

NEW YORK CITY
BOARD OF CORRECTION

March 8, 2010

MEMBERS PRESENT

Hildy J. Simmons, Chair
Michael J. Regan, Vice Chair
Catherine M. Abate, Esq.
Pamela S. Brier
Robert L. Cohen, M.D.
Stanley Kreitman
Alexander Rovt, PhD.
Milton L. Williams, Jr., Esq.

An excused absence was noted for Rosemary Maldonado, Esq.

DEPARTMENT OF CORRECTION

John J. Antonelli, Senior Deputy Commissioner
Larry W. Davis, Sr., Chief of Department
Lewis S. Finkelman, Esq., General Counsel/Deputy Commissioner for Legal Matters
Stephen Morello, Deputy Commissioner, Public Information
Harry Ahl, Deputy Warden/Executive Officer, Office of Policy & Compliance (OPC)
Ronald Greenberg, Director of Inspections, OPC

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Louise Cohen, Deputy Commissioner, Health Care Access and Improvement (HCAI)
Daniel Selling, Psy.D, Acting Mental Health Dir., Correctional Health Services (CHS)
Homer Venters, M.D., Medical Director, CHS
George Axelrod, Esq., Executive Director, Quality Improvement, CHS

OTHERS IN ATTENDANCE

Harold Appel, M.D., Doctors Council, SEIU
Robert Calandra, Esq., Governmental Affairs Division (GAD), City Council,
Phyllis Harrison-Ross, M.D., Commissioner, State Commission of Correction (SCOC)
William Hongach, Policy Analyst, GAD, City Council
Caroline Hsu, Esq., Prisoners' Rights Project (PRP), The Legal Aid Society
Jennifer Parish, Esq., Urban Justice Center
Timothy Rudd, Analyst, Office of Management & Budget (OMB)
Kerry Spitzer, Budget and Policy Analyst, Independent Budget Office (IBO)
Daniel L. Stewart, Commissioner, SCOC
Joel Stonington, *The Wall Street Journal*
Eisha Wright, Legislative Financial Analyst, Finance Division, City Council

Chair Hildy Simmons called the meeting to order at 9:05 a.m. Minutes of the January 11, 2010 Board of Correction meeting were approved without opposition.

Chair Simmons reported that she and Executive Director Richard Wolf met with State Commission of Correction (SCOC) Chair Thomas Beilein and Commissioner Dr. Phyllis Harrison-Ross. She welcomed Dr. Harrison-Ross and SCOC Commissioner Daniel Stewart. Chair Simmons said their presence evidenced the possibility for future collaboration. Member Dr. Robert Cohen reported that he met recently with Dr. Harrison-Ross to discuss specific topics for collaboration as well as substantive differences between BOC's and SCOC's standards. He observed that the SCOC Standards could benefit from more detailed language such as is found in the Board's Minimum Standards, which provide clearer, stronger interpretations of the Department of Correction's responsibilities.

Noting that DOC Commissioner Dora Schriro was unable to attend, Chair Simmons asked Senior Deputy Commissioner John Antonelli for a report. Mr. Antonelli introduced DOC's new General Counsel, Lewis Finkelman, whose previous City government experience includes having served as First Deputy Commissioner for the Department of Citywide Administrative Services and, most recently, Deputy Comptroller. Mr. Antonelli announced that DOC has completed reorganizing its uniformed staff. He said that to improve accountability and more consistent application of policies, five Supervising Wardens will report to Chief Larry Davis. Mr. Antonelli then reported that the Manhattan Courts had resumed full operation following a recent fire.

Mr. Wolf asked about the status of DOC's review, announced at the January Board meeting, of DOC's policy of subjecting visitors to ion scan tests. Mr. Antonelli responded that an expert had not yet begun a review. He said that as soon as the study has been completed, DOC will report findings to the Board.

Mr. Antonelli next reported that the Department had issued a teletype implementing its new policy regarding inmate drug testing and contact visits. He said the policy is consistent with the Minimum Standards requirement that DOC may restrict contact visits only if it establishes a clear connection between a positive urine test and a prior visit. Mr. Wolf commended the Department for participating in a collaborative process which led to the policy revision. He said the Board initiated discussions after receiving scores of appeals from inmates who had been restricted to booth visits permanently after positive random drug tests.

In response to questions raised at the Board's January meeting, Mr. Antonelli announced that the Department now requires birth certificates only for visitors age 18 and under. He said that DOC must maintain a record of every visitor to DOC jails in the event of fire or other emergency. Chair Simmons noted that birth certificates contain no photo and therefore may not provide verifiable identification. She said that this requirement could be a barrier to visits by families, causing delays and requiring payment of a fee. She asked why the identity of an infant or child was so important if DOC's

concern is to maintain a count of the number of visitors entering and leaving the jails. Mr. Wolf added that DOC does not maintain accurate information about the effects of this policy because Board staff has observed young visitors without identification who are accompanied by adults being turned away at the Visit Control Building without any record being made that a visit was denied. Vice Chair Michael Regan and Member Alex Rovt requested that DOC reconsider its birth certificate policy, and Mr. Antonelli agreed to do so.

Member Catherine Abate asked the Department to provide the Board with the specific security factors relied upon in its visitor identification requirements. Mr. Wolf noted other problems: posted lists of impermissible items still are not consistent from jail-to-jail, DOC's website does not explain the most recent visitor identification rules, and the monthly hand-out visit schedule still contains the old identification rules requiring current pay stubs and school program schedules.

Mr. Wolf reported on a recent visit that he, Chair Simmons and Dr. Cohen made to the George R. Vierno Center (GRVC) visit house. He said they observed a plexiglass barrier used to separate Central-Monitored Case (CMC) inmates from their visitors. Chair Simmons said the barriers interfered with contact visits. She reported that GRVC officials had said the barriers were to prevent visitors and inmates from exchanging contraband, but no evidence was presented that contraband was passed more frequently to CMC inmates than to other inmates. Deputy Executive Director Cathy Potler asked why the Department could not monitor suspected contraband-recipient CMC inmates as it does with other prisoners identified as "intended contraband recipients", by seating them in front-row tables on the visit floor where their visits could be monitored more closely. Mr. Wolf said that DOC already has special rules for transporting and escorting CMCs based on the notoriety of their criminal case, and CMC status involves no presumption that they will carry or receive contraband. He stated that if the Department establishes that visitors attempt to pass contraband to CMC inmates at GRVC at higher rates than visitors to other inmates, DOC could seek a variance from the Board. He added that it should have done so before GRVC constructed the barrier. Mr. Antonelli said that he would review again the rationale behind erection of the GRVC barrier, and whether the CMC contraband incidents support barrier use, and get back to the Board by next week. Dr. Cohen stated that the Department should not erect any additional barriers until this matter is resolved.

Mr. Wolf next asked for an update on Visitor Express. Mr. Antonelli said Visitor Express has been operating in AMKC and has been rolled out in OBCC and EMTC. He said the North Infirmary Command, West Facility, Robert N. Davoren Center, George Motchan Detention Center and Rose M. Singer Center will be using Visitor Express' electronic system by the end of the fiscal year. Mr. Wolf asked if the version to be rolled out will be the version of Visitor Express in place at AMKC, or the EMTC/OBCC version. He said BOC staff has observed significantly reduced capabilities in the latter version. Mr. Antonelli said the goal will be to have a standardized system across all facilities, with inputting of biometric information and identification documents followed by use thereafter of a system-generated bar code. Mr. Wolf said that the Board had

received appeals from visitors who did not receive written Notices of Visit Restriction for alleged misbehavior. He said BOC staff was told by OBCC Visitor Express staff that they were unable to print typed Notices of Restriction to give to visitors who misbehaved during visits, and who were to be restricted for that day or prospectively. Mr. Antonelli said the problem was a malfunctioning printer, which could have been fixed sooner had OBCC staff sought assistance. Chair Simmons and Ms. Abate, based on their site visits to VCB, questioned the value of Visitor Express in speeding visitor processing since it appeared that Registration Officers often must re-enter some data on visitors each time they visit. Mr. Antonelli responded that data entry is necessary only when a visitor initially registers. Mr. Wolf said that the AMKC Visitor Express system records the times of eight steps in the visiting process – a feature touted by DOC as a valuable research tool that would help to improve the visit process. He said that the version at OBCC and EMTC does not record visit start or end times, and asked which version will be used system-wide. Mr. Antonelli said DOC intends to record all pertinent times, including start and end times. Chair Simmons suggested that, if Visitor Express will be operating Island-wide by early June, Members should include Visit Express in their annual July site visit to Rikers Island.

Member Pamela Brier expressed concern about the policy requiring that, for a child to attend a visit, whether his/her own child or a sibling or a friend's child: a visitor age 16 or 17 may not act as an adult escort of a child under age 16 unless both the visitor and the inmate to be visited are that child's parent.

Chair Simmons asked about implementation of the Close Custody decision. Mr. Antonelli said James Austin is reviewing DOC's classification system, and Department officials will have a final meeting with him soon. Mr. Antonelli said DOC has dramatically reduced the number of inmates in Close Custody, to 33 in RNDC (27 adults and 6 adolescents) and from 21 to 12 in MDC. DOC General Counsel Lewis Finkelman explained that a Judgment implementing the court decision in *Jackson v. Horn* would be signed very soon. He said that it will not include time frames, but it will include a declaration that Close Custody does not comply with the Board's Minimum Standards. Mr. Finkelman said he will forward to BOC a signed copy of the document. Mr. Wolf reported that DOC removed the individual Plexiglas television booths from the south side dayroom of RNDC's Close Custody housing area, thereby enabling prisoners to commingle. He asked when DOC will similarly restore the north side. Chief Davis said the renovation should be completed by the beginning of the coming week. Mr. Wolf noted that DOC erected breaker-gates two-thirds of the way down the corridor on the north and south sides, behind which selected inmates have been able to commingle. He asked when DOC plans to end the practice of providing services to such inmates different from other inmates, and remove the breaker-gates. Chief Davis explained that, although the goal is for every inmate to have access to a dayroom, DOC is evaluating each inmate and determining how to house each one securely. Dr. Cohen voiced concern about housing conditions for all current Close Custody inmates, even as DOC develops new classification policies. He said that on a recent visit to the MDC Close Custody area, he was troubled by the small size of individual roof recreation cages, some of which are exposed to the elements, which he said provide insufficient space for movement or

exercise by inmates who spend months and even years locked in cells and otherwise restricted. Chair Simmons said that Members expect DOC to comply with Standards sooner rather than later.

Mr. Regan noted that Mark Cranston, the long-term Commanding Officer of the Office of Policy and Compliance, had retired from DOC to become chief of staff to the new commissioner of the New Jersey correctional system. He reminded Members of Mr. Cranston's key role as DOC liaison to the Board's Minimum Standards Review Committee. Mr. Regan said that he would commend Mr. Cranston's work, even if they were not cousins. Chair Simmons agreed that Mr. Cranston's knowledge and insight benefited both the Board and DOC.

Chair Simmons asked Members for their comments on the updated statistical information about jail violence provided by Mr. Wolf in a February 18th report prepared and distributed to Members. She authorized Mr. Wolf to make the report available to DOC after the meeting. Mr. Wolf explained that the BOC staff now has updated DOC-provided data through March 3rd, and has noticed an up tick in every violence indicator regularly analyzed by the Board: inmate fights that result in serious injuries, stabbing/slashing incidents, and "A" and "B" Uses-of-Force. He added that the number of stabbings and slashings has recently spiked, and asked Chief Davis whether, in DOC's view, the increase thus far this year is simply cyclical or whether it suggests new security problems. Chief Davis responded that some of the incidents are due to returning some close custody inmates to General Population, and to the general "relaxing" of some procedures that had been in place. Chair Simmons asked which procedures are being relaxed. Chief Davis again mentioned close custody. Mr. Wolf noted that in 2010, through March 3rd, there were 12 reported stabbings or slashings, as compared with two during the same period in 2009. He asked Chief Davis if he was saying that increase was due to DOC beginning to take down close custody, adding that he was unfamiliar with any incident involving a former close custody inmate as either a perpetrator or a victim of a stabbing or slashing. Chief Davis said no, adding that he was making an assumption about the relationship between the close custody takedown and increased violence, just as DOC had assumed that an inmate who tested positive for drugs had obtained them from a contact visit. Mr. Wolf asked what factors might be contributing to the spike in stabbing and slashing incidents in 2010. Chief Davis said some incidents were due to a power struggle among three sects of the Bloods gang. He assured Members that DOC security officials are aware of the spike in numbers, and are working actively to thwart gang violence. Chief Davis also said that another explanation for the rise in reported incidents is that he requires accurate, thorough reporting. He said that he always will categorize an incident as what it really is, for example, if an inmate is slashed, DOC will not report that the inmate cut himself while shaving. Ms. Abate asked if Chief Davis knew whether any inmate recently released from close custody had been either a victim or a perpetrator of a stabbing or slashing. He said that he did not. Chair Simmons voiced appreciation for Chief Davis' candor, and for the expected transparency that he will present to BOC in the future.

Chair Simmons requested a report from DOHMH Deputy Commissioner Louise Cohen. Ms. Cohen reported as follows:

Ms. Cohen has assumed the functions of the former assistant commissioner for Correctional Health Services (CHS), so as to maintain continuity while the Request For Proposals (RFP) is outstanding for a correctional health care provider(s). She reports directly to DOHMH Commissioner Dr. Thomas Farley on CHS matters. DOHMH probably will resume a personnel search in the summer for a new assistant commissioner. CHS Mental Health Director Dr. Charles Luther resigned and Dr. Daniel Selling, formerly Deputy Director and founder of the AMKC substance abuse program, "A Road Not Taken" is Acting Mental Health Director. Dr. Homer Venters, the former Deputy Medical Director, is CHS' Medical Director, and a new Deputy has been hired. The Deputy is a critical care pulmonologist, who will focus on chronic care and infirmary care.

As to the roll-out of the electronic health record system (EHR), it has been redesigned from an appointments-based system to one that facilitates walk-in patients. Also, all major mental health forms are being incorporated into the system this month. The EHR will be introduced into EMTC by mid-April, and this summer in the borough houses, where intake occurs. Thereafter, implementation will proceed on Rikers Island jail-by-jail; each roll-out should take six weeks. Hopefully, all sites will be fully functional by January 1, 2011.

Ms. Abate said that EHR will promote more effective discharge planning because community health providers will be able to access records so as to better provide continuity of care. Ms. Cohen responded that community providers usually do not know how to obtain discharge summaries, and that she could discuss with Ms. Abate the process for outside providers to gain some access.

Chair Simmons asked that the Board consider DOHMH's variance renewal requests. Mr. Wolf said the letter requests, which he had provided to the Members, authorized psychiatrists to renew psychotropic medications for stable adult patients every 28 days, rather than every 14 days, and authorized providers to maintain more than a single medical record per patient, thereby facilitating introduction of electronic medical records. Motions to renew both variances were approved without opposition. Mr. Wolf reported that DOC requested renewal of existing variances, including a variance to help manage H1N1 virus in RMSC, by authorizing DOC to mix all categories of pregnant inmates in one housing area. A motion to renew all existing variances was approved without opposition.

Ms. Cohen continued her report as follows:

The contract with the current health care provider ends on December 31st, and no renewal is allowed. The RFP is "on the street" and has an April 15 due date. There are many addenda and interested parties should download the RFP from the

DOHMH website. There are four competitions: (1) all the male facilities on Rikers Island; (2) the Rose M. Singer Center; (3 and 4) borough facilities. A bidder may seek one or more of the four contracts. Medical and mental health services are inextricably linked, so one vendor must be responsible for providing a unified service, although subcontracting is possible. Questions must be submitted on-line and all answers from DOHMH will be posted. A bidders' conference was attended by 20 different entities.

Dr. Cohen expressed concern that dividing service provision among several providers could prove problematic in terms of the quality and consistency of service and record-keeping. He noted that there is a proposed 11% decrease in the budget for correctional health services with no anticipated decrease in the inmate population. He said he expressed this view to Health Commissioner Farley, adding that the Board should be concerned about possible decreases in correctional health services. Dr. Cohen said multiple vendors will decrease efficiency, but also increase redundancy. He said that services could be decreased if the inmate population was decreased correspondingly. Ms. Cohen said that the budget contained in the RFP is the amount expected to be available when the new contracts are implemented. She added that DOHMH took almost \$400 million in budget cuts over the last eight years but CHS took no cuts. She explained that the current budget for her Division includes a 4% cut and the budget for the next Fiscal Year requires an 8% cut, for a total of almost \$7 million in cuts to CHS. Ms. Cohen said the Executive Budget is likely to require further cuts. She said she is working to maintain CHS services by implementing administrative efficiencies and then transferring supervisory positions into direct clinical care. She said that some Division-funded programs not in the PHS contract will be reduced, and this will impact CHS to a certain extent. She added that these cuts do not reflect a cut in the PHS and VCBC budgets.

Ms. Abate asked about staffing levels in the clinics. Ms. Cohen said there are two models, each with strengths and weakness. She said VCBC has a physician-based model whereas some Rikers Island jails have a physician assistant-based model. She said she hopes prospective vendors will think about efficiencies, recognizing that staffing is the bulk of the contracts. She said that going forward, when a physician calls in sick, the position will not be back-filled by another physician and she expects prospective vendors to find creative solutions. Ms. Abate asked about the use of nurse practitioners, particularly at RMSC. Ms. Cohen replied that there are not many assigned there.

Dr. Cohen reported that he met with Commissioner Farley, Ms. Cohen and Dr. Venters about health and structural issues in the North Infirmary Command (NIC), which he described as old and dirty. He said that in such a setting CHS' recent addition of a critical and emergent care expert will be able to resolve few problems. He urged DOHMH and DOC to work closely together on capital planning so that DOHMH can implement a health program in a setting that DOC can support structurally. Ms. Cohen said Dr. Cohen's point is well taken.

Chair Simmons thanked representatives of DOHMH and DOC for their work and attention. She then adjourned the meeting at 10:15 a.m.