

NEW YORK CITY  
BOARD OF CORRECTION

July 12, 2010

MEMBERS PRESENT

Catherine M. Abate, Esq.  
Robert L. Cohen, M.D.  
Stanley Kreitman  
Milton L. Williams, Jr., Esq.  
Rosemary Maldonado, Esq.

Excused absences were noted for Chair Hildy J. Simmons, Vice Chair Michael J. Regan, and Members Pamela S. Brier 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  
Archana Jayaram, Chief of Staff  
Ronald Greenberg, Director of Inspections, Office of Policy and Compliance

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

George Axelrod, Esq., Executive Director, Quality Improvement, CHS  
Susan Ornati, Acting Director, Quality Improvement

OTHERS IN ATTENDANCE

Andy Grossman, Deputy Director, Finance Division, City Council  
Susana Guerrero, State Commission of Correction

Member Stanley Kreitman called the meeting to order at 9:07 a.m. Minutes from the May 10, 2010 meeting were approved without opposition.

Mr. Kreitman reported on the Board's June inspection of the visiting process at Rikers Island. He praised the Department of Correction's operations, noting that the logistics are complicated. He said he did not think DOC should charge visitors to use a locker. He then raised the issue of "appropriate dress" for visitors, and passed around photographs depicting visitors wearing skirts, dresses and shorts of varying lengths. Mr. Kreitman said the issue is what is, or is not, "provocative", and asked BOC Executive Director Richard Wolf to provide some background.

Mr. Wolf reported as follows:

BOC's Director of Research, Laura Limuli, took the pictures, which demonstrate that determining what is "appropriate" is an imprecise process and one that yields inconsistent results. The first picture is of a woman wearing a sundress who was told she would not be allowed to have a contact visit unless she wore a different garment. The visitor had brought a pair of jeans for the inmate she was to visit. After putting on the jeans, she was allowed to have a contact visit. [Picture #1, attached.] The second picture [#2, attached] is of a visitor who was denied a contact visit and permitted only a booth visit because of what she was wearing.

Mr. Kreitman said the visitor in the second picture was wearing a dress that looked like one that would appear in a JC Penny's advertisement. Member Catherine Abate said the visitor was wearing "what normal young people wear". Mr. Wolf described a third picture [#3, attached], noting that the visitor was allowed a contact visit, but told that if she returned wearing the same shorts, next time she would not be allowed a contact visit. Mr. Wolf asked the Members to compare the shorts in the third picture with the shorts depicted in a fourth picture [#4, attached], which he described as "shorter" and "tighter". He said the visitor in the fourth picture was afforded a contact visit at a different jail. Mr. Wolf said the pictures show how difficult and inherently subjective it is to decide what "appropriate attire" is. He said DOC should develop clear guidelines so that visitors and staff will have notice as to what is and is not appropriate. Mr. Kreitman said the Department should be "consistent".

Mr. Wolf asked DOC Commissioner Dora Schriro to comment on why DOC has established its current regulations. Commissioner Schriro said that regulations requiring "modesty" are "pretty universal" and "mainstream corrections expectations". She said that the fact that this is "normative dress" is noted, and added that a financial hardship is created if visitors must dress differently. She noted however, that in the absence of a table to provide modesty, a visitor sitting in a short skirt creates the need for additional staff and vigilance. Mr. Wolf asked if the Commissioner was referring to security concerns. Commissioner Schriro said yes, noting that unlike short skirts, shorts or capris make sexual contact more difficult. She said that shorter, looser garments enable visitors to hide and to retrieve contraband. She said the challenge is to maintain a safe and secure facility while being sensitive to what people are wearing and can afford. Ms. Abate said

that a woman in a long skirt could pull it up to her thighs. The Commissioner said this would be more obvious than someone who sits down in a very short skirt. Ms. Abate said to promote consistency, rules need to be posted and clear. Commissioner Schriro then presented a report on visitor dress, as follows:

At the same time that it heard the suggestion from the Board, DOC began looking for a covering to offer visitors who arrived in dress deemed to be “inappropriate”. Dry cleaners have charts offering hemlines of varying lengths and amusement parks use drawings to determine whether a child is tall enough to go on a ride unescorted by an adult. Drawings can be useful to explain to visitors what is meant by “appropriate” clothing.

The Department considered extra large tee shirts for use as cover-ups. These address inappropriate upper-body clothing, but not length or “suggestive” leggings, so DOC has purchased beachwear or night-shirt length tee shirts. These have been dyed to facilitate retrieval at the conclusion of a visit, after which they will be laundered. The visitor dress code has been revised, and is to be effective beginning on the week after Labor Day. This will facilitate notice to visitors and inmates. As noted at an earlier BOC meeting, DOC will place additional responsibility on visit captains, who will receive additional training.

Mr. Wolf asked if the visit captain would decide whether a visitor’s clothing was “appropriate”. Commissioner Schriro said the captain decides whether or not to let the visit proceed. She said that in the future, if an officer decides a visitor requires a covering and the visitor refuses and insists on having a visit, the captain will decide the matter. BOC Deputy Executive Director Cathy Potler asked if this process would occur at the Visit Control Building (VCB). The Commissioner said decisions by the VCB captain can best insure uniformity of decision-making, and the intent is to make as many decisions as is possible at the beginning of the visit process, but facility visit captains also have responsibility. Ms. Abate stressed the importance of staff training. She said that one’s view of “suggestiveness” is subjective – “you know it when you see it”. However, she said that “normal clothing” in summertime often is revealing, and staff need to be taught to be concerned about extremes. She said the emphasis should be on clothing that is “disruptive”. Commissioner Schriro said DOC staff is very concerned about sexual misconduct, which is more likely to occur in jail visit houses than in other social settings. Mr. Wolf said that some jails have adopted their own, very precise dress codes, and it is not clear whether this was done with the approval of DOC’s Central Office. He cited prohibitions against sleeveless tops and tops with “spaghetti” straps. Mr. Wolf then presented a fifth picture (#5, attached), depicting a visitor wearing a dress, the length of which was not questioned, but the top was somewhat “low cut”. He said the visitor was wearing an appropriate undergarment, but nonetheless was denied a contact visit, and instead was restricted to a booth visit. He said the picture again raised the question of consistency of application of rules, noting that many people would find the dress “appropriate”. Mr. Wolf noted that the Minimum Standards require that if a visitor’s clothing raises a security concern, the visitor must be offered a non-contact visit rather than be turned away entirely. Member Rosemarie Maldonado cited her experiences

dealing with this issue in an academic setting, and noted that the Department should go back and reexamine the rationales for the clothing requirements it is imposing. She also underscored the importance of consistency of application.

Mr. Kreitman asked if other Members had comments. Member Dr. Robert Cohen said that during the inspection at the Anna M. Kross Center, people having booth visits could not hear one another speak because the sound must travel through a vent in the desk. Commissioner Schriro said she was told about the observation, and design staff are now looking at what can be done. Ms. Abate said the entire visit process seems to take four hours, and she expressed the hope this could be improved upon. She also said that several stalls in the women's bathroom lacked toilet paper. She reported on the observations of the process that were submitted by a young man who visited his friend, a war veteran sentenced to 90 days for kicking a dog. Ms. Abate said the young man reported: on the "chaos" of finding a locker outside the VCB because many were broken; that the information line to locate an inmate took 30 minutes, because of staffing shortages (only one person assigned) and a "down" computer with no immediate paper back-up system. Ms. Abate said the visitor observed that if a visitor is patient and expects the process to be slow, "it isn't bad". Ms. Abate said the visitor reported that the process took 4¾ hours. At Mr. Kreitman's request, Commissioner Schriro continued her report, as follows:

DOC is committed to improving visits. As discussed at a prior BOC meeting, the Department enabled inmates to purchase roses for visitors for Mother's Day. Approximately 900 inmates purchased Father's Day cards to give to visitors.

The Department will share with the Board the language it will use for the new visitor dress code, which will be posted more than a month before it takes effect. The tee-shirt covering option will be implemented. The Board's concerns about what constitutes appropriate dress have been heard "loud and clear". Contraband interdicted at jail visit houses continues to be a problem, and DOC will continue to look at the clothing of visitors who are caught with contraband and where and how they attempt to conceal it.

The impermissible items list has been revised as well, incorporating suggestions made by the Board regarding, among other things, reading materials for visitors.

DOC policies have been revised to make clear the nexus between inmates' positive drug tests and drugs interdicted during visits. DOC's General Counsel Lew Finkelman will be providing regular written legal briefings for DOC staff so they understand the basis for Departmental policies. Sharman Stein, DOC's new Deputy Commissioner for Communications, is working to change DOC's methods of internal and external communications from the archaic teletype system to a more effective way of making staff aware of policy changes.

Visitor identification requirements have been modified to reflect large jail practices from around the country. Positive ID for all visitors no longer will be

required. Going forward, ID will not be required for a visitor under the age of 16 who is escorted by an adult. If a minor is escorted by a 16 or 17 year-old, the minor must have ID. Currently, very few visitors are turned away because of inadequate ID.

The ion scan machines have been recalibrated, and the number of positive results have decreased from 77 positives in the last month pre-recalibration to 37 in the first full month post-recalibration. When a positive “hit” occurs, the visitor is offered a booth visit.

Mr. Wolf asked why DOC doesn’t use a positive ion scan result to initiate a search of the visitor for drugs. He suggested that if no drugs are found, the visitor should be able to have a contact visit. Commissioner Schriro continued her report, as follows:

Recalibration screens out incidental contact with drugs, and a positive result now indicates “purposeful, sustained contact”.

The number of inoperable visitor lockers has been reduced to 70. DOC has an inventory of replacement locks and keys, and repairs can be made when reported.

[Commissioner Schriro distributed an artist’s rendering depicting possible renovations to the area outside the Visit Control Building. Copy attached.] The area outside VCB where some lockers are situated under an overhang is “inhospitable on a good day” and difficult in inclement weather. DOC’s design team has been asked to reconfigure the area and create space for additional lockers. There will be ramps instead of steps, and three areas at which visitors will find lockers and access VCB. DOC is investigating whether lockers can return deposited coins to visitors. Locker maintenance is separately funded by DOC, and is not defrayed by the monies collected – all monies are turned over to the City’s general revenue fund.

Mr. Wolf asked whether VCB staff are consistently providing written notices to visitors who are denied a visit. He reported that BOC staff members had observed some instances in which visitors were turned away without receiving written notices. Commissioner Schriro said the requirement is in place, and daily reports are submitted from VCB and the jails. She said if notices are not being given consistently, it would be very helpful to have “real-time notification” to Deputy Warden Breeland or Chief of Staff Archana Jayaram. The Commissioner noted that approximately one-half of the “denials” are because the prisoner has been transferred to another facility or upstate, or is at a clinic or other service area, at court, or otherwise unavailable. Mr. Wolf said BOC staff will notify the Department when possible, but the Board lacks the staff to monitor the process consistently. He said the Department should monitor itself. Commissioner Schriro said Dep. Breeland monitors the situation, as does Ron Greenberg. She then reported on DOC’s budget, as follows:

In the second quarter of FY10, DOC was spending overtime at the rate of 6000 hours per day. At that rate, the budget would have been depleted by the end of the third quarter. Instead, DOC ended FY10 within appropriations by reducing overtime to 3000 hours per day. This amount demonstrated the need to establish some additional full-time positions, which required executive and legislative approval. 550 uniformed staff who were not assigned to direct inmate-contact positions were reassigned to security posts. Many others were reassigned from headquarters to jail security posts. Civilianization has increased, and medically-monitored uniformed staff have been reevaluated and reassigned, as appropriate. In FY11, the budget has been reduced by 1.3%, a comparatively modest reduction. Staff will be reduced by only 14 FTEs (full-time equivalents), which will be accomplished through attrition.

DOC will increase program capacity, which is especially important to counteract idleness among inmates. DOC and the Health Department together are working to improve service delivery to mental observation inmates. An inter-Departmental work group presented a report to Commissioners Farley and Schriro which will result in a pilot consolidation program by which MO inmates will be moved into fewer locations. MOs account for a majority of fights among inmates. The pilot will enable trained DOC staff to work more effectively with providers, provide better separation of MOs from general population, and facilitate the separation of low-custody MOs from high-custody MOs.

DOC is working with the Department of Education to identify the best education/program physical plants and integrate DOE services under one curriculum, DOC expects these efforts to lead to improved turnout among inmates who choose voluntarily to participate in educational programs.

DOC currently has only 200 substance-abuse treatment slots, a total that doesn't begin to address the need, and hopes to increase the number of slots through increased efficiencies in other areas.

Dr. Cohen said that the increase in seriously mentally-ill people in jails and prisons around the country should not be dealt with by corrections. He said DOHMH should not "dump" the problem on corrections, and noted that what is required is training of police and educating communities to not want to reject the seriously mentally-ill and put them in correctional facilities. Commissioner Schriro said Brad H inmates continue to increase as a percentage of the total inmate population.

Mr. Wolf asked for comments on DOC's plan to establish a central intake system. Commissioner Schriro responded as follows:

DOC's said classification consultant, James Austin, will be returning in early August, to continue work on a revised classification instrument, which will identify an individual's propensity for violence. The goals are to move to three custody levels (low, medium and high) and to identify an individual's needs.

Education needs will be assessed through an instrument measuring literacy and proficiency, and that an interest inventory will be established as well. Mental health needs will be determined, including substance abuse issues, and a level of needed intervention will be set. The additional information will inform housing assignments and enable better service delivery.

Moving to central intake will first involve housing-area consolidation as much as possible. A small number of well-trained staff members will assess incoming inmates, using direct person-to-person contact. The plan is for intake to be done at three locations, rather than the current seven. There will be one off-Island intake center, and two on-Island locations: one for men and one for women. For less than 24-hours, and confined in separate holding pens, pre-trial and sentenced prisoners, and adults and adolescents, would be commingled at each location. As DOC finalizes the risk-assessment instrument, it will be deciding on intake locations.

Indications that the longstanding assessment instrument has not been functioning well are the large numbers of prisoners with classification scores above 17, and the many additional classification categories that were added over the years. One – close custody – has been eliminated. The categories were created because the Department’s instrument lacked predictive value. Going forward, DOC needs to establish “assumptions” for the management of prisoners in each of the three security categories. For example, different categories require different staffing levels, different escorting procedures and different restraints. Implementing the assumptions should improve management and reduce violence.

Dr. Cohen said that the classification consultant wrote that mental health staff are too involved in decisions regarding whether prisoners/patients are housed in dorms or cells. He said he recognizes that there should be conflict between clinical and security issues regarding housing decisions, and it is important that medical and mental health providers have an opportunity to attempt to influence placement decisions. He said that if they are not participating in the decision-making process, they are not doing their job. Dr. Cohen gave the example of a low-security prisoner/patient requiring cell housing because of mental health reasons. Commissioner Schriro said the issue is part of the reason why DOC will begin with a small pilot project, considering evidence-based literature, field experience and best practices.

Dr. Cohen reported that during a recent inspection of the infirmary at NIC, the physical plant was “horrific”. He said there was no soap or liquid sanitizer available for staff inside the infirmary, and it is very troubling that PHS tolerates this. Noting that the situation is “urgent”, he said the beds are rusted, the shower and bathroom areas are filthy and there are leaks in the ceilings. Ms. Abate asked if it was the case that medical providers do not have access to anything with which to clean their hands. Dr. Cohen said there is nothing in the housing areas, even though providers are going from person to person taking vital signs. Ms. Potler said there was soap inside the treatment areas, but not the housing areas. Dr. Cohen said providers, security staff and prisoners should be

encouraged to wash their hands frequently. He said DOHMH should be advocating on this issue. Commissioner Schriro said that DOC is looking to remedy the situation.

Dr. Cohen raised the issue of escorts, which he said was both a medical and a security issue. He said he was told by medical staff at RNDC of considerable problems in getting prisoner/patients escorted to their clinic appointments. He said DOC staff said an escort post had been eliminated on the 1 to 9 shift. Commissioner Schriro said the staffing is “there” and she will learn where the problems may lie. Finally, Dr. Cohen said that medical staff at RNDC reported increased violence there. He said BOC staff is looking at the incidents and will compare information with the Department. Ms. Abate asked what kind of violence Dr. Cohen was referring to. Dr. Cohen said he was referring to inmate to inmate incidents. Mr. Wolf said that DOC reports “serious injuries to inmates”, which include fractures and injuries requiring sutures. He said Board staff eliminates injuries from accidents, counting only injuries resulting from fights and injuries that are reported to have occurred in ways that neither BOC nor DOC find credible. He gave as an example a report by an inmate who claims that he fractured his jaw by falling out of bed and landing on his face. Mr. Wolf said the rate at which serious injuries from fights are reported appears to have increased, during the first six months of 2010 as compared to all of 2009, by almost 50%. Commissioner Schriro said this has not been her experience. She said DOC has added to the 24-Hour Reports information about gang affiliation, custody score, whether OC was dispersed, and whether the incident was captured on video. She said the data are the same as last year, so she will compare BOC’s data with DOC’s to determine why we have different information. Mr. Wolf said that for all of 2009, there were 114 reports; in the first six months of 2010, there have been 83. The Commissioner said DOC needs to develop more precise definitions of what constitutes a “fight”, to enable the Department to be as proactive as possible. Dr. Cohen urged DOHMH to involve itself in identifying violence issues. Commissioner Schriro said DOC looks at the time and location of each incident, and thus far no pattern has emerged. She said that Florence Finkel’s office is working to develop better data to facilitate improved strategic planning. Mr. Wolf offered to meet with DOC staff to explain how BOC analyzes the DOC data. Commissioner Schriro said this is a good idea.

Mr. Kreitman asked for a report from DOHMH’s Director of Risk Management George Axelrod. Mr. Axelrod reported that the RFP is “still pending”, and he cannot comment further. Mr. Wolf asked Mr. Axelrod if he could tell the Board how many entities had responded to the RFP. Mr. Axelrod said he did not know if he could answer, and agreed to find out. Regarding DOHMH’s adopted budget, Mr. Axelrod said there were no changes from the Executive Budget Louise Cohen had discussed with the Board. Dr. Cohen said that during two of his last three inspections, he learned of PHS staffing that resulted in medical areas having no clinical staff coverage. He said he discussed this with DOC Assistant Commissioner Erik Berliner who attributed the problem to no coverage for clinicians on vacation, resulting in no sick call at NIC Main. He noted that DOHMH budget cuts deal specifically with vacation coverage, which has been reduced by hundreds of thousands of dollars. Dr. Cohen asked that DOHMH explain why the cuts will not result in additional incidents of cancelled sick call.



Regarding the possible relocating of the City's prison wards to Metropolitan Hospital, Mr. Axelrod said that discussions are occurring, but no decision will be made without approvals from both the Commissioners of Health and Correction. Mr. Wolf asked about the timetable for decision-making. Commissioner Schriro said that if this were to go forward, it would not occur for at least 18 months and perhaps as long as three years.

Dr. Cohen noted with approval that DOC recently issued an order providing that patients with canes or other supports should not have these taken away without first consulting medical staff. He then said that NIC nursing staff told him that they were limiting the number of catheters and colostomy bags they were providing to patients because they were concerned DOC would confiscate them, and this resulted in some patients not having these items when they needed them. He asked that the order be extended to include these items. Ms. Abate asked if DOC staff were taking away these items in the housing area. Ms. Potler said that on the evening and midnight tour, patients in Dorm 3 who are non-ambulatory must be brought to Dorm 2 to receive a replacement item, rather than receive it from the officer in the "A" station of Dorm 3. She said this is cumbersome for both DOC and PHS staff, and suggested that a count of replacement inventory be made and maintained in the Dorm 3 "A" station.

A motion to renew longstanding existing variances and a variance authorizing DOC to house all pregnant prisoners in one housing area at RMSC to facilitate H1N1 monitoring was approved without opposition.

The meeting was adjourned at 10:31 a.m.

ATTACHMENTS



Picture #1



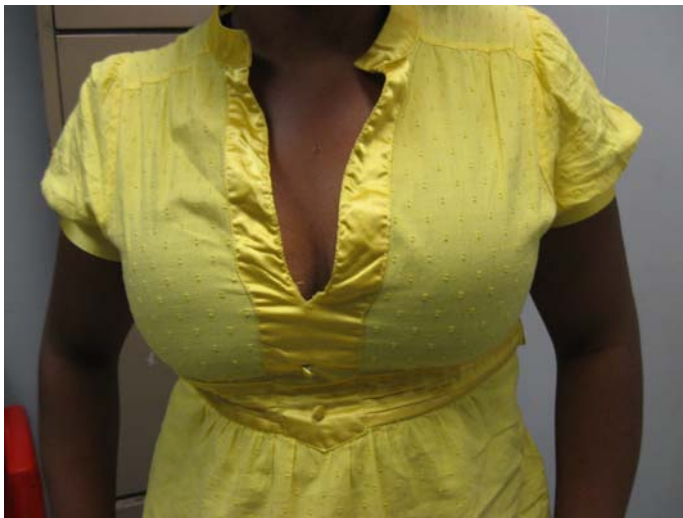
Picture #2



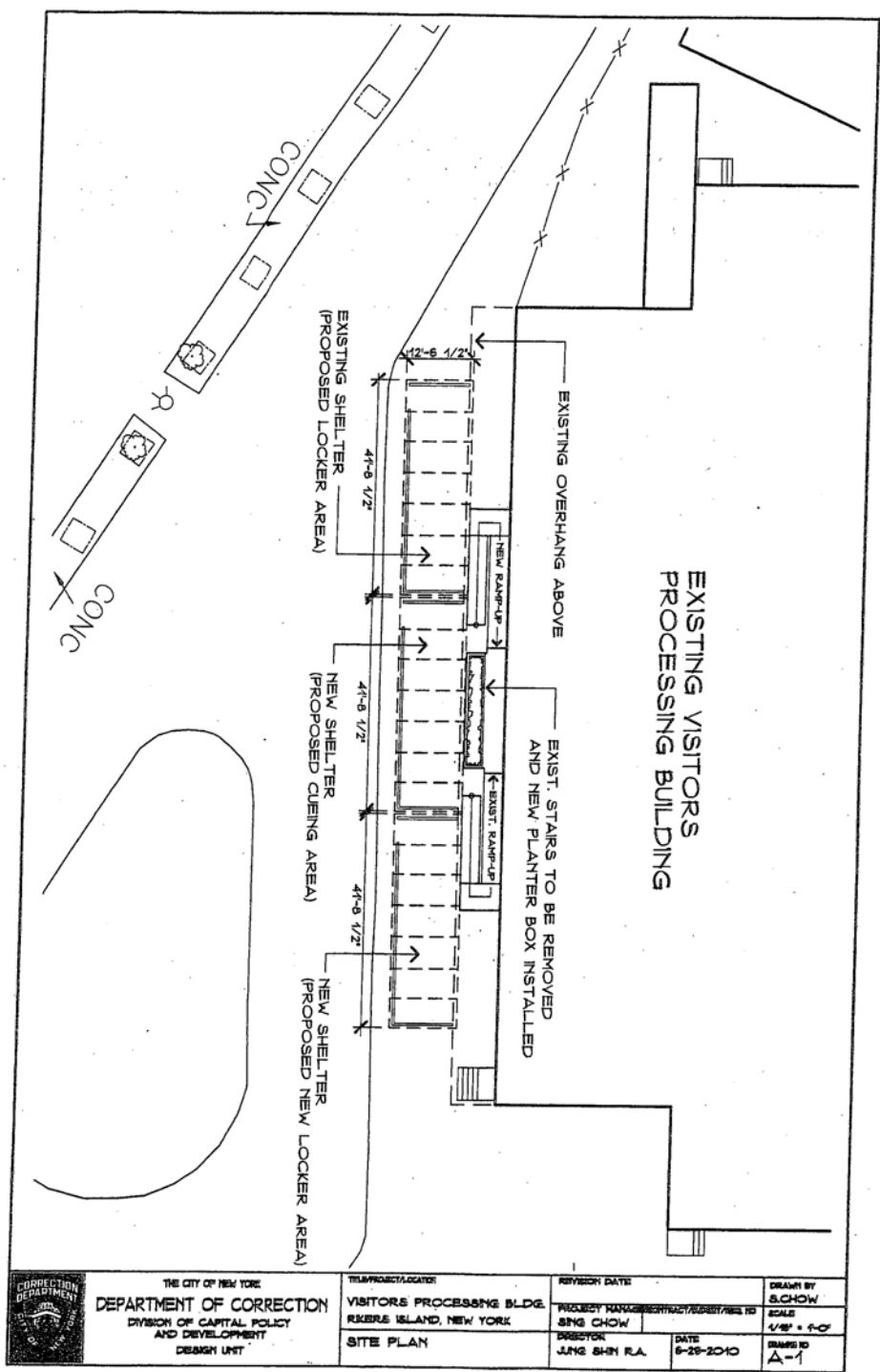
Picture #3



Picture #4



Picture #5



EXISTING VISITORS  
PROCESSING BUILDING

<p>THE CITY OF NEW YORK <b>DEPARTMENT OF CORRECTION</b> DIVISION OF CAPITAL POLICY AND DEVELOPMENT DESIGN UNIT</p>	<p>TITLE/PROJECT/LOCATION: VISITORS PROCESSING BLDG. Rikers Island, New York</p>	<p>REVISION/DATE: PROJECT MANAGER/ARCHITECT/REV. NO. SUNG CHOW DESIGNER: JUNG SHIN R.A.</p>	<p>DRAWN BY: S. CHOW SCALE: 1/8" = 1'-0" FRAME NO. A-1</p>
	<p>SITE PLAN</p>	<p>DATE: 6-26-2010</p>	