

**NEW YORK CITY
BOARD OF CORRECTION**

January 10, 2002

MEMBERS PRESENT

Stanley Kreitman, Chair
John R. Horan, Vice Chair
John H. Banks III
Fredrick J. Patrick
Jane Paley Price
Michael J. Regan

Excused absences were noted for Members Louis A. Cruz and Father Richard Nahman, O.S.A.

DEPARTMENT OF CORRECTION

William Fraser, Commissioner
Gary Lanigan, First Deputy Commissioner
Robert Davoren, Chief of Department
Thomas Antenen, Deputy Commissioner
Sandra Lewis Smith, Deputy Commissioner
Robert Dash, Chief of Security
Jorge Ocasio, Chief of Inspectional Services and Compliance Division (ISCD)
Steven Conry, Chief of Management and Planning
Elizabeth Loconsolo, General Counsel
Darryl Harrison, Chief of Staff
Peter Curcio, Executive Assistant to Chief of Department
Elizabeth Myers, ISCD

HEALTH & HOSPITALS CORPORATION - CORRECTIONAL HEALTH SERVICES

Ernesto Marrero, Executive Director
Michael Tannenbaum, Chief Operating Officer
George Axelrod, Chief Risk/Quality Officer
Patrick Brown, M.D., Medical Director
Arthur Lynch, Mental Health Director
Robert Berger, Director, Service Delivery Assessment Unit

OTHERS IN ATTENDANCE

Remi Attolini, NYU
Jonathan Chasan, Legal Aid Society, Prisoners' Rights Project
Trevor Parks, M.D., Medical Director, Prison Health Services
Becky Pinney, Project Manager, Prison Health Services
Andy Grossman, Finance Division, City Council
Andrew Krause, Mayor's Office
Milton Zelermyer, Legal Aid Society, Prisoners' Rights Project

Chair Stanley Kreitman called the meeting to order at 1:07 p.m. and welcomed the new Members of the Board. Draft minutes from the Board's December 6, 2001 meeting were approved without opposition.

Chair Kreitman asked DOC Commissioner William Fraser to discuss a recent suicide. The Commissioner said that the suicide occurred in the Central Punitive Segregation Unit (CPSU) on January 4th. He said that the decedent entered custody on March 6, 2001 on an attempted burglary charge, and was held in lieu of \$2500/3500 bail. In late April, decedent was remanded on a robbery charge. Having been found in possession of contraband, decedent was transferred to CPSU, after being cleared by mental health staff for placement therein. The Commissioner said that at 5 a.m., officers who were conducting the distribution of breakfast discovered the inmate hanging from a piece of bed sheet that had been tied to an air vent. Commissioner Fraser said that medical staff were notified at 5:10 a.m. and arrived at 5:20 a.m. He noted that the officer who cut down the inmate attempted CPR, to no avail. The Commissioner added that a suicide note was recovered. He said that the suicide remains under investigation, and that disciplinary action already had been taken against some staff due to some procedural violations involving "the tours they were making". He noted that it did not appear that these violations "had anything to do with the time of death", as the Medical Examiner "seemed to believe" that the death had occurred within 40 minutes to an hour of the time of discovery. Commissioner Fraser concluded by saying that if additional disciplinary action is taken, he will inform the Board. Chair Kreitman said that he had reviewed some pictures of the cell. He said that suicides have occurred in this manner in the past and asked whether anything can be done to make the holes in the vent cover smaller to prevent inmates from fitting sheets through the holes. Commissioner Fraser said that DOC has researched the issue several times, and concluded that if the holes were any smaller air flow would be inhibited. The Members then viewed pictures of air vent covers distributed by the Commissioner.

Chair Kreitman moved to correctional health issues by asking Correctional Health Services (CHS) Executive Director Ernesto Marrero whether the parameters set by CHS are being met by the vendor, and whether the City is "getting what it is paying for". Mr. Marrero began by informing the new Members of the Board that CHS is a division of the City's Health and Hospitals Corporation. He said CHS is responsible for correctional health care pursuant to a contract between CHS and three City agencies, DOC, the Department of Mental Health and the Health Department. He said that CHS provides correctional health services directly at the Brooklyn and Queens Houses of Detention, and the Bronx facilities; at all other facilities, including all of Rikers Island, a Brentwood, Tennessee vendor - the largest private vendor of correctional health services in the nation - provides the services pursuant to a three-year contract that began in January 2001. Mr. Marrero said that the vendor is evaluated through 40 performance indicators ("PIs"), 35 of which are reviewed on a quarterly basis. He said that the PIs set performance thresholds on quality of care issues. Mr. Marrero then presented a report on CHS' reviews of the PIs, as follows:

In the first quarter of the contract, the vendor did not meet 22 of the PIs. Vendor performance improved thereafter, and has continued to do so. The vendor "met" or "substantially met" 14 PIs in the first quarter; 17 were met in the second quarter; 20 were met in the third quarter. A preliminary review of the fourth quarter reveals that as few as 7 PIs will not have been met.

Chair Kreitman asked if the PIs that were not met were "serious". Mr. Marrero responded that even for those PIs that are not met, performance continues to improve. He said that in the third quarter, the percentage of compliance for failed PIs was approximately 77%, and will move "into the 80s" in the fourth quarter. Mr. Marrero concluded by saying that, in response to Mr. Kreitman's question, the City *is* getting its money's worth. Board Member Michael Regan asked how often the vendor reports to CHS. Mr. Marrero said that although CHS reviews PIs on a quarterly basis, its Service Delivery Assessment Unit employs doctors, nurses and analysts to monitor in the facilities every day. He said that daily monitoring promotes the prompt solving of problems. Board Member John Banks asked if the PI review resulted in a quarterly report that was disseminated publicly. Mr. Marrero said that the Board receives a copy of the report, as do the relevant City agencies. Vice Chair John Horan noted that the report also lists the liquidated damages imposed by CHS. Mr. Marrero said that liquidated damages are built into the contract for failures to meet PIs and failure to meet mandated staffing levels. He said that liquidated damages for the first year of the contract will approximate \$500,000. In response to a question from Mr. Regan, Mr. Marrero said that the annual contract amount approaches \$100 million.

Chair Kreitman asked Mr. Marrero to briefly discuss the scope of the contract services. Mr. Marrero responded as follows: Upon commitment to DOC, inmates undergo an intake physical examination. A medical history is taken. As needed, referrals are made for anything from glasses to dentistry to prosthetic devices. Inmates access correctional health and mental health services through sick call by either requesting it themselves or by being referred by other providers or DOC staff. There now is a physician in every DOC building on every tour, every day.

Chair Kreitman asked Commissioner Fraser to discuss with the Board Members the efforts by DOC staff in response to the attacks of September 11th. Commissioner Fraser reported the following:

DOC began with a full call-out of the Emergency Services Unit (ESU), and 150 officers responded to Ground Zero. These officers are trained in confined space rescue operations, and descended into the "holes" as part of the rescue operations. They remain at the site. The Harbor Unit responded, and evacuated people to New Jersey and Staten Island. DOC officers volunteered to work at the morgue. DOC was the first emergency service on the scene, other than the Police and Fire Department personnel. DOC delivered 6,000 gallons of water, thousands of socks and blankets, and more than 300 Scott Packs for the Fire Department (DOC's Fire Safety Unit refilled Scott Packs for firefighters so they could return to battle the fires). DOC's all-terrain vehicles brought gasoline to re-fuel the fire trucks. DOC's telecommunications unit established the command site at Stuyvesant High School. DOC also helped to set up the Office of Emergency Management (OEM) and issued security passes. Sixteen DOC employees provided computer assistance to the Missing Persons Center, issuing death certificates. Two teams of DOC staff are on-site at the landfill; two teams remain at Ground Zero; and DOC continues to work at the morgue, where DOC's Support Services Unit built the lean-tos that house the computers and provide

shelter to volunteers who assist the morgue workers.

In the facilities, religious advisors fanned out to speak with inmates and to ensure that no bias acts were directed at Muslims. Gang Intelligence Unit staff interviewed all Muslim inmates and developed useful information that was turned over to the FBI and NYPD.

Commissioner Fraser said that most people do not understand the scope of services that DOC personnel are trained to provide, and he singled out the Emergency Services and Harbor Units for special commendation. He noted that DOC's K-9 Unit assisted in the rescue and recovery effort, and various NYPD security activities. The Commissioner said that DOC awarded over 900 certificates of outstanding duty. Mr. Regan said that when the Fire Department was having fifteen or twenty funerals each day, DOC's Ceremonial Unit, including the bagpipes band, was most helpful. He said that DOC's assistance did not end at Ground Zero, something for which the Fire Department is very appreciative.

Chair Kreitman asked Commissioner Fraser to introduce DOC's senior staff to the new Members. The Commissioner introduced First Deputy Commissioner Gary Lanigan, Chief of Department Robert Davoren, Chief of Security Robert Dash, Chief of Compliance Jorge Ocasio, General Counsel Elizabeth Loconsolo, Chief of Management and Planning Steven Conry, Deputy Commissioner for Public Information Tom Antenen, and Chief of Staff Darryl Harrison.

Chief Ocasio requested that the Board renew existing variances. BOC Executive Director Richard Wolf explained the variance renewal procedure as follows:

Over the years, the Board's Standards, which originally were promulgated in 1978 to address conditions of confinement, have been amended from time to time. Most of the major changes occurred in 1985. The allowable densities in dormitories increased when the Board agreed to reduce the square footage per inmate in dorms while requiring that there be adequate numbers of operable toilets, sinks, and showers. Some existing facilities that were compliant with the Standards in all other respects could not meet the revised Standards without significant renovations that would have been unusually expensive. The Board therefore granted variances for those facilities, thereby allowing them to operate without complying with the revised Standards.

Separately, new correctional architecture was introduced into the City jails in an effort to add capacity quickly during a protracted overcrowding crisis that prevailed from the late 1980s through the early 1990s. "Sprungs" - tent-like structures that resemble indoor tennis bubbles - are dormitories constructed common space that does not meet the revised Standards requirement of being physically adjacent to, but sound-separated from the sleeping areas. DOC made structural modifications that only partially complied with the Standards requirement. However, it was (and is) the Board's view that the modified Sprungs met the intent of the Standards. The Members therefore granted variances to enable DOC to operate the Sprungs.

When the Board grants variances, it often imposes conditions that the Department must meet in consideration for the variances. The Board establishes conditions with the goal of trying to mitigate against the potentially negative consequences on non-compliance with the Standard. For example, when architecture has created poor sight-lines, the Board has granted a variance on the condition that DOC post an additional officer in the area to promote the safety and security of staff and inmates alike.

Variances generally are renewable each month, so the Department at each public BOC meeting requests renewal of "existing variances". The monthly renewal process allows the Board to bring emerging variance-related problem to DOC's attention so that the problem can be addressed before the variance is renewed.

Upon the conclusion of Mr. Wolf's summary, the Members voted to renew the existing variances.

Chair Kreitman asked the Commissioner if he had any problems with the Board conducting several monthly meetings each year in the facilities. After consulting with General Counsel Elizabeth Loconsolo, Commissioner Fraser said it might not be a good idea because the Board's meetings are public meetings, and allowing the public onto Rikers Island "might cause security concerns". He added that he would look into the idea further. Chair Kreitman said he would very much like to have some meetings at the jails. Mr. Wolf said that BOC meetings had taken place at DOC facilities in the past. The Commissioner said that the Members - individually or in groups - could come to any facility whenever they wished.

The new Board Members then introduced themselves. Board Member Fredrick J. Patrick said he formerly worked at the Department of Correction, but most recently was with the City's Department of Juvenile Justice. Mr. Regan said he is First Deputy Commissioner of the New York City Fire Department, and Mr. Banks said he is Chief of Staff for the City Council. Board Member Jane Paley Price said that she is an independent film maker.

Following the new Member introductions, Chair Kreitman adjourned the meeting at 1:35 p.m.