

NEW YORK CITY
BOARD OF CORRECTION

July 11, 2011

MEMBERS PRESENT

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

Excused absences were noted for Vice Chair Michael J. Regan and for Members Stanley Kreitman and Rosemarie Maldonado, Esq.

DEPARTMENT OF CORRECTION

Dora B. Schriro, Commissioner
Larry W. Davis, Chief of Department
Lewis S. Finkelman, Esq., First Deputy Commissioner
Sharman Stein, Deputy Commissioner, Public Information
Florence Finkle, Deputy Commissioner, Office of Excellence
Martin Murphy, Deputy Chief of Staff
Erik Berliner, Associate Commissioner
Jean Yaremchuk, Assistant Commissioner
Carleen McLaughlin, Legislative Affairs Associate
Maggie Peck, Director, Constituent Services

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

George Axelrod, Director, Risk Management

OTHERS IN ATTENDANCE

Joseph Antonelli, Office of Management & Budget (OMB)
Harold Appel, M.D., Doctors' Council
Jay Cowan, M.D., Medical Director, Prison Health Services (PHS)
Christina Fiorentini, Independent Budget Office (IBO)
Susana Guerrero, State Commission of Correction
William Hongach, NYC Council
Michael Keogh, Bolton-St. Johns, LLC
Neil Leibowitz, M.D., Director, Mental Health, PHS
Danielle Louis, OMB
Lindsey Oates, OMB
Margaret Pletnikoff, OMB
Natasha Salas, IBO
Irene Salas-Menotti, Intern, Board of Correction
Milton Zelermyer, Esq., Legal Aid Society, Prisoners' Rights Project

Chair Hildy Simmons opened the meeting at 9:10 a.m. A motion to approve minutes from the May, 2011 BOC meeting was approved without opposition.

Chair Simmons reported that on behalf of the entire Board, she sent a memo to DOHMH Commissioner Thomas Farley and DOC Commissioner Dora Schriro summarizing the Board's June inspection of the Rikers Island Infirmary. She said she has asked that staff from both Departments be assigned to work with BOC staff to develop, by September, a plan to remediate many of the problems identified during the inspection. Commissioner Schriro said that after receiving the memo she again toured the Infirmary. She said she and Commissioner Farley will tour the facility together, and will respond formally to the Board thereafter. BOC Member Robert Cohen, M.D., said that for those who have not seen the memo, it summarizes the Board's observations of conditions in areas of the Infirmary. He said the Board was concerned primarily about physical plant issues, but also raised concerns about access to supplies and hygiene issues. He noted that five Members attended the tour, and all had an opportunity to review the memo and add their observations. Dr. Cohen said the Board hopes that the issues identified in the memo will be addressed sooner than is currently planned.

Commissioner Schriro presented a report, as follows:

Last evening (July 10, 2011) smoke was detected in two wooden modular housing units at the George Motchan Detention Center (GMDC), 13 and 14. Both were brought on line in November 1987, and had recently reopened following the completion of shower renovation projects. The dorms were evacuated quickly and without incident. Building 14 was engulfed in flames. The Fire Department (FDNY) responded and the fire was under control in an hour. Smoke conditions were abated, but due to a number of fire-related water conditions, Building 10 was evacuated as were several other housing units. Inmates are now being returned to these units, but 13 and 14 are off-line and are lost. 241 inmates had been evacuated, including 192 inmates from buildings 13 and 14. Water problems resulted in additional inmates being temporarily relocated within GMDC, for a total of 349 inmates affected. Some inmates were subsequently moved overnight to other Rikers facilities. There were no incidents and no injuries to inmates or staff.

The FDNY remained on-site, and flames again flared at 4 a.m. this morning (July 11th).

Chair Simmons asked what caused the fire. Commissioner Schriro said speculation is that the fire was caused by electrical problems with the air conditioning. BOC Executive Director Richard Wolf asked how many similarly constructed and aged wooden modular dormitories remain on Rikers Island. The Commissioner said the capital plan calls for 50 units to be taken off-line, although the two affected units were not included. She said this total includes both modulars and sprung. Mr. Wolf asked about the status of fire safety issues with the courts. Commissioner Schriro said that fire safety is one of four remaining issues in the Benjamin litigation. First Deputy

Commissioner Lewis Finkelman said a fire safety consultant has inspected all facilities and is developing a comprehensive plan. He said a contractor is currently working in AMKC, and will move to other facilities as work is completed. BOC Member Catherine Abate asked how long the affected dormitories would be off-line. Commissioner Schriro said the mods were destroyed, and DOC will decide whether they need to be replaced. Dr. Cohen asked if DOC conducted fire drills. Chief of Department Larry Davis said five drills are performed each month. Commissioner Schriro continued her report, as follows:

As requested, the Department has provided to the Board a summary table outlining capital projects (attached), including the North Infirmary Command. Fire safety projects are included. Future reports will be provided before each BOC meeting, and each report will be updated to report on progress. The current report notes that the timetable for completion of the Interim Central Intake facility has been pushed back due to start-up delays.

Also provided is a chart (attached) showing that violent incidents disproportionately involve inmates in certain categories: mental health, adolescents, high custody and SRG-affiliated. Only 19% of incidents involve inmates who are not in “special categories”; among adolescents, the figure drops to 5%. Adolescents are 7% of the population, but are involved in 19% of the incidents. Mentally-ill inmates comprise 1/3 of the population, yet are account for 50% of violent incidents. High-custody is 20% of the population, but high-custody prisoners are involved in 49% of the incidents.

Mr. Wolf asked how DOC defines “mentally ill” for these purposes. Commissioner Schriro said the decision is made by mental health providers. DOC Associate Commissioner Eric Berliner said DOC uses the “M” designation from the Inmate Information System (IIS), indicating that the inmate is a member of the *Brad H* category. He said this means involvement with mental health providers, and inclusion in discharge planning activities required by the *Brad H* case. He said the designation does not indicate severity of mental illness. Dr. Cohen said that not everyone who seeks mental health services is designated *Brad H*. Mr. Berliner said the designation also applies to any inmate taking psychotropic medication. Commissioner Schriro said the *Brad H* class comprises 6% of the average daily population, and are involved in 19% of the incidents, although resulting injuries are not necessarily serious. She noted, however, that an officer whose thumb was dismembered was assaulted by an MO inmate. Ms. Abate asked if the study’s findings were in any way surprising. Commissioner Schriro said that the analysis helps the Department to target its efforts to reduce jail violence. She added that the *Brad H* group continues to increase as a percentage of the population.

Dr. Cohen asked if there has been a corresponding increase in mental health staffing. Commissioner Schriro said DOH has been a “strong partner”, noting that the MO pilot is expanding and all MO housing areas will be consolidated in one facility in the fall. She said the consolidation will enable both agencies to better focus its resources, adding that she hopes to expand available MO beds in the fall to accommodate all inmates who might benefit from being in MO housing. Commissioner Schriro said that

violence in the three pilot project housing units had been reduced by 50%. Dr. Cohen asked if the mental health staff is bilingual. Dr. Neil Leibowitz, Director of Mental Health for Correctional Health Services, said that a fair amount of mental health staff are bilingual. Dr. Cohen asked for the number of bilingual staff, and Dr. Leibowitz said he would provide the information.

Noting that there were three recent slashings, one of which was followed by implementation of enhanced security procedures, Mr. Wolf asked for an update. Commissioner Schriro reported as follows:

The procedures are evolving. When a serious incident occurs, the practice had been for a facility search only of the affected area. Procedures have been enhanced for situations where the weapon is not immediately found, perpetrators are not immediately identified, and DOC suspects something more than a one-on-one inmate dispute. In such situations, the housing area is locked down; the inmates are required to wear institutional uniforms to facilitate line scans of clothing; phone and commissary records are examined; SRG affiliation is reviewed; and a methodical review is completed within 24 hours. If this time-frame is exceeded, DOC notifies the Board.

Enhanced procedures have yielded some useful intelligence, including SRG affiliations. In some cases, perpetrators have been identified.

Central Operations Desk (C.O.D.) reports now routinely indicate whether video surveillance of the affected area is available. Available video always is reviewed. For privacy reasons, cameras do not look into cells, so if an inmate flushes a weapon down a toilet, this will not be recorded.

Chair Simmons asked if DOC intended to establish criteria for implementation of the enhanced security procedures. Commissioner Schriro said the decision is made by the Deputy Chief of Security. She said she agreed with all decisions to implement or to not do so. She said the procedures are used for investigative purposes only, and not for punishment. She said she expects written protocols will be developed. The Commissioner said that all inmates in the affected housing area are drug-tested, and that searches are conducted by a special search unit rather than by facility staff. She said additional inmates are found to test positive. Mr. Wolf asked how staff fails to notice the aroma of marijuana when so many inmates test positive. Commissioner Schriro said DOC is interdicting “designer drugs” as well as marijuana.

The Commissioner said that renovations to the Central Visit Building are proceeding, and masonry work has been completed. She said that lockers were ordered from a manufacturer in Mississippi, but delivery has been delayed. She said she expects that the additional lockers, available in a weather-protected environment, will be on-site by Labor Day. Chair Simmons asked why the number of visitors being required to wear cover-ups has increased from 1400 in May to 2100 in June, an increase from 4% to 7%. Commissioner Schriro said she did not know, and speculated that it might be due to a

change in the weather. She said that most visitors accept wearing the cover-up. Mr. Wolf acknowledged this, but said visitors have no choice if they want to visit. Member Pamela Brier observed that one month does not constitute a “trend” and suggested further study over time. Chair Simmons said BOC’s concern is consistency of application of the visitor dress code.

Chair Simmons asked for an update on Visitor Express. Mr. Wolf said that the jails have reported problems with hardware to BOC staff. He said that reports include “freezing up” of scanners at visit start and stop points, and that this has been recently noted as BOC staff reviewed visit records while investigating appeals of visit denials or restrictions. Assistant Commissioner Jean Yaremchuk said this is primarily a training issue, as DOC now has checkpoints in facilities where they did not previously exist. She added that terminals have specific applications: some record “in” and “out” times; others are “dashboards” showing progress of the visitor through the system, and inmates awaiting visits. She said the problems arose when staff attempted to scan into dashboard monitors. Mr. Wolf said BOC staff had received different information, and he would be happy to share it after the Board meeting. Chair Simmons agreed, and suggested that DOC and BOC staffs work together to resolve the issues, and provide an update at the Board’s September meeting. Mr. Finkelman asked how many instances the Board had heard about. BOC Director of Research Laura Limuli said she visited every facility. Mr. Finkelman said he was referring to visitors. Ms. Limuli said visitors are not typically the source of these types of complaints. She said she visited every scanning point in every jail, and also at S.O.D., and inspected all dashboards. Chair Simmons congratulated DOC on its progress and said she looked forward to an updated status report in September.

Chair Simmons asked for a report on footwear. Commissioner Schriro said DOC received 58,404 pairs of shoes at the end of June. She said these have been distributed to facilities, with a reserve in the storehouse. She said DOC and DCAS have arranged for recurring procurement, and the first shipment – a double order – will consist of 40,000 pairs of shoes. She said that every four months thereafter DOC will receive another 20,000 pairs. Mr. Finkelman said this will be a requirements contract, so DOC could order more if needed. Mr. Wolf asked if DOC will know sufficiently in advance when to place additional orders. Mr. Finkelman said yes, noting that Custody Management will monitor the situation closely. Mr. Wolf said the Board remains focused on footwear because it has been the source of concern and complaints from inmates and DOC staff. He said that DOC staff report that DOC policy seems to fluctuate depending upon the availability of footwear inventory. He noted BOC staff have taken photographs of inmates wearing banned Reebok sneakers – some have logos blacked-out; others have logos ripped out. He said some inmates continue to wear Champion sweatshirts, with the signature “C” logo. Commissioner Schriro said DOC may never have had a sufficient supply of institutional footwear, from the time the policy first was implemented. She said that earlier shipments consisted of inferior products, which were rejected. She added that, to promote durability and improve security, DOC added its own specifications to the shoes that were recently delivered. Ms. Abate asked how long the new shoes are expected to last. Commissioner Schriro said the new shoes are much sturdier than

previous institutional footwear. Ms. Brier said the disconnect between policy and inventory defines the problem and, going forward, DOC should determine whether it can obtain sufficient quantity to sustain the policy. She said that if DOC cannot do so, it should rescind the policy. Noting that he was not on the Board when it granted DOC authorization to require inmates to wear institutional footwear, Dr. Cohen said he has heard of no evidence that the policy has reduced violence, and that if DOC does not find such evidence, DOC should consider whether the policy should continue. Commissioner Schriro said the policy will not make sense if DOC cannot “make it happen”. Ms. Brier said the Board approved the amendment to the Minimum Standards based upon the previous Commissioner’s assurances that authorization was essential to reducing violence. Ms. Abate asked what happens to recycled shoes. Commissioner Schriro said most are not worthy of being recycled. Ms. Brier asked for a report at the November meeting assessing the value of the footwear policy in promoting safety and security. Chair Simmons said that some other large correctional systems provide shoes to prisoners, and she wondered whether they experience similar difficulties. Commissioner Schriro said that other systems make their own shoes. Mr. Finkelman said DOC looked into purchasing shoes from other systems, but the cost is much higher. Chair Simmons asked for a brief report at the September BOC meeting, and a more comprehensive analysis in November.

BOC Deputy Executive Director Cathy Potler asked why the Infirmary inmate-patients who are housed in NIC are included in the “special category” designation and therefore required to wear institutional footwear. Chief Davis said the Deputy Chief for Security from time to time will put certain Infirmary inmates in institutional footwear. He said some of these inmates are indigent and are given institutional footwear. He said these inmates are not on the list of “special category” inmates under the policy. Ms. Potler said some Infirmary inmate-patients have medical consults authorizing them to wear personal footwear, but are denied by security staff. She asked the Chief to look into this, and he agreed.

Commissioner Schriro said DOC provided to the Board a draft classification directive and draft classification instruments. Mr. Wolf said he would distribute the materials to the Members. The Commissioner said the recalibrated instruments will be rolled out in late July, following two-day training of nine staff. She said another 30 staff persons will be trained, noting that the latter group consists of the intake staffs at DOC receiving facilities. She said that when staff acquires proficiency in using the recalibrated instrument, DOC will convert to it, sometime in August. The Commissioner said the instrument is similar to the one created 25 years ago, and should have been recalibrated every 5 to 7 years. She noted that some housing units confine inmates with scores from 0 to 17, that is, low to high classification. She said systems assign low and medium prisoners to the same housing area, but never mix high security prisoners with other security categories. Commissioner Schriro said that inmates are categorized as “mental observation” for treatment purposes, but must be housed – within that category – based upon their assigned security levels (low, medium or high). She added that custody management is affected by classification scores. Dr. Cohen asked if the increase in punitive segregation beds anticipates the recalibration. Commissioner Schriro said no,

noting that the increase began more than one year ago. She said inmates owed bing time from their current incarceration, and many owed from prior incarcerations as well, and that the increase was undertaken to deal with this problem.

Chair Simmons said that in September, there should be a brief footwear update, a discussion of DOC's Strategic Plan, and a report on Visitor Express. She said the working group on the Infirmary will meet over the summer, and report in September. She said that DOHMH will provide the information that Dr. Venters would have reported on, and that Mr. Wolf will circulate it to the Members.

A motion to renew existing variances was approved without opposition. Chair Simmons adjourned the meeting at 10:14 a.m.