

**NEW YORK CITY
BOARD OF CORRECTION**

April 10, 2003

MEMBERS PRESENT

Stanley Kreitman, Chair
John H. Banks III
Richard M. Nahman, O.S.A.
Jane Paley Price
Michael J. Regan

Excused absences were noted for Vice Chair John R. Horan and Members Louis A. Cruz and Fredrick J. Patrick.

DEPARTMENT OF CORRECTION

Martin Horn, Commissioner
Tom Antenen, Deputy Commissioner for Public Information
Leroy Grant, Bureau Chief, Inspectional Services & Compliance Division (ISCD)
Judith LaPook, Chief of Staff
Elizabeth Meyers, Director, ISCD

HEALTH & HOSPITALS CORPORATION - CORRECTIONAL HEALTH SERVICES

Ernesto Marrero, Jr., Executive Director
Michael Tannenbaum, Chief Operating Officer
George Axelrod, Chief Risk/Quality Officer
Arthur Lynch, Mental Health Director
Robert Berger, Director, Service Delivery Assessment Unit
John Russell, Director, Intergovernmental Affairs

OTHERS IN ATTENDANCE

Amy Anderson, NYU
Osvaldo Cruz, Analyst, Office of Management and Budget (OMB)
Sara Goonan, Analyst, OMB
Michele Kalafer, City Council, Legislative Policy Analyst
Dr. Trevor Parks, Medical Director, Prison Health Services (PHS)
Becky Penney, Project Director, PHS
Jacqueline Riley, City Council, Finance Division
Russell Unger, City Council, Legislative Attorney

Chair Stanley Kreitman called the meeting to order at 1:05 p. m. A motion to adopt minutes from the Board's March 13, 2003 meeting passed without opposition.

Chair Kreitman asked DOC Commissioner Martin Horn to comment on the recent appeal, before the Second Circuit, of Judge Baer's *Benjamin* case ruling that would require a six-foot separation between beds in dormitories, measured from the center of the head of one bed to the center of adjacent beds. Chair Kreitman noted that former Commissioner William Fraser had told the Board that the ruling would require DOC to remove thousands of beds from dormitories, and added that the Minimum Standards require sixty square feet per bed but do not address the separation issue. Commissioner Horn responded as follows:

He is optimistic that the City will prevail because the City does not believe the separation is required by the Constitution. If the City were to lose, he will urge the City to appeal to the U.S. Supreme Court because if the ruling were to stand, it would set a national standard that no corrections department could meet. If the Order is upheld, DOC will lose more than 1000 beds. Space that is currently closed would have to be opened, and a cost would be imposed that DOC could not manage, given the current budget situation. It also would drive up capital costs because of the need to replace Sprungs and modular housing.

BOC Executive Director Richard Wolf, noting that there typically is no way to know, asked whether the City had any sense from the Court as to when a ruling might be issued by the Second Circuit, given the perilous nature of the budget situation. Commissioner Horn said there was no way to know. Chair Kreitman said that the Order seems "crazy", and that he hopes the City will prevail. Board Member Father Richard Nahman said he agreed with Chair Kreitman's view.

Chair Kreitman raised the issue of budget cuts, noting that BOC staff is facing cuts. He said he has read that more than 400 officers may face layoffs and that he finds this very disturbing. He said that the safety of correction officers is paramount, and he asked how upcoming cuts will affect safety of officers and staff. Commissioner Horn responded as follows:

When the Mayor's budget is released on April 15th, it will include all of the changes required by the January Financial Plan - moving Kings County Hospital Ward to Bellevue, elimination of the S.A.I.D. program, hiring freeze for civilians, merger savings, elimination of the Harbor Unit, elimination of the adult education program and HealthStat, recall of staff assigned to outside agencies, and civilianization of many positions.

In addition, to offset revenues anticipated from union give backs that have not materialized, additional savings are contemplated that, if implemented, would result in the loss of more than 400 employees of whom 315 would be correction officers. This will require further consolidation, and may well require the closing of a facility and consolidation of other activities.

To maximize benefits derived from the January Plan cuts, they will take effect sooner than July 1st, as was originally planned. The Department is

in discussion with the Correction Officers' Union (COBA), whose officials have exercised "remarkable leadership", about productivity savings that would avoid the need to lay off correction officers. Discussions are not occurring with unions representing civilian staff, and "each unit must buy back its own jobs".

Chair Kreitman said that he understands the budget issue, and is especially worried about officers inside the jails maintaining order and safety for themselves and the inmates. He said he will discuss with the other Members how the Board can be a strong advocate with the Mayor for restoring those positions. Commissioner Horn said he appreciated the Chair's comments. He said his loyalty is to the Mayor, and that DOC has managed thus far. He said that the Mayor is legally obligated to balance the budget, and that if DOC does achieve its targeted savings through collective bargaining savings, the savings will have to come from other sources, including perhaps even the Board. The Commissioner said that if DOC must lay off 315 officers, it will be difficult to do so, but not impossible. He said it could be handled "without seriously eroding safety and security". Chair Kreitman said that one officer getting hurt is too much.

Commissioner Horn said that DOC would close units of operation - it would close a correctional facility. He said that the inmates from the closed facility would be housed in currently-closed housing areas of other facilities. He said that this is manageable. He added, however, that if DOC must cut an additional 8% as part of the City's need to cut the \$1 billion gap due to shortfalls in assistance from the State, including failure to reinstitute the commuter tax, it will mean 1300 layoffs. Commissioner Horn said that the Board could be helpful by assisting in convincing the State to provide relief to the City. He suggested that the Board deal with its colleagues on the State Commission of Correction, and the State Legislature. The Commissioner said that he did not see how he could lay off 1300 employees "and still run the jails safely". He said that if this occurs, DOC will be unable to meet the Board's sixty square foot standard. Chair Kreitman asked Mr. Wolf to speak with Commissioner Horn and his staff about how DOC and BOC might develop a coordinated response to the State. Board Member Michael Regan said he was pleased to read about the constructive response being taken by the COBA leadership.

Chair Kreitman raised the issue of the smoking ban. He said that statistically there does not appear to be an increase in violence, but he is concerned that the nature of the incidents seems to be changing. He asked whether there is evidence that cigarettes are being smuggled into the jails. The Commissioner said that after one week, the smoking ban has not created any problems. He said that a thorough search of AMKC yesterday resulted in no cigarettes being found, and added that on March 31st every cell in every housing area, and all areas of all facilities were searched, and very few cigarettes were found. He said that he expected a new form of inmate currency to emerge. He added that there have been no cell fires since the ban began, and noted that it will be easier to detect marijuana smoking. Commissioner Horn said that the ban probably should have been instituted years ago, and said that at least half of the inmates - perhaps more - support the ban on smoking.

Commissioner Horn said that violence is up 2.3%, but the inmate population is up 5%. He said that the small number of incidents allow for special attention. He said that a recent incident in AMKC was troubling: an officer who had written up an inmate for an infraction was surrounded by a group of inmates. He said three of the four inmates were in different gangs, and yet they together attacked the officer. He said that one inmate had a metal weapon that may have

been taken from a back brace. He said that fortunately the officer escaped without serious injury. The Commissioner said that more often than not, officers rather than inmates are injured during violent incidents. He said he expected that if it becomes necessary to "crowd housing units more, (violence) will become more problematic." He added that 2,500 to 2,800 of the more than 14,000 inmates have mental health involvement, a consequence of the State's deinstitutionalization policy. Board Member Jane Paley Price asked what percentage of violent incidents are gang-related, and the extent to which the Gang Intelligence Unit (GIU) will be affected by the cuts. The Commissioner said that GIU will benefit from the cuts process, because staff who were assigned to other agencies, such as the Joint Terrorism Task Force, are being recalled to GIU. He said that most incidents are one-on-one, mostly when an officer is escorting an inmate, or in an intake area, or when an inmate wants to remain in the shower longer than the time allotted, or refuses to close his food slot. He said that recently there was a stabbing because an inmate was using a telephone for too long.

Mr. Wolf said that BOC staff have received isolated complaints, typically from inmates in mental observation housing, who claim that they haven't received additional nicotine patches because they have not had access to counseling sessions and do not understand the mandatory-sessions process. Mr. Wolf asked if the counseling sessions were proceeding as outlined at the Board's March meeting. Correctional Health Services Executive Director Ernesto Marrero said that sessions are being held. He said that at the beginning, the three counselors who had been hired to do the sessions left CHS after two days, and they were replaced by five people, which resulted in counseling sessions beginning on April 2nd rather than April 1st. Mr. Marrero said that sessions have been taking place two to three times per week in each facility. He said that patches are administered to inmates in mental observation areas one patch per day because the patch is a piece of thick aluminum foil and CHS was concerned that multiple pieces of foil could be used for self-injurious behavior. He added that the new employees are now being trained on inputting data into computers so CHS will have complete data on the patch distribution process, the number of counseling sessions, and the number of inmates who attend. Mr. Wolf asked how mental observation inmates actually receive patches. Mr. Marrero said that, for example, at AMKC, inmates are brought to one of two designated counseling areas. Mr. Wolf asked how eligible mental observation inmates actually receive their patches. Mr. Marrero said that patches are distributed by nurses in the housing area. BOC Deputy Executive Director Cathy Potler asked how inmates in all areas learn when counseling sessions are scheduled. Mr. Marrero said that newly-admitted inmates can receive a "bridge" order for patches at intake, and can receive additional patches if they attend counseling sessions; inmates already in the system who come to sick call for patches are informed about the counseling schedule at that time by providers in the clinic. In response to a question from Ms. Potler, Mr. Marrero said that counseling sessions could conflict with other program activities. Commissioner Horn said the sessions have been incorporated into facility schedules.

Chair Kreitman invited Commissioner Horn to discuss the Department's reorganization. Mr. Regan asked if the reorganization requires action by the new Charter Revision Commission. Commissioner Horn said that today he will discuss DOC's internal reorganization. He added that the proposed merger of DOC and the Department of Probation will first require action by the State legislature, and thereafter passage of a Local Law. DOC Special Counsel Judith LaPook said that the Charter Revision process is on a separate track from the State legislative process. Commissioner Horn distributed a new organization chart, and reported as follows:

Chief Grant will report to General Counsel Florence Hutner rather than to Senior Deputy Commissioner Gary Lanigan. The Trials Division, headed by Assistant Commissioner O'Leary, will report to the Deputy Commissioner for Investigations, Richard White, rather than the General Counsel. Mr. White spent twelve years as an assistant district attorney in Manhattan. Mr. Lanigan's title is changed from First Deputy Commissioner to Senior Deputy Commissioner to reflect the reality that when the merger occurs there will also be a Senior Deputy Commissioner for Probation.

Under Chief Davoren, there is no longer a Chief of Security because everyone is responsible for security. Steven Conry, who had been Chief of Security, is now Chief of Facility Operations with two Assistant Chiefs under him. This centralizes responsibility for overall day-to-day operation of the jails under one title. Assistant Chief Thomas had been the warden at the Anna M. Kross Center. All of the Rikers Island jails will now report to her. Assistant Chief Eastmond had been the warden at the Bernard B. Kerik Center. The borough jails, court detention facilities, and hospital wards will report to him. A new position, Chief of Environmental Health and Safety, will be filled by Chief Andrews who will assume responsibilities from both the uniformed and civilian sides of the agency. Throughout the organization, there now will be uniformed staff reporting to civilians and civilians reporting to uniformed staff. This is being done to help "break through the culture of the organization." Chief Andrews will have a warden who will be responsible for maintenance, support services and stores functions, some of which had been overseen by civilians. This is to address some of the accountability issues that arose in the previous year. A civilian, Pat Feeney, who had been the Director of Assets Management, will be the Assistant Commissioner for Environmental Health, and Paulette Johnson, the Assistant Commissioner for Nutrition, will both report to Chief Andrews.

If a function involves running and maintaining the jails, it is under Chief Davoren; if it involves personnel or administration, it is under Mr. Lanigan.

Jorge Ocasio will continue to serve as Chief of Custody Management, and now Emergency Services and Intelligence Services will report to him. Deputy Commissioner Roger Parris no longer reports to Mr. Lanigan. Instead, Deputy Commissioner Parris will report to Chief Davoren. Discharge Planning will report to Deputy Commissioner Parris.

Deputy Commissioner Lanigan will have two staff units, one for Internal Audit and Inventory Control and another that will do Population Planning and Special projects. Budget, finance, and human resources responsibilities will be handled by Deputy Commissioner John Antonelli. A deputy commissioner for human resources remains to be named. Kael

Goodman will be the Chief Information Officer, a position he has held at Probation.

The new organization is a simplification of functions, and will promote accountability. The appointees are "top-flight" including Chief Barry and Chief Pagan, who had been the Warden at the Special Operations Division and now will supervise the Emergency Services Unit and Intelligence, which will be a consolidation of all of the Department's intelligence-gathering functions.

Board Member John Banks III noted that there are three vacancies on the organization chart and asked whether the Department will be able to hire to fill them. The Commissioner said that the positions will be filled through internal promotions.

Noting that Mr. Marrero had written to the Board that "it is likely that correctional health services will be provided and managed by the Department of Health and Mental Hygiene (DOHMH)", Chair Kreitman asked for the status of transition plans to move CHS from the Health and Hospitals Corporation (HHC) to DOHMH. Mr. Marrero said that the change is highly likely and would occur when the current contract between the City and HHC expires on June 30th. He said that the final decision will be made at a meeting at City Hall tomorrow. Mr. Regan asked if this is a good idea. Mr. Marrero said that is a very difficult question, and that a number of issues have factored into the planned change. He cited the questioning of DOHMH Commissioner Dr. Thomas Friedan by the City Council, and a sense that the Commissioner did not have as much control over such a large contract as perhaps he should. He added that recent budget issues have affected the way HHC views the relationship, because the same scope of services is expected albeit with substantially less funding. Mr. Marrero said that he was the wrong person to answer Mr. Regan's question. He said he hopes that since the Board and DOC will remain, the elements that created whatever successes CHS has had will enable the "good things" to survive. He added that some CHS personnel will move to DOHMH, but that he will not. Mr. Wolf asked how the move will affect monitoring of the vendor contract in the clinics throughout the facilities. Mr. Marrero said that DOHMH is interviewing CHS senior staff with an eye towards retaining some of them. He said he expects the monitoring to continue in a manner similar to what now is occurring. He added that if the contingency cuts are implemented, they certainly will cause reductions in staff both at CHS and at Prison Health Services (PHS) because PHS would have to take some of CHS' 18% reduction. He suggested that the positions of the six prisoner advocates and their supervisor were "on the table" as possible reductions. Mr. Marrero said that the consequence for monitoring might not be too drastic, even if there are fewer CHS monitors, because there will be fewer PHS providers as well. He said that cuts would not affect the Board's Health Care Standards, although "some assistance" might be required "on the mental health side". Chair Kreitman asked that Mr. Marrero advise the Board of developments.

Chief Leroy Grant's request that the Board renew existing variances was approved without opposition. The meeting was adjourned at 1:55 p.m.