



NEW YORK CITY  
BOARD OF CORRECTION

March 30, 2017 - Public Meeting Minutes

**MEMBERS PRESENT**

Derrick D. Cephas, Esq., Acting Chair  
Stanley Richards, Acting Vice-Chair  
Honorable Bryanne Hamill  
Robert L. Cohen, M.D  
Michael Regan

**MEMBERS ABSENT**

Gerard W. Bryant, Ph.D  
Jennifer Jones Austin, Esq.  
James Perrino  
Steven M. Safyer, M.D.

Martha W. King, Executive Director

**DEPARTMENT OF CORRECTION**

Joseph Ponte, Commissioner  
Martin Murphy, Chief of Department  
Jeff Thamkittikasem, Chief of Department  
Winette Saunders, Deputy Commissioner of Youthful Offender &  
Young Adult Programming  
Peter Thorne, Deputy Commissioner of Public Information  
Turhan Gumsudere, Bureau Chief of Security  
Patricia Feeny, Assistant Commissioner for Environmental Health  
Angela Tolosa, Assistant Commissioner  
Faye Yelardy, Assistant Commissioner, Sexual Abuse &  
Sexual Harassment Prevention Unit  
Timothy D. Farrell, Deputy Commissioner, Office of Classification &  
Population Management  
Fazal Yussuff, Assistant Commissioner  
Hazel Jennings, Bureau Chief of Criminal Justice  
James Walsh, Deputy Commissioner of Adult Programming &  
Community Partnerships  
Dr. Nichole Adams-Flores, Deputy Commissioner of Health Affairs  
Shirvahna Gobin, Assistant Commissioner for Strategic Planning  
Annie DiCaterino, Strategic Planning  
Nicholas Cuttonaro, Assistant Commissioner of Financial Services  
Frank J. Doka, Assistant Commissioner of Financial, Facility, and Fleet Administration

Stacey King, Executive Director of Educational Services  
Francis Torres, Assistant Commissioner of Education and Youth Advisory Services  
Kwame Patterson, Assistant Commissioner of Public Information  
Brenda Cooke, Deputy General Counsel  
Gregory Kuczinski, Deputy Commissioner, Investigation Division  
Danielle Leidner, Director for Intergovernmental Affairs  
Benjamin Seebaugh, Staff Analyst  
Yolanda Canty, Bureau Chief  
Marisa Alberti, Policy Analyst  
Mackenzie Dancho, Research Analyst  
Anna Marzullo, Senior Policy Advisor  
Eve Kessler, Director of Public Affairs  
Meekaelle Copeland, Admin. Director of Social Services  
Carleen McLaughlin, Director of Legislative Affairs and Special Projects  
Dina Montes, Press Officer  
Sherma Dunbar, Deputy Warden  
Luigi Ottaviano, Acting Deputy Warden  
Louis Molina, Captain  
Timothy Harris

**NYC HEALTH + HOSPITALS (H+H)/CORRECTIONAL HEALTH SERVICES (CHS)**

Dr. Elizabeth Ford, Chief of Psychiatry, CHS  
Elizabeth Ward, Senior Director of Operations, CHS  
George Axelrod, Chief Risk Officer, CHS  
Nancy Arias, Senior Director of Nursing Services, H+H  
Dr. Ross MacDonald, Chief of Services, Medicine, CHS  
Patrick Alberts, Senior Director of Policy and Planning, CHS  
Susan Miller, Senior Associate Director of Policy and Planning, CHS  
Patsy Yang, DrPH, Executive Deputy Commissioner and Chief Operating Officer, H+H  
Levi Fishman, Director of Public Affairs, CHS  
Ashley Smith, Assistant Director of Policy & Planning, CHS  
Lucia Caltagirone, Associate Counsel, H+H  
Nathaniel Dickey, Special Assistant, CHS

**OTHERS IN ATTENDANCE**

Alex Abell, Urban Justice Center  
Noha Arafa, Legal Aid Society  
Yarhissa Balbuena, Osborne Association  
Janice Birnbaum, NYC Law Department  
Albert Craig, Correction Officers' Benevolent Association (COBA)  
Mark Cranston, COBA  
Ashike David, Brooklyn Defenders Services (BDS)  
Chelsea Davis, Office of the First Deputy Mayor  
Kelsey De Avila, BDS  
Erin George, JustLeadershipUSA  
Dennis Gonzales, Nunez Monitoring Team  
Shannon Hakn, Independent Budget Office  
Kymane Hutchinson, Jails Action Coalition (JAC)  
Zachary James, Urban Justice Center (UJC)

Sarah Kerr, Legal Aid Society Prisoners' Rights Project  
Mik Kinkead, Sylvia Rivera Law Project  
Tanya Krupat, Osborne Association  
Chee Siew Lee, BDS  
Dori Lewis, Legal Aid Society Prisoners' Rights Project  
Laura Limuli, BOC Director of Research, Emeritus  
Deborah Lolai, The Bronx Defenders  
Elizabeth Mayers, JAC  
Miguel Medrano, BDS  
Jennifer Parish, UJC/JAC  
Victoria Phillips, JAC  
Charlotte Pope, Children's Defense Fund--NY (CDF-NY)  
Shreya Rastogi, UJC  
Kathleen Rubenstein, NYC Law Department  
Mike Skelly, COBA  
Jane Stanicki, JAC/Hour Children  
Lorna Woodham, Osborne Association  
Keith Zobel, NYS Commission of Correction

### **Public Remarks of Acting Chair Cephas**

Acting Chair Cephas presided over the meeting. He stated that, after discussion with Health + Hospitals (H+H), the Board decided to table consideration of H+H's March 10, 2017 variance request regarding the use of seclusion. Further, H+H withdrew its March 10 variance request regarding Enhanced Supervision Housing (ESH) to engage in further discussions with the Board and the Department of Correction ("Department" or "DOC") about issues underlying this request.

### **Approval of February 2017 Minutes**

The Acting Chair asked for a motion to approve the February 14, 2017 minutes. Member Regan moved and Member Richards seconded the item. The minutes were approved unanimously (Acting Chair Cephas, Acting Vice-Chair Richards, Members Cohen, Hamill and Regan).<sup>1</sup>

### **Restrictive Housing Rulemaking Update**

Acting Chair Cephas provided the following update on restrictive housing rulemaking. In January 2016, in response to the increase in new restrictive housing options pursued by the Department, concerns about due process and fairness, and an ongoing focus on increasing safety in the jails, the Board voted to enter rulemaking on the topic of restrictive housing. The restrictive housing currently in use in DOC facilities looks markedly different than when the Minimum Standards were created and the only options were punitive segregation and general population. This rulemaking will extend the Board's Standards so that they can appropriately address "the care, custody, correction, treatment, supervision, and discipline" issues associated with the restrictive housing options now in use and those that may be established in the future.

Restrictive housing is a broad topic which raises many complex and interrelated issues. The Board's ad hoc Rulemaking Committee on Restrictive Housing — comprised of the Acting Chair, and Members Cohen, Hamill and Jones Austin — will conduct comprehensive fact-finding that will include discussions with a variety of stakeholders, including the Board's City and State partners, local elected officials, labor unions, people in custody, the local defense bar and criminal

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<sup>1</sup> The Board's approval of the February minutes occurred later in the meeting.

justice advocates, national criminal justice organizations and oversight entities, correctional experts, and academics.

The Committee's fact-finding will seek to answer such questions as who are the high utilizers of restrictive housing in the jails, what's driving the violence and the resulting need for such housing, and what lessons can be learned from how other jurisdictions use punitive segregation and other forms of restrictive housing. The Committee will conduct its own research, review relevant directives, data analyses, studies and reports, and consider all public comments. It is currently estimated that the rulemaking process — including fact-finding, drafting proposed and final rules, and holding related public hearings — will take approximately one year. Throughout this process, the Committee will provide periodic updates at Board meetings.

### **DOC Updates**

Acting Chair Cephas asked the Department to present updates on three areas of interest to the Board and the public: (1) uniforms and court clothing; (2) the transgender housing unit and the treatment of transgender people in custody; and (3) ESH, particularly the placement of young adults in this restrictive unit.

#### **Uniforms & Court Clothing**

Acting Chair Cephas stated that in fall 2015, as part of the DOC's anti-violence plan, the Department began to require people in custody to wear uniforms rather than their personal clothing. Everyone is now in uniforms and, after an initial challenging roll-out, the Department has made significant progress in providing uniforms to persons in custody, and has continued to commit top agency staff to this initiative. However, Board staff continues to receive complaints from incarcerated people and their attorneys about the correct size and number of uniforms, lack of warm weather clothing, timeliness and frequency of laundry services, and access to non-uniform clothing for court appearances and upon release. He asked the Department to provide an update on its institutional uniform plan and the provision of court clothing, particularly in light of the City Council's new legislation that goes into effect next month.<sup>2</sup>

Chief Jennings responded that the Department has developed an operations order setting forth measures for distribution of civilian clothing to incarcerated persons for grand jury and trial appearances and when they are released from court. Since January 2017, DOC has afforded people the opportunity to wear their own clothing to court, and have set up drop-off points in each court for attorneys to drop off clothes for their clients. In addition, the Department has purchased winter coats as well as black slacks and white shirts for those who do not have their own clothing, which is being distributed to court facilities. The estimated cost of this clothing totals \$1.9 million or \$476,000 per year.

Member Regan congratulated the Department on this important achievement. Member Cohen also thanked the Department and asked DOC how it intends to comply with the new local law. Chief Jennings responded that DOC had met with each of the court executives to explain the clothing distribution plan and would be meeting with staff this week and next. The plan would also be explained to incarcerated people in facility council meetings.

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<sup>2</sup> In December 2016, the City Council enacted [local law 180](#), which goes into effect on April 21, 2017, and "requires the Department to produce inmates for trial or grand jury appearances in their personal clothing, and where such clothing is not available the Department must provide inmates adequate non-uniform clothing. Such clothing must also be provided to inmates released from a court."

After congratulating the Department for its efforts, Member Hamill said that given the frequency of a jury seeing the defendant in black slacks and a white shirt, the jury could reasonably conclude that the defendant was incarcerated. She asked what could be done to minimize a person's use of this clothing. Chief Jennings responded that DOC encourages people to wear civilian attire in court and was working with Legal Aid to provide DOC with notice of court dates so that arrangements could be made for distribution of civilian clothing to their clients.

Finally, the Department's Deputy General Counsel, Brenda Cooke, said that DOC was working closely with Legal Aid to ensure that individuals who are released from court are provided with appropriate outer wear during the cold weather months.

### **Transgender Housing Unit (THU) & Specialized Population Units (SPU)**

Acting Chair Cephas stated that, as expressed at previous Board meetings and during rulemaking related to sexual assault and sexual harassment in the jails, the Board is concerned about the safety of transgender people in the Department's custody. Research on sexual abuse in correctional facilities consistently documents the vulnerability of this population. The Board understands that the Department believes it must change its current operation of the Transgender Housing Unit (THU) to comply with federal PREA standards. He therefore asked the Department to present an update on its plans for the THU and the safe housing and treatment of transgender people.

Faye Yelardy, Assistant Commissioner of DOC's Sexual Abuse and Sexual Harassment Prevention Unit, reported that federal PREA standards do not allow the Department to operate the THU in its current form. DOC has devised a plan to modify the Unit in compliance with PREA. Commencing in April, the Department will move toward establishing approximately six to eight special population units ("SPUs") to include transgender people and other vulnerable populations. The current THU will continue to operate until then.

In response to Member Regan's inquiry, AC Yelardy stated that the Department had met with members of the advocacy community to discuss modification of the Unit. She noted that while the advocates believe that continued operation of the THU does not violate PREA, DOC obtained an opinion to the contrary from the U.S. Department of Justice. Member Regan urged the Department to work closely with advocates as DOC develops plans for housing transgender people.

Member Hamill asked whether the Department had developed a written plan for the SPUs that the Board could review before these units opened. AC Yelardy responded that DOC is working on modifying existing directives to govern operation of the SPUs and that a draft written plan would be available next month. In response to Member Hamill's comment that the advocates were very concerned for the safety of this population once the THU is dismantled, AC Yelardy cast doubt on the Unit's success. She noted that only 15 to 20 individuals were housed in the THU at any given time and currently, only 11 people are housed there. In addition, she has spoken with several people in the THU who indicated that they did not want to be in a unit that houses only transgender people.

Member Hamill asked what other vulnerable populations the Department anticipates housing in SPUs. AC Yelardy responded that the new units might include individuals who are small in stature, self-identify as gay or lesbian, or of limited English proficiency. Additionally, it is the Department's goal to staff the unit with steady officers and provide them with specialized training before they start working in these units.

In response to Member Cohen's questions, AC Yelardy and Deputy Commissioner (DC) Farrell stated that SPUs will be in various facilities — two in BKDC, two in MDC, one to two units in RNDC, one to two units at RMSC, and one unit in GMDC, if needed. Each unit is expected to have approximately 25 to 30 beds, and the Department will try to staff each SPU with at least two officers who will be specially trained to work with vulnerable populations.

Member Cohen asked whether assignment to SPUs would be voluntary or involuntary. DC Farrell responded that the Department could determine to assign a person to the unit on an involuntary basis. AC Yelardy explained that the Department would make housing determinations on a case-by-case basis and such determination would consider each person's sexual safety needs. Acting Chair Cephas asked whether people are placed in the THU on an involuntary basis. AC Yelardy responded that people are placed there only upon request pursuant to an application process. Member Cohen expressed his view that establishment of SPUs was very premature and that DOC had provided very little information about these new units. He urged the Department to keep the THU open until the last of its facilities is to be certified under PREA. He also stated that mandatory placement in an SPU based on DOC's assessment of an individual's gender appeared very problematic and might be open to legal challenge. AC Yelardy responded that the SPUs would serve more vulnerable people than the THU and, therefore, DOC did not see the value in delaying the opening of these units.

Acting Chair Cephas asked what other changes DOC anticipated between the new units and the THU aside from the fact that the SPU will serve a broader population and assignment there will be on an involuntary rather than a voluntary basis. AC Yelardy responded that programming in the new units would have to be tailored to the specific needs of each population housed there. Executive Director (ED) King asked how the SPU differed from protective custody (PC). AC Yelardy responded that SPUs will provide vulnerable people with an alternative to PC.

Member Hamill asked whether the Department had obtained a legal opinion on whether the SPU is compliant with all federal, state, and local laws and standards. DC Farrell responded that DOC is revising existing directives to make the SPUs inclusive of more vulnerable populations and like all directives, it will be subject to legal vetting to ensure compliance with regulatory standards.

Given that gay or lesbian individuals may be placed in the SPU, Member Hamill asked how the Department would determine people's sexual orientation. AC Yelardy responded that DOC is using an intake questionnaire at RMSC — which is PREA-compliant and will be rolled out facility wide — that allows for people to state their gender and sexual orientation if they choose to do so. In response to Member Cohen's inquiry, DC Farrell clarified that placement in an SPU will not be based solely on a person's gender or sexual orientation but also, on other criteria required under the federal PREA standards. Finally, ED King asked whether transgender women would be placed at RMSC. AC Yelardy responded that the Department would determine whether to place them there a case-by-case basis.

### **Enhanced Supervision Housing (ESH) for Young Adults**

#### **► Overview**

Acting Chair Cephas stated that the Board last approved the inclusion of young adults in ESH at its February public meeting. At the Board's meeting in May, the Department will present comprehensive metrics and a plan for its ongoing data tracking, monitoring, and evaluation of implementation of ESH for young adults ("YA-ESH"). He then asked the Department to present on the new ESH-level system and the use of restraint desks.

Deputy Commissioner Winette Saunders presented the following overview of YA-ESH. As of yesterday (i.e., March 29, 2017), there were a total of 104 people in ESH of whom 36 were young adults. Of the 36 young adults, 10 resided in the Entry Unit, 16 in a blended ESH Level 1 unit, eight (8) in a blended Level 2 unit and two (2) in a blended Level 3 unit. Five (5) of the 36 young adults are 18 years old; nine (9) are 19 years old; 12 are 20 years old; and 10 are 21 years old. Thirty-three (33) of the 36 young adults had committed a slashing or stabbing and three (3) had assaulted staff or their peers causing serious injury. Since the Department first opened YA-ESH, 16 young adults have progressed to Level 2 and two (2) have progressed to Level 3. As of this morning (March 30), five (5) young adults have regressed from Level 2 to Level 1 because they committed or attempted to commit violent acts while in Level 2.

In response to Member Cohen's inquiry about how DOC determines whether to promote a person to a less restrictive level, DC Saunders said the determination is based upon (i) an assessment of the individual's safety needs and the risk he poses to others, which is based on discussion with the individual; (ii) intelligence gathering concerning the safety and security risk the individual poses to others; and (iii) an assessment of whether, and to what extent, the individual is participating in programming. DC Saunders further reported that currently, there are 26 young adults who are registered for school and the average daily attendance is seven (7). She believes the average attendance rate has been negatively impacted by the fact that two young adults, who were a big influence on their peers in both positive and negative ways, were sentenced to state prison for 20 and 32 years, respectively. This caused morale to plummet and some young adults to stop going to school. The Department is working with those affected to raise their morale and encouraging them to return to school.

#### ► **Expediting Transfers to State Prison**

Member Hamill raised the issue of persons who had been sentenced to state prison, but were kept in jail pending resolution of crimes they had allegedly committed while in DOC custody. Some of these individuals — including young adults as well as adults — are particularly violent and pose a continuing risk to staff and other incarcerated persons in the jails. She asked whether progress had been made toward sending these individuals to state prison and transporting them back to jail for disposition of offenses they committed while incarcerated. DC Saunders stated that DOC was working internally and with the District Attorney's Office to accomplish this.

#### ► **Court-Issued Lockdown Orders**

Member Regan said that the 33 young adults in YA-ESH who had committed a slashing or stabbing was a sobering statistic. He read a recent "lockdown order" with respect to a particularly violent individual referred to as "John Doe." Member Regan asked whether there are other similarly violent individuals in DOC custody and what the Department is doing to prevent them from committing further acts of violence. Chief Murphy responded that DOC is committed to identifying such individuals and working with the Bronx District Attorney's Office and the courts to restrict these individuals' access to others.

Member Hamill remarked that some H+H staff do not feel safe in ESH and asked what the Department is doing to address this issue. Chief Murphy responded that DOC is working on a staggered lockdown schedule to enable H+H staff to conduct rounds while people are locked in their cells. He also said there was adequate staffing of ESH to ensure the safety and security of staff working in these units and the people housed there.

► **Expansion of the Secure Unit**

Member Hamill stated that it was her initial understanding that the Secure Unit (“Secure”) would house the most violent young adults. Now that the Department has opened YA-ESH, she asked whether DOC still intends to expand Secure. DC Saunders responded that the development of alternative housing options for young adults was an evolving process during which DOC determined that both Secure and YA-ESH were needed to ensure the safety and security of staff and incarcerated persons. Currently, there are nine (9) adults housed in the Unit. The Department plans to expand Secure and is looking at available programming space to ensure its suitability for the type of individuals to be housed there.

► **Use of Restraint Desks**

Member Hamill asked DC Saunders to describe how young adults are restrained during their seven hours of out-of-cell time, what relief they are given from restraints during lockout, and what supervision they are given while in restraints. In response, DC Saunders stated that young people are in restraint desks whenever they are in school or in programming and are given an opportunity every hour to get out of the desk. Chief Murphy clarified that whenever young adults are not in restraint desks or in their cells, they are in restraints.

► **28-Day Assessment**

Judge Hamill expressed concerns for young people who are placed in Level 1 following 28 days in the Entry Unit. Between the Entry Unit and Level 1, they could spend over two months in restraints, up to seven (7) hours each day. She asked why it takes 28 days to conduct an initial assessment. DC Saunders responded that it takes time to build a rapport with the young person to elicit why he committed the act that resulted in his placement in the Entry Unit and other information necessary to keep him and others safe. When Judge Hamill expressed her legal opinion that eliciting such information violated the person’s right against self-incrimination, DC Saunders clarified that DOC does not ask questions about the incident that triggered the person’s placement in the Entry Unit; rather, DOC seeks answers to questions that are designed to ascertain why the individual engages in such behavior. Judge Hamill reiterated her view that this kind of questioning violated young people’s constitutional rights and requested that the young people’s attorneys be provided with a list of the questions asked so they could determine whether there was a legal basis to challenge the assessment protocol. DC Saunders responded that Judge Hamill’s request would be discussed with the Department’s internal counsel and the City’s Law Department.

**Use of Body Scanners**

Member Regan asked the Department about the status of legislation to permit DOC’s use of body scanners. Commissioner Ponte said that the Department was successful in getting bills filed in both the State Senate and Assembly. When the budget process that is now underway in Albany is completed, the Department will put on a full court press to pass this legislation. Member Richards asked what the State Commission of Correction’s position is on this issue. The Commissioner responded that the Commission believes the existing law does not permit the use of body scanners in the City’s jails; however, SCOC does not oppose the proposed legislation.

**Comptroller’s Audit Report on Educational Services Offered to Young Adults**

Executive Director King asked the Department to present on the findings and recommendations of the Comptroller’s audit on DOC’s and the Department of Education’s (DOE) efforts to ensure that all young adults at Rikers were consistently informed of the opportunity to request and receive



education services, as required by New York State regulations.<sup>3</sup> DC Saunders said the Department disputes the overall finding of the Comptroller's paper-based audit (which covers the period July 1, 2014 through June 30, 2015, i.e., City Fiscal Year 2015) that DOC does not ensure that eligible young adults are advised of the opportunity to receive educational services. The Report focuses primarily on the Department's inadequate retention of one form used to record a person's request for educational services, during a school year that occurred almost two years ago. Moreover, the auditors failed to consider the secondary process by which DOC and DOE collaborate to ensure that young adults are informed of the opportunity to attend school and other mechanisms DOC utilizes to inform young people of their right to access educational services. DOC made the auditors aware of these other mechanisms and invited the auditors to observe and speak to staff about them, but the auditors did not do so. In response to Member Hamill's questions, DC Saunders described these additional mechanisms, all of which are designed to ensure young people are repeatedly made aware of their right to access educational services.

### **West Facility Update**

ED King reported that the areas currently open in West Facility ("West") were designed as the Department's Contagious Disease Unit in which 140 specially air-controlled housing units were reserved for male and female inmates with contagious diseases, such as tuberculosis. This is no longer its primary use. West currently houses some of the people whom DOC identifies as most violent and who were previously housed in other settings that proved inadequate to prevent them from engaging in further violence. The facility also houses certain protective custody inmates who the Department believes it must separate from other people. On September 29, 2016, the Board issued a Notice of Violation of Minimum Standards at West Facility. At that time, the Board was particularly concerned with the lack of procedural due process for placement in the unit and the quality of mental health care available to people with mental illness who were housed in West.

ED King stated that the Department has made some positive changes at West, which DOC will discuss today. However, the Board continues to find, among other issues, that DOC places people in the facility without any due process, insufficient law library access, general understaffing, and inadequate recordkeeping on a variety of issues, including DOC's documentation of out-of-cell time. ED King concluded by asking the Department to present on West's current operations, changes DOC has made since September 2016, including an increase in the population since the issuance of the violation letter, and plans for the facility.

Chief of Staff Jeff Thamkittikasem stated that West currently houses people who are at high risk of victimization by others or pose a serious risk of perpetrating violence against others. The facility's infrastructure allows DOC to minimize the contact these individuals have with other people in custody. Mr. Thamkittikasem reported that law library kiosks and wall cameras have been repaired and body cameras have been provided to officers. Additionally, people housed at West have been provided with MP3 players and will soon receive tablets. Chief Murphy stated that people will not be moved out of West into North Infirmery Command (NIC) until June 2017, pending completion of renovation work at NIC and training of the incoming class of officers on how to interact with this population.

In response to Board member questions about what due process is given concerning people's placement in West, Chief Murphy responded that they receive due process when they are placed

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<sup>3</sup> The Comptroller's findings and recommendations are contained in its "Audit Report on the Educational Services Offered by the Departments of Correction and Education to Young Inmates at Rikers Island," dated March 28, 2017. The Report, and DOC's and DOE's response (attached as appendices to the Report), are available at: [https://comptroller.nyc.gov/wp-content/uploads/documents/ME16\\_066A.pdf](https://comptroller.nyc.gov/wp-content/uploads/documents/ME16_066A.pdf).

in enhanced restraint status. Judge Hamill stated that this was not the equivalent of a due process hearing to determine whether a person should be placed at West. She added that West is a restrictive housing unit that is operating in violation of the Board's Minimum Standards and people's constitutional rights. ED King stated that if restrictions are to be imposed on this population, they must be afforded a due process hearing to determine whether their placement in a restrictive housing unit is appropriate. Mr. Thamkittikasem states that he anticipates this issue will be addressed in restrictive housing rulemaking.

### **Visit Reports and Updates (BOC and DOC)**

#### **BOC**

ED King stated that she would begin by presenting the Board's monthly visiting report after which the Department would report on its implementation of the Board's 2015 amendments to BOC's visiting Standard and issues being addressed by the visit working group. BOC's Minimum Standard on visiting focuses on the importance of visits in maintaining personal connections with social and family networks and support systems. While this Standard allows contact visits for all people in custody, it permits DOC, on an individual basis, to restrict visits if it determines that a visit constitutes a serious threat to the safety or security of a facility. The Board has a long history of monitoring the visiting process, working with the Department to improve it, and intervening when people in custody or their families face undue restrictions.

Since March 2016, the Board has published a monthly report on visits and visit restrictions in the jails. This report is an important tool to help the Board monitor compliance with the visiting Standard and ensure that DOC, BOC, and the public have data to guide policy and practice improvements. The report includes an analysis of visit restrictions that the Department places on people in custody and visitors, and analysis of the Board's decision-making on appeals of visit restrictions.

To put this process in context, in January 2017, the Department had close to 21,000 visitors and over 15,000 visits. The vast majority of these visits happened without incident — parents visiting their children, children visiting parents, and partners visiting partners. Only about .3% of visits in January resulted in a restriction and only .1% resulted in an arrest. As of January 23, 2017, DOC was restricting 274 people in custody to non-contact visits. This was approximately 3% of the entire jail population that day. This is down from a 10-month high of 291 people in May 2016. Of these 274 people, 68% were restricted to non-contact visits for the duration of their incarceration. On average, they had served 189 days on the non-contact list. The remaining 32% had received determinate restrictions. Approximately 40% of all persons on the January non-contact list had been restricted because of their involvement in a slashing.

In January 2017, the Department administered about 37 new restrictions to people in custody, including 14 new duration restrictions. The most common reason for these restrictions was a slashing. Also in January, DOC issued 38 new restrictions to visitors. During the reporting period (March 2016 through January 2017), the Department administered, on average, 37 new visitor restrictions per month. The most common reason for restricting visitors in January was for introduction of contraband and arrest.

The Department is required to conduct a review of a person's non-contact visit restriction if the person has been restricted for six months and every six months thereafter. Seventy-five (75) people were eligible for review in January 2017, but only 40% of those eligible received a six-month review. None of the reviews conducted thus far have resulted in a modification or reversal of a restriction. The Board recently began reviewing all six-month reviews and have been working

to ensure that DOC has an effective process for conducting them, as they are fundamental to the integrity of any restrictions and the system. As of today, the Board believes the Department is close to clearing the backlog of people who had not received six-month reviews and will continue to work with DOC to ensure that these reviews are meaningful and timely.

In January 2017, the Board received 25 appeals of which it denied 13 and granted nine (9). The Board took 13 business days to make its decisions. This was in line with BOC's average over the reporting period — the Board received 19 appeals per month and took approximately 14 business days to render its decisions.

## **DOC**

After thanking the Board for collaborating with the Department on reviewing the visit process, Mr. Thamkittikasem reported the following:

- DOC has worked hard to ensure that signage has been placed in all the appropriate places to inform people of what the expectations are when coming onto the visit floor;
- The Department has installed new visitor tables with six-inch barriers in three facilities and installation is in progress in AMKC, DOC's largest facility.
- All facilities have brought their noncontact booths into a good state of repair except for GRVC, which is repairing damage caused by recent incidents.
- DOC is reviewing options for improving noncontact booths in general.
- Contraband finds between this fiscal year and last have increased by 732% for weapons and 136% for drugs.<sup>4</sup> In response to Acting Vice-Chair Richards' request, DOC will provide the Board with the breakdown of weapons by those confiscated upon search and those placed in amnesty boxes or left on visit buses.
- The Department has separated the bail payment and package drop-off windows from the visit function, eliminating the search requirement for people making bail payments or dropping off packages.
- DOC has eliminated older information booths and replaced them with three new kiosks so people can look up electronic information about the visit process.
- The Department has hired two new greeters to inform and guide people and is trying to hire a third greeter who speaks Spanish.
- Improvement of flooring and seating, and painting, in the registration area is underway.

Mr. Thamkittikasem stated that the visit working group has helped the Department identify areas for improvement. DOC is working with the group to improve visitors' transportation access to Rikers Island. In response to Acting Chair Cephas' inquiry, the Chief of Staff reported that it takes, on average, two (2) hours between the time a visitor reaches the first checkpoint and the actual visit.

Acting Vice-Chair Richards recognized the Department's improvements to the visitor experience and asked for an update on video visitation. Mr. Thamkittikasem said that a small pilot program was launched in collaboration with the Brooklyn Public Library. DOC is developing a similar pilot at RNDK and reviewing contract options to provide video visitation in housing areas. The Vice-Chair stated that the visit working group is focusing on expediting various aspects of the visit process. Mr. Thamkittikasem added that DOC had recently started a pilot to expedite movement for families with children.

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<sup>4</sup> These statistics include weapons and drugs that were found in visit buses and amnesty boxes where visitors could leave any item, prohibited in Department of Correction facilities, without being penalized.

### **Public Comment**

The Board heard public comment from Elias Husamudeen (COBA), Zachary James (NYU UJC), Shreya Rastogi (UJC), Deborah Lolai (Bronx Defenders), Lorna Woodham (Osborne Association), and Mik Kincaid (Sylvia River Project).

### **Conclusion**

Following conclusion of the public comments, Member Hamill called for the Board to create an ad hoc committee to address the multitude of issues raised by advocates and the Board concerning dissolution of the THU, gain a better understanding of the Department's plans for housing transgender people, and ensure that the housing determination process for this population complies with all applicable laws and standards.

Acting Chair Cephas stated that the Board does not have a meeting scheduled for April. The Board will hold its next meeting on May 9, 2017 at 9:00 a.m. at 125 Worth Street. Prior to that meeting, the Board expects to receive a request from the Department to renew the variance allowing its operation of the Secure Unit. There being no more business, the meeting was adjourned.