to wear rather than a smock, which looks like a “tight-fitting dress” on a large inmate. Executive Director Richard Wolf added that the pre-fabricated corridor is very drafty, and the sleeveless smock exposes one’s limbs to the cold. Commissioner Schriro said that other systems have smocks in various sizes, so the problem should be easily rectified. She said she would inform Mr. Wolf of DOC’s findings regarding smock sizes, paper smocks, and out-of-unit wear.

DOC Associate Commissioner Erik Berliner said that flexibility was lost when suicide watches were consolidated at C-71. He said that when inmates were taken off suicide watch, a back-up developed because no beds were available in other C-71 housing areas. He said DOC “lost the thread” on promptly removing such prisoners, and sometimes prisoners would remain in the suicide watch area although no longer in the status. He said policies have been put in place to ensure that prisoners are moved out within hours of being taken off suicide watch. Dr. Cohen identified two issues: whether there are enough mental health housing beds, and whether all suicide watches should be at AMKC. Mr. Wolf said the Board first identified the backup problem in October and, on several occasions, resolved it with AMKC staff. Mr. Berliner agreed that DOC and mental health providers must remain vigilant to make sure the problem does not recur.

Board Member Catherine Abate asked if a screening tool is used to determine where to house prisoners who are taken off suicide watch. DOHMH Deputy Commissioner Louise Cohen said that a screening occurs, and that some prisoners could be transferred out of C-71 to other facilities. She said that the backup had been the unintended consequence of implementing increased mental health programming, and also of the decision to house all suicide-watch prisoners in C-71. She noted that all mental health prisoners will be housed in OBCC by the fall, which will provide greater flexibility to relocate prisoner-patients as needed.

Ms. Cohen said DOHMH intends to respond to mental health issues, especially those developing in the evenings, by first bringing a psychiatrist to evaluate the prisoner-patient at his current location, rather than automatically transferring the prisoner-patient to C-71. She also said that DOHMH would like to return to a system in which suicide watches occur in the mental health areas at several jails. Ms. Cohen added that Rikers Island is one of the few places in the country with 24-hour/day psychiatry coverage, and she hopes to deploy psychiatrists in a manner similar to UrgiCare doctors who respond to emergencies in the facilities, rather than have patients come to them.

Ms. Cohen said that supervised by Dr. Panove, a robust student internship program promotes interest in forensic psychiatry. She said that all students are supervised; none acts independently. She said students are frequently on the housing units, and engage in conversations with inmate-patients, encouraging them to participate in programs. Dr. Cohen asked if students will run groups by themselves. Ms. Cohen said a student may be alone at some point with a group, but that all students are under supervision. Dr. Cohen said Ms. Cohen had described the new mental health programs as operating “from dawn ‘til dusk”, and he noted that this requires considerable staff time. He asked whether groups will be run by students without having licensed practitioners present. Ms. Cohen said she believed not, but would check. She reported as follows:

The new program is in “pilot mode”. When programs are relocated to a mental health facility in the fall, staffing needs will be better understood. Currently one mental health clinician is stationed in the unit. This clinician runs groups and has an office for conducting individual assessments. DOHMH also has a case worker and a social worker on the unit who run groups and do discharge planning from an office on the unit. The phrase “dawn to dusk” was “hyperbolic”. Not all inmates attend all groups. At a discharge planning group session, inmates are taught how to fill out Medicaid forms. There is “homework time”, with inmates working through low-literacy work books designed for incarcerated people. The inmates do homework in the dayroom, supervised by a staff member. Inmates sometimes are assisted by a student.

Mental health program unit staffing is to include a full-time clinician on the unit. The social worker and case worker will split their time between two units. Both are trained in mental health therapy and do discharge planning. Groups will focus on having inmate-patients think about therapy upon discharge. The goal is to prepare inmate-patients for therapy in the community.

Ms. Abate said a number of attorneys told her that they had submitted applications for renewals of their secure attorney’s passes, enabling them to meet with clients in the courts or jails. She said they were told processing will take 90 days, and that in the interim, they would be admitted upon producing their old pass and a copy of their pending application for renewal. She said the attorneys told her this procedure is honored in the courts, but not in the jails. DOC First Deputy Commissioner Lewis Finkelman said this is the first DOC is hearing about this. Commissioner Schriro said she had not heard about delays in processing of applications, and will get back to the Board soon. Ms. Abate said she would find out which jails were turning attorneys away. She said this appears to be a recently emerging problem.

Vice Chair Regan asked the Department to report on a recent prisoner suicide. Associate Commissioner Erik Berliner reported as follows:

Aris Hiraldo committed suicide in GRVC’s 11B housing unit, which is the MHAUI Intensive Treatment Unit. He was seen by a clinician during bing

rounds approximately 45 minutes before he was discovered. An officer noticed the cell window was covered by a towel and asked the inmate to remove it. When there was no response, the officer reached through the food slot and pulled out the towel. He saw the inmate standing by the toilet area, called to him and, receiving no response, went and found the officer with the keys. They opened the cell, saw that the inmate was hanging, cut him down, and called for medical staff from the adjacent mini clinic in 11A, who responded almost immediately. The Medical Examiner preliminarily determined that hanging was the cause of death, subject to autopsy.

Each morning, Inmate Hiraldo had made a call to his girlfriend who was the alleged victim of the crime for which he was incarcerated. On the morning before his death, they argued. He asked that she visit him, but she did not, although she had visited him on each of the ten prior visiting days. A suicide note was found in the cell, in which Hiraldo asked DOC to tell his girlfriend that he loved her and that his death was not her fault. The ligature, a drawstring from sweatpants, was affixed to the sprinkler head in the cell.

At Vice Chair Regan's request, Commissioner Schriro presented her report:

The new dress code for visitors went into effect in February. When requested to do so, visitors are using the new cover-ups, without incident. Only one or two visitors declined to wear one. [A sample cover-up was displayed and provided to the Board.] Initially DOC staff did not keep records of the numbers of visitors asked to wear cover-ups. Such records now are kept, and data soon will be provided to the Board. The data will be maintained only until DOC understands and corrects whatever issues may arise.

Regarding Visitor Express, AMKC and OBCC are fully functional. GRVC is "partially there". All facilities will be fully functional by late July.

Mr. Wolf asked about the data that Visitor Express will record and preserve, specifically whether it will record the start and end times of the visits. The Commissioner said yes, noting that the system records the times that a visitor departs the Central Visit building; arrival time at the jail; arrival time on the visit floor; visit start and stop times; departure from the jail; and, departure from Rikers Island. Commissioner Schriro said she would send the Visitor Express roll-out dates, by facility, to the Board. Mr. Wolf described a new DOC policy denying contact visits to prisoners whose visitors are caught in possession of contraband under circumstances evidencing intent to give it to the prisoner. He said that DOC staff do not consistently record the denials into Visitor Express computers, and that difficulties arise when a visitor is told that the inmate he or she has come to visit cannot have a contact visit. Commissioner Schriro responded as follows:

DOC and BOC staffs had productive discussions concerning this issue. A recent court decision held that DOC's practice of denying contact visits to inmates

whose drug tests were positive was unlawful, and the Department ceased the practice immediately. One consequence of the decision was that DOC staff stopped looking for a nexus between a visitor attempting to bring drugs into jail and the inmate who was to receive the visit. An attorney was assigned to review the facts of contraband interdictions to determine whether a sufficient nexus existed to deny contact visits to the inmate. In some instances the denials were not recorded, and this is being corrected.

Chief of Department Larry Davis offered an update on prisoner footwear, noting that a new footwear initiative was “rolled out” to the facilities, and training was completed for all deputy wardens, to ensure compliance with the Operations Order. He said issues remain with medical footwear, and DOC is working with DOH to resolve them. Commissioner Schriro said DOC has an inventory of 13,000 pairs of sneakers in the most popular sizes, and an order has been processed for an additional 58,000 pairs from a different manufacturer. She said the new product is more durable and more expensive, adding that DOC has requested and obtained design modifications to reduce opportunities to hide contraband in the footwear. Commissioner Schriro said delivery was expected in four months. Mr. Wolf asked if the current inventory will be sufficient until the new shipment. The Commissioner said that because the new policy calls for a more narrow distribution, the current inventory should suffice.

Commissioner Schriro reported that renovations to the North Infirmary Command (NIC) have been approved and funded. She said NIC will be taken off-line in May to facilitate a number of longstanding repairs, which will take 18 months to complete. She noted that renovations will include bathrooms, showers, and ventilation. Dr. Cohen asked where the Infirmary will be housed when NIC is closed. Associate Commissioner Eric Berliner said the Infirmary will remain on-line; only NIC Main will be closed for 18 months. He said that renovations to the Infirmary will be staggered during the 18-month project, and will include full renovations of shower areas. Dr. Cohen asked about the Infirmary beds. Mr. Berliner said the beds are not part of the capital project, but will be replaced as necessary. Ms. Abate said NIC is in very bad shape, as did Dr. Cohen. He said it is disappointing that PHS agrees to work in a setting that cannot be properly cleaned.

Commissioner Schriro highlighted some positive aspects of DOC’s budget. She said the 2012 budget includes 16 additional trades-people who will augment DOC’s in-house repair capability. She said DOC facilities are old, and the additional staff will accelerate repairs and renovations to 9600 beds. Dr. Cohen said that he and BOC staff have not noted substantial improvements in NIC’s physical plant, but will continue to monitor it. The Commissioner said DOC will provide the Board with a list of in-house renovations undertaken by the Department: tiles have been removed and replaced as quickly as staff resources allow. Mr. Wolf asked that the list be sent to him. He said that in a footnote to her March 11th City Council testimony, the Commissioner announced that VCBC would not be moved to Rikers Island and would remain in the Bronx. Commissioner Schriro said this was correct, adding that, as previously announced, there

will be no increase to the capacity of the Brooklyn Detention Complex and no new facility will be built in the Bronx.

Mr. Wolf asked about progress towards a central-intake facility on Rikers Island. Commissioner Schriro said the project is moving ahead, although the State Commission of Correction wants to see the final architectural drawings from the newly-hired firm, and these are not ready, so the project may be delayed several months and the facility will not come on-line until the fall, 2012. She announced that she promoted former Deputy Warden-in-Charge Luis Rivera to the position of Warden for Central Intake and Classification, and said DOC will begin using its new classification instrument at the seven current intake facilities on July 1, 2011.

At Vice Chair Regan's request, the January, 2011 meeting minutes were approved without opposition. He then asked DOHMH to present its request for renewal of a variance to modify testing for tuberculosis. Ms. Cohen said implementation of the new test would begin today at the Rose M. Singer Center. Mr. Wolf said that the renewal was being sought for six months, and would authorize use of a new TB test, rather than the PPD test mandated by the Health Standards. After determining that questions raised by the Prisoners' Rights Project had been addressed, a motion to renew the variance was approved without opposition. Mr. Wolf said DOHMH sought renewal of two longstanding variances: one authorizes the use of both paper and electronic prisoner medical records to facilitate transition to an all-electronic system; the other authorizes providers to write psychotropic medication orders for up to 28 days, rather than for 14 days, as authorized by the Standards. Separate motions renewing each variance were approved without opposition. A motion to approve existing variances granted to DOC was approved without opposition.

Ms. Cohen provided the DOHMH report, as follows:

The staffing matrix in the new contract with Prison Health Services is the same as in the previous contract. The matrix is reviewed periodically in an effort to obtain efficiencies. One example is medical records clerks, whose tasks are no longer needed, so they will be switched to other ones. Another example is the addition of substance abuse counselors.

All City agencies were directed to make PEG cuts. It is not clear yet what impact DOHMH's PEG cuts will have on the Correctional Health budget.

Mr. Wolf asked if DOHMH had any information it could add regarding the previously-discussed suicide. Ms. Cohen said that following all suicides, DOHMH does a morbidity and mortality review, and works with DOC to identify physical plant issues or other ways to improve the environment. She said that the "hang-up location" has been remediated. Ms. Abate asked if it was unique to the decedent's cell. Mr. Berliner said DOC is in the process of changing all sprinklers to a new product that is flush with the wall and thus tamper- and suicide-resistant.

Dr. Cohen asked if the recent decision by PHS to merge with CMS has implications for DOHMH and its new contract. He also asked that if there are modifications in program design due to, for example, implementation of electronic medical records (EMRs), that the Board be advised of the changes or staff reductions (if EMRs enable DOHMH to identify PEG reduction targets). Ms. Cohen said the merger is under discussion by DOHMH attorneys. She said she has spoken with Richard Halworth, CEO of the new entity, who has represented that things will remain the same. She said when DOHMH assesses the impact of the merger to the contract, it will inform the Board. Regarding EMRs, Ms. Cohen said DOHMH is developing a signature pad process, which will improve efficiency by eliminating the need to print a record so the provider can sign it, and then scan the signed record back into the system. She described central intake as the “Holy Grail” for DOHMH, which stands ready to change its processes as soon as the new facility is ready to open. She said central intake will facilitate better medical assessments. Ms. Cohen said that when mental health housing is centralized, DOHMH will be able to put in place programming that will be greatly enhanced.

Vice Chair Regan adjourned the meeting at 10:05 a.m.