

NEW YORK CITY
BOARD OF CORRECTION

March 15, 2001

MEMBERS PRESENT

John R. Horan, Acting Chair
Barbara A. Margolis
Richard Nahman, O.S.A.
David A. Schulte

Excused absences were noted for Board Members Canute C. Bernard, M.D., Louis A. Cruz, Stanley Kreitman, and David Lenefsky.

DEPARTMENT OF CORRECTION

William Fraser, Commissioner ✓
Gary Lanigan, First Deputy Commissioner ✓
Antonio Figueroa, Deputy Commissioner NO
Roger Jefferies, Deputy Commissioner ✓
Sandra Lewis Smith, Deputy Commissioner NO
Robert Dash, Bureau Chief
William Hurley, Acting Chief of Inspectional Services and Compliance Division (ISCD) ✓
Steven Conry, Assistant Chief NO
Roger Parris, Assistant Commissioner ✓
Richard Filippazzo, Deputy Warden ✓
Linda LaGreca, Deputy General Counsel
Elizabeth Myers, ISCD

HEALTH & HOSPITALS CORPORATION - CORRECTIONAL HEALTH SERVICES

Ernesto Marrero, Jr., Executive Director
Michael Tannenbaum, Chief Operating Officer
George Axelrod, Chief Quality/Risk Officer
Robert Berger, Director, Service Delivery Assessment

OTHERS IN ATTENDANCE

Mary Ellen Bolton, Program Director, Prison Health Services, Inc. (PHS) ✓
~~Jonathan Chasan, Prisoners' Rights Project, Legal Aid Society~~
~~Carl Keldie, M.D., Corporate Medical Director, PHS~~
Sam Nitze, student, Columbia University ✓
Chris Winward, Investigations Division, City Council ✓

Acting Chair John Horan convened the meeting at 1:05. The minutes from the January 11, 2001 meeting were approved.

There being no Member reports, Acting Chair Horan called upon Deputy Executive Director Cathy Potler to present the staff report. Ms. Potler discussed an incident that occurred on Saturday, March 10 in the mental observation unit at the Anna M. Kross Center (AMKC), where an inmate, with blood on his face, was found unconscious in his cell at 4:20 p.m. Ms. Potler said that four hours earlier the inmate had been involved in a fight in the day room. She asked representatives from the Department to report on their findings thus far. Commissioner Fraser stated that the matter was being investigated by both the Police Department and the Department of Investigation. He said that there had been an inmate-on-inmate fight, after which the inmate went into his cell for lock-in. The Commissioner reported that after the change in tour, an officer found the inmate lying on his bed and unresponsive. He added that as soon as the investigation is completed, the appropriate action will be taken and the findings will be shared with the Board. Ms. Potler asked about the condition of the inmate. Commissioner Fraser responded that his condition was poor, but not life threatening. Correctional Health Services (CHS) Executive Director Ernesto Marrero added that as of yesterday, the inmate was able to move his limbs.

Mr. Schulte asked where the correction officer was during the incident in the day room and what does the officer have to say about what transpired. Commissioner Fraser responded that this is what NYPD and DOI are investigating. Mr. Schulte asked what instructions do officers receive if they see a fight or blood on the floor. The Commissioner responded that there are policies and procedures in place if officers witness inmate fights or injuries. He said that in this case, it is unclear what, if anything, the officer saw.

Mr. Schulte observed that when incidents, such as the homicide last year at the Adolescent Reception and Detention Center (ARDC), are discussed at Board meetings, the Board often is told that the matters are under investigation. The consequence, he said, is that the Board members never learn of the findings after investigations have been completed. Commissioner Fraser requested that the Board give him a list of incidents and in those cases where the investigation has been completed, he will provide the findings. Mr. Schulte requested that Director of Field Investigations Carl Niles put together a list and present it to the Department.

Regarding a matter from the January Board meeting, Mr. Horan asked what had been decided about housing two mental health patients together in one large cell. Commissioner Fraser responded that Mr. Marrero had discussed this issue with mental health professionals throughout the HHC system who found a need for four- or five-man "mini-dorms" for "paranoid or schizophrenic" inmates. The Commissioner stated that he feels two- or three-man cells pose too great a risk; therefore, in Modular 1 at AMKC the Department completed renovations that have created four- and five-man mini-dorms. He added that in Quad 1 Lower, two-man cells are being retrofitted into single cells.

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Board Member Barbara Margolis asked how long the multi-person cells have in use and whether there had been any violent incidents other than the recent homicide. Commissioner Fraser responded that he is not certain how long the double and triple cells have been use; but that they were the original configuration of the housing area. The Commissioner said he did not know of any other violent incidents occurring in the jumbo cells.

Mr. Schulte asked who decides where the inmate is housed - the Department of Correction or the mental health provider. Commissioner Fraser responded that the mental health professional decides who is suitable for multi-man housing, but the Department has final authority on housing decisions, and can override the preferences of mental health providers based upon DOC security reasons. Mr. Schulte asked if the mental health providers have a copy of the rap sheet so that they would know if an inmate has a violent history. The Commissioner answered that the mental health staff have access to the Inmate Information System (IIS), which they review as part of the process. Mr. Schulte asked Mr. Marrero if the mental health staff review the IIS. Mr. Marrero responded that, as part of the medical chart, the providers have access to the "psycho-social" and psychiatric evaluation of the inmate which includes information provided by the inmate about any violent history. Ms. Potler asked if after the mental health provider decides that an inmate would benefit therapeutically from being placed in a jumbo cell, is there any final review by the Department to ensure that the inmate has no prior violent convictions that would preclude his being placed with other inmates in a cell. Mr. Marrero answered that the Department would step in if there were concerns around gang affiliations of inmates to be housed in the same cell. Commissioner Fraser added that these are the types of security concerns that the Department would assess, and noted that the mental health providers would have to get regarding charges and criminal history information from the IIS system and the psycho-social evaluation.

With respect to the recent homicide in the Mental Health Center, Mr. Schulte then asked why the mental health provider placed a person who allegedly "malletted" to death his mother in the same cell with a "stalker". Mr. Marrero responded that for the past five years, individuals with mental illnesses, even those who allegedly "malletted" and decapitated people, have been placed in these cells without incident. He stressed that one need not change the system because of one incident. Mr. Marrero added that he discussed the matter with many mental health professionals in the HHC system who made therapeutic recommendations regarding how to use this type of housing, and he presented their findings to Commissioner Fraser. Mr. Schulte asked what therapeutic value was there in placing the "malleter" in a cell with another inmate? Mr. Marrero said that he could not answer the question without violating the patient's confidentiality.

Mr. Horan raised the topic of smoking, noting that there was a recent news report regarding the sale of cigarettes to adolescents at ARDC. He asked how long the Board can remain passive urging that the smoking ban take effect. Commissioner Fraser responded that it is still at the Office of Labor Relations (OLR). He further stated that almost one year ago, the Department initiated a program where cigarettes were no longer sold to 16 and 17 year-olds housed at the Eric M. Taylor Center (C-76), then at the Rose M. Singer Center (RMSC), and a

month and a half ago at ARDC. Father Nahman asked how it was possible that OLR could ignore implementing a law prohibiting smoking in public places. Commissioner Fraser answered that it is not so clear that the law applies to jails, and that there are labor relations issues that must be resolved. Father Nahman said that based upon his experience, taking cigarettes away from smokers provokes anger, and in a system wrought with anger, it could present questions. Commissioner Fraser reported on steps that the Department has taken in educating staff and inmates about the consequences of smoking, including posting anti-smoking posters around the jails and making public announcements before movies. The Department has reached out to several companies to purchase nicotine patches at low-cost and is looking into providing counseling to staff and inmates. Mr. Horan asked if there were any pending enforcement actions against the Department regarding smoking. The Commissioner responded that he did not think so, but would check. Ms. Potler stated that there had been plans when St. Barnabas Hospital (SBH) took over the health contract three years ago to initiate health programs for inmates to help them quit smoking. She asked whether there any such plans with the current provider, Prison Health Services (PHS). Mr. Marrero responded no, but said he will look into the matter.

Mr. Horan reported that about a year ago at a Board meeting, then-Commissioner Kerik presented plans for a new Central Punitive Segregation Unit (CPSU). He said that the design had been revised and that recently Mr. Schulte, Board Member David Lenefsky and Mr. Horan attended a meeting at which the Department presented the design revisions. Mr. Horan asked if the Department was prepared to discuss the revisions. Commissioner Fraser responded that the Department is still revising the design, and that Department staff would be glad to present the plans to any Members who missed the presentation. Mr. Schulte stated that if the Department's priority is to replace modulars that are falling to the ground, DOC should concentrate on reconstructing modular space instead of building a new CPSU. Mr. Schulte stated that he did not think that a new CPSU was really needed and that the recreation design is subject to question. Commissioner Fraser responded that more cell space is necessary for security separations.

Mr. Horan reported that the PHS Medical Director whom the Board had met at previous Board meetings was no longer at PHS. Mr. Marrero stated that PHS decided that the medical director should take a position with PHS in another setting. Currently PHS has opened up a national search and in the interim a PHS medical director from Alameda County will be acting director.

Mr. Horan stated that Board staff heard that there may be reductions in PHS clinical staff. Mr. Marrero responded that Ms. Potler did discuss this matter with him and he has since looked into the issues. Mr. Marrero explained that the contractual staffing levels have not changed. However, on March 29th, he and PHS will review staffing levels, building-by-building and tour-by-tour, to analyze what staffing is really needed. He said that if some facilities are over-staffed and others under-staffed, then revisions will be made. Mr. Marrero added that the contract allows for staffing level revisions six months into the contract; however, he preferred to do it sooner.

Ms. Potler asked if any fines have been lodged against PHS. Mr. Marrero said that no liquid damages were imposed in January, but there will be some in February, for late financial filings and for failure to adequately staff mandated posts in the specialty areas.

Mr. Horan asked if there have been any changes in the number of hospital runs under the PHS contract compared to the previous provider. Mr. Marrero responded that CHS Medical Director, Dr. Brown, compared hospital runs for the first two months of this year with those of the previous two years. There is only one building at which Mr. Marrero noticed a significant change. Ms. Potler asked if he was able to see if there was differences in the origins of hospital runs. Mr. Marrero said that more runs originate from the facilities because urgicare no longer performs a "gate-keeper" role. Father Nahman asked if Board staff have received fewer complaints than in previous years. Ms. Potler said that there are fewer complaints. She attributed this to a number of factors, such as fewer BOC staff to receive complaints in the facilities and the fact that our staff are able to resolve complaints immediately, directly with the PHS clinical staff at the facility level. Mr. Marrero stated that one factor also may be that the contract includes the position of "Prison Advocate" who, even though not all have been hired, are at the facility to handle inmate complaints. CHS also has a case tracking system to identify services that need to be addressed. Mr. Schulte asked what precisely the prison advocate does. Mr. Marrero said that there are six prison advocates who go through the facilities asking inmates if they are okay and making sure that any health problems raised are addressed..

Mr. Schulte discussed a trip he took to Elmhurst Hospital a year or so ago when he found one security inmate who had not taken medication while housed on Rikers Island. The inmate was shackled to the bed and had one officer and a captain outside the room. When Mr. Schulte asked why the inmate was there, the captain told him that the inmate has a girlfriend nearby and refuses medication so that he can go to the hospital and visit with his girlfriend. Mr. Schulte suggested that the inmate be sent to instead to the Bellevue prison ward, where the Department would not have to assign so many staff. Mr. Schulte added that the inmate should be housed at the Manhattan Detention Center so that the transportation costs would be reduced. Commissioner Fraser said that male inmates are now moved to the Bellevue prison ward once they are stabilized at an outside hospital.

Mr. Schulte congratulated Commissioner Fraser and First Deputy Commissioner Lanigan for running an "impossible" government agency.

The Board members renewed all existing variances. The meeting was adjourned at 1:45 p.m.