



NEW YORK CITY
BOARD OF CORRECTION

May 9, 2017 Public Meeting Minutes

MEMBERS PRESENT

Derrick D. Cephias, Esq., Acting Chair
Gerard W. Bryant, Ph.D.
Robert L. Cohen, M.D.
Jennifer Jones Austin, Esq.
James Perrino
Steven M. Safyer, M.D.

MEMBERS ABSENT

Stanley Richards, Acting Vice-Chair
Honorable Bryanne Hamill
Michael Regan

Martha W. King, Executive Director

DEPARTMENT OF CORRECTION (DOC)

Joseph Ponte, Commissioner
Martin Murphy, Chief of Department
Jeff Thamkittikasem, Chief of Staff
Winette Saunders, Deputy Commissioner of Youthful Offender
& Young Adult Programming
Peter Thorne, Deputy Commissioner of Public Information
Turhan Gumsudere, Bureau Chief of Security
Angela Tolosa, Assistant Commissioner
Faye Yelardy, Assistant Commissioner for Sexual Abuse and
Sexual Harassment Prevention
James Walsh, Deputy Commissioner of Adult Programming
& Community Partnerships
Dr. Nichole Adams-Flores, Deputy Commissioner of Health Affairs
Francis Torres, Assistant Commissioner of Education and Youth Advisory Services
Kwame Patterson, Assistant Commissioner of Public Information
Heidi Grossman, Deputy Commissioner of Legal Matters/General Counsel
Wesley Bauman, Assistant General Counsel
Brenda Cooke, Deputy General Counsel
Danielle Leidner, Director for Intergovernmental Affairs
Yolanda Canty, Bureau Chief
Janet Amaro, Director of Project Management
Marisa Alberti, Policy Analyst

James Boyd, Director of Constituent Services
Alex Foard, Legal Performance Analyst
Steven Kaiser, Policy Analyst
Anna Marzullo, Senior Policy Advisor
Eve Kessler, Director of Public Affairs
Meekaelle Copeland, Administrative Director of Social Services
Elizabeth Seibold, Press Officer
Ada Pressley, Warden
Jacqueline Brantley, Warden
Luigi Ottaviano, Acting Deputy Warden
Louis Molina, Captain
Marsha Elbourne, Captain
John Caraballo, Correction Officer
Terrence Gay, Correction Officer

NYC HEALTH + HOSPITALS (H+H)-CORRECTIONAL HEALTH SERVICES (CHS)

Dr. Elizabeth Ford, Chief of Psychiatry, CHS
Elizabeth Ward, Senior Director of Operations, CHS
Dr. Ross MacDonald, Chief of Services, Medicine, CHS
Patrick Alberts, Senior Director of Policy and Planning, CHS
Levi Fishman, Director of Public Affairs, CHS
Anne Siegler, Director of New Initiatives & Evaluation
Ashley Smith, Assistant Director of Policy & Planning, CHS
Lucia Caltagirone, Associate Counsel, H+H

OTHERS IN ATTENDANCE

Alex Abell, Urban Justice Center (UJC)
Roshan Abraham, City Limits
Melissa Barosy, Connelly, McLaughlin & Woloz
Alex Berger, Office of Mental Health
Erica Bond, Office of the Mayor
Albert Craig, Correction Officers' Benevolent Association (COBA)
Molly Crane-Newman, NY Daily News
Mark Cranston, COBA
Brian Crow, City Council
Chelsea Davis, Office of the Mayor
Kelsey De Avila, Brooklyn Defender Services
Elizabeth DeWolf, CUNY ISLO
Catherine Frizell, Children's Rights
Dennis Gonzales, *Nunez* Monitoring Team
Yoav Gonen, NY Post
Courtney Gross, NY1
Susana Guerrero, State Commission of Correction
Shannon Hakn, Independent Budget Office
Elissa Hyne, Children's Rights
Rebecca Ibarra, WNYC
Marcia Kramer, WCBS -TV
Tanya Krupat, Osborne Association
Laura Limuli, BOC Director of Research Emeritus
Amanda Masters, Office of the Public Advocate
Miguel Medrano, BDS

Valentina Morales, Mental Hygiene Legal Service
Jennifer Parish, UJC/JAC
Shevani Patel, Office of the Mayor
Charlotte Pope, Children's Defense Fund –NY (CDF-NY)
Jennifer Parish, Urban Justice Center/JAC
Corinne Ramey, Wall Street Journal
Kathleen Rubenstein, NYC Law Department
Paul Sauerteig, UJC
Michael Schwirtz, New York Times
Jane Stanicki, JAC/Hour Children
Shaina Watrous, UJC
Mary Lynne Werlwas, LAS

Public Remarks of Acting Chair Cephias

Acting Chair Cephias presided over the meeting. He noted two amendments to the agenda. First, after discussion with H+H and DOC, the Board asked both agencies to work together for an additional month and present their health and mental health care access action plan at the June 2017 meeting; the Board looks forward to reviewing a meaningful, data-driven plan; and second, DOC will present today on the Third Report of the *Nunez* Independent Monitor.

Acting Chair Cephias noted three additional items: (i) the Board has recently published a new webpage to track its restrictive housing rulemaking process and communicate about it with the public; it currently includes the Board's rationale, approach, and goals for the rulemaking process, along with written comments received, and a form that the Board hopes the public will use to share their ideas; (ii) the Acting Chair and Executive Director King submitted a letter, dated April 24, 2017, and available on the Board's website, to the New York State Senate and Assembly expressing the Board's support for legislation that would allow for the targeted use of body scanners in the New York City jails. As has been discussed numerous times at Board meetings, use of body scanners is a critical anti-violence strategy that is needed in the jails; and (iii) since it is National Correctional Officers and Employees Week, the Acting Chair recognized that DOC's uniform and civilian staff are essential partners in the work to advance improvement and change toward smaller, safer, fairer, and more humane jails. He thanked DOC staff for their critical public service in often challenging conditions and their creativity, patience, and commitment to improving the jails and our City. A note in recognition of this Week is also posted on the Board's website.

Approval of March 2017 Minutes

The Acting Chair asked for a motion to approve the March 30, 2017 minutes. Upon the item being moved and seconded, the minutes were approved unanimously (Acting Chair Cephias and Members Bryant, Cohen, Jones-Austin, Perrino and Safyer).

Limited Variance Request Re Secure Unit

► Public Comment

The Board heard public comment on the Department's request for renewal of a six-month limited variance from BOC Minimum Standards § 1-05(b) ("Lock-in") and § 1-08 ("Access to Courts and Legal Services"), which would allow for the reduction of out-of-cell time to a minimum of ten (10) hours per day in the Secure Unit, and the provision of law library services by means of a law library kiosk and typewriter within the Unit.

Public comment on the variance request was heard from Mark Cranston (COBA), Elias Husamudeen (COBA); Charlotte Pope (Children's Defense Fund-NY); Kelsey De Avila (Brooklyn Defender Services); and Jennifer Parish (Urban Justice Center). The public comments are available at: <https://youtu.be/6943Sid0ITw?t=3m29s>.

► **Background**

Acting Chair Cephas stated that on May 10, 2016, the Board first granted the variance and approved its renewal on November 15, 2016. The variance is set to expire on May 15, 2017. On May 2, 2017, DOC sent the Board a request to renew it for an additional six (6) months. In its request letter, the Department states that "the Secure Unit served to address a specific category of violent young adults whose history of violent behavior may not rise to the level of consideration for placement in ESH but requires that they be in a unit that has higher staffing ratios, programmatic and therapeutic offerings, and an initial ten (10) hours a day of out-of-cell time." The letter request further explains that the Secure Unit and ESH require that young adults are in restraints during all out-of-cell time. For the ESH Entry Unit and ESH Level 1, the young men have both legs restrained to a desk. In Secure Enhanced Phase I, the young men have both ankles and the non-dominant wrist restrained.

Acting Chair Cephas requested that the Department present on its request for renewal of the variance and stated that following DOC's presentation, the Board would address proposed conditions to the variance one of which is that the variance be limited to one (1) month and not six (6) months.

► **DOC Presentation**

Deputy Commissioner ("DC") Winette Saunders highlighted the following achievements within the Secure Unit since its establishment to date: (i) forty-one (41) support team meetings have been held to discuss the behavior and progress of young people in the Unit; (ii) eight (8) interventions have been undertaken that involved family members to address behavior issues that youth have presented; (iii) DOC has increased programming; (iv) the Department increased the number and time spent by program counselors in the Unit. Initially, there were one full-time program counselor and two part-time counselors and now there are two full-time program counselors and contracted vendors working in the Unit; (v) reentry services are provided to sentenced young adults housed in the Unit; (vi) services include violence intervention prevention, DBT, interactive journaling and other types of programming; (vii) thirty-one (31) young people have resided in the Unit, eight (8) of whom were placed in restraint desks because they had assaulted or attempted to assault staff in the Unit; and (ix) eighteen (18) of the 31 young adults have attended school, nine (9) of whom had never gone to school when housed in other DOC facilities or housing units.

DOC Deputy Commissioner and General Counsel, Heidi Grossman, stated that one of the modifications the Department is seeking to its variance request is that duration of the variance be one (1) month and not six (6) months. Additionally, young adults placed in restraint desks will be in leg and not wrist restraints and, within one (1) week, DOC will develop a due process protocol for adjudication of youth who are referred for placement in restraint desks. Such due process will be consistent with the procedural protections that are afforded people placed in ESH. Finally, the Department proposes that, over the next month, it will work out with the Board how DOC will monitor and report on individuals who are placed in restraint desks in the Secure Unit.

► **Proposed Conditions**

Acting Chair Cephas summarized proposed conditions for the variance; namely, that (i) the variance would be of one (1) month's duration; (ii) all conditions of the current variance would be continued; (iii) the Department will not use three point restraints in the Secure Unit; (iv) DOC will use two-point restraints in the same manner as they are currently being used in Young Adult ESH, including the procedural due process protections afforded to young adults in ESH; and (v) within 30 days, the Department shall develop a written plan for complying and reporting on all applicable Minimum Standards, including § 1-05(b) (Lock-in) and § 1-08(f) (Access to Courts and Legal Services, including law library).

► **Board Debate and Approval of the Variance with Conditions**

Acting Chair Cephas called for a motion to approve the variance subject to these conditions. Member Jones Austin moved the item and Member Bryant seconded it. Thereafter, debate on the motion ensued.

(i) *Debate*

Member Cohen informed the Board that Member Hamill could not be present at today's meeting due to a family emergency. Member Hamill and he visited the Secure Unit last week and they have substantial concerns about the Unit. They could not identify a pattern — and the Department could not provide documentation — demonstrating that the requisite number of lock-out hours was being provided. In certain instances, lock-out could not have been provided because not all officers were on duty at 5:00 a.m. when the lock-out period is supposed to begin. Showers and recreation are also scheduled to take place during this time. Member Cohen stated that the Board would work with DOC to ensure that lock-out occurs as required and that there is the requisite officer capacity for it to occur. Finally, he expressed his view that lock-out should be from 7 a.m. to 11:00 a.m. instead of 5:00 a.m. to 9:00 a.m. since a full complement of officers were on duty starting at 7:00 a.m.

Member Cohen stated that he and Member Hamill had observed that the legal coordinator was not in the Secure Unit half the day as required, and that they hope to discuss this with the Department.

Member Cohen said he was glad that DOC had agreed to implement a due process procedure regarding the use of restraints in Secure; however, he was disturbed to find out that the Department had been using three-point restraints in the Unit without any discussion with the Board or medical staff. A while ago, DOC did not place anyone in desk restraints, but now, an increasing number of people were being placed in two-point restraints, and the Board just found out that young adults were being placed in three-point restraints in the Secure Unit. Member Cohen said he found this practice very disturbing, particularly since it occurred without any directive describing the use of such restraints and, he believed, without any discussion with medical staff. He also noted that the Department's restraint policy permits the use of restraint chairs, which is a very dangerous device. Member Cohen said that over the next month, he hopes to discuss with DOC and his Board colleagues the prolonged, indefinite use of two-point restraints that are currently being utilized. Restraints should be used as little as possible and only to avert an immediate danger to the incarcerated person or others.

In concluding his remarks, Member Cohen emphasized that to have meaningful review of variance requests, the Department must bring them to the Board's attention a long time in advance of the Board meeting and not, as has been the case, a few days before or on the

eve of the meeting. Going forward, all such requests should include mandatory reporting on whether compliance with Minimum Standards and variance conditions are being met.

Member Austin expressed her appreciation of Member Cohen's comments, many of which echoed her own concerns. She said she was glad that the proposed variance had given the Board the opportunity to engage with the Department to work through these concerns, and hoped that this discussion would help DOC to appreciate that the Board was not just rubber stamping the request without resolution of these issues.

(ii) *Approval of the Variance with Conditions*

Acting Chair Cephas asked for a motion to approve the proposed conditions to the variance. Member Safyer moved the item and Member Cohen seconded it. The Board voted unanimously to approve the conditions (Acting Chair Cephas and Members Cohen, Bryant, Jones Austin, Perrino, and Safyer).

Acting Chair Cephas asked for a motion to approve the variance subject to the conditions. Member Bryant moved the item and Member Perrino seconded it. The Board voted unanimously to approve the variance subject to the conditions (Acting Chair Cephas and Members Cohen, Bryant, Jones Austin, and Safyer).

Third Report of the *Nunez* Independent Monitor and DOC Violence Update

► **Introduction**

Acting Chair Cephas stated that on April 3, 2017, the *Nunez* Independent Monitor filed his Third Report with the Court ("Monitor's Report"), covering the last five (5) months of 2016. Although the Report acknowledges significant achievements of and positive steps undertaken by the Department, the central finding of the Report is that, in respect to young people ages 16-18, DOC continues to struggle with many of the excessive, and unnecessary uses of force that gave rise to the Consent Decree. Particularly given the attention and resources that the Department and the Board have committed to this age group over the past couple of years, the Board finds the Monitor's Report disturbing. The Acting Chair asked the Department to respond to the Report's primary findings and DOC's plans for improvement.

► **DOC Response**

(i) *Deputy Commissioner and General Counsel Heidi Grossman*

DC Grossman noted that the Monitor's Report commends the Department for the sweeping changes it has enacted over a very short period. DOC has implemented reforms that go well beyond what the Consent Decree requires it to do to create a culture of safety across the City's jails. These changes include eliminating punitive segregation for people ages 16 to 21 and establishing therapeutic alternatives. The Department is the first in the nation to have done so. DOC also requires more officer training and has established a historic reentry program for its youngest population. It also has added programming hours that help reduce recidivism and improve young people's job prospects after release.

The Department is moving quickly to fix issues the Monitor has identified in his Third Report; DOC's Immediate Action Committee acts quickly to address potentially problematic uses of force; and the agency's Adolescent Response Team works to de-escalate potential force incidents among its youngest detainees. In the last three (3) years, the Department's Training Academy has trained about 3,700 officers in the latest de-escalation techniques.

DOC recognizes that much more work lies ahead and it looks forward to working with the Monitor and his staff to establish a culture of safety in the Department.

DC Grossman acknowledged that in his Third Report, the Monitor discussed that during the Third Monitoring Period (August 1, 2016-December 31, 2016), the rate of use of force was highest among adolescents and young adults, and the rate of inmate-on-inmate fights among young people ages 16-18 had increased, as compared to the Second Reporting Period. At the same time, however, the Monitor praised what he called the “strong and reform-minded” leadership of RNDC, which houses adolescents, and GMDC, which primarily houses young adults. The leadership of these two facilities is producing results with significant decreases in the number of use of force incidents and inmate-on-inmate fights in the current Reporting Period (i.e., January 1, 2017-June 30, 2017). DC Grossman requested that the Wardens of RNDC and GMDC present to the Board on what they have been doing and the successes they have been seeing since January 2017 to date.

(ii) *RNDC Warden Ada Pressley*

Warden Pressley became the Warden of RNDC in February 2016. In September 2016, RNDC had about 98 uses of force. Since then, the incidence of use of force has decreased by 75% — in January 2017, the number of such incidents declined to 26; in February, there were 23 use of force incidents, in March, there were 21, and in April there were 23. Warden Pressley attributed this success primarily to two factors: tremendous assistance from the Department of Education and DOC’s Adolescent Response Team, and officer engagement. Twenty (20) young people took their SATs, which is a Department first, and 90% passed the PASS test (i.e., old GED). The Adolescent Response Team works closely with and mentors each adolescent, and correction officers engage with the young people at a much greater level than in the past. Warden Pressley concluded by stating that DOC has made a lot of strides at RNDC and she is proud to be the Warden there.

Deputy Commissioner Saunders said that the strategy behind RNDC’s success also included increased programming, offering youth incentives for good behavior and holding them accountable when they are not behaving well, and calling in parents to discuss behavioral challenges their children are facing. Historically, parents were not asked to participate in such discussions because adolescents were considered, and therefore treated as, “adults.” All these reforms have collectively led to a cultural shift at RNDC.

Member Perrino said the significant reduction in the number of use of force incidents at RNDC is a testament to the amazing job that Warden Pressley and her team are doing.

(iii) *GMDC Warden Jacqueline Brantley*

Warden Brantley stated that she became Deputy Warden of GMDC in 2015 and Warden of the facility in January 2017. Currently, the GMDC population is 555 adults of which approximately 384 are young adults. Of the young adults, 194 are in one gang or another; 35 are known weapons carriers; and 22 are intended contraband recipients (“ICR”). GMDC also uses a de-escalation team called the “Incident Command System,” which attempts to diffuse incidents before they escalate to an alarm level. Members of this team were hand-picked for their ability to communicate well with young adults in these situations.

GMDC has been trending in the right direction. In January 2017, there were 69 uses of force. This number dropped to 42 in February, 28 in March, and 34 in April. Inmate-on-inmate fights are also trending downward from 73 in January to 70 in February, 51 in March, and 49 in April. Warden Brantley said that if DOC can control the number of inmate-on-

inmate fights, it can also control use of force because a lot of use of force incidents result from responding to inmate-on-inmate fights.

Warden Brantley stated that program counselors, workforce development, and officers work together to increase engagement and rapport with young adults. GMDC staff and young adults engage in competitions with other jails in team efforts such as keeping the houses clean and reducing the number of inmate-on-inmate fights. Certain perks (e.g., movie night) are awarded to “winners.” This strategy has been working very well and overall, GMDC is moving in the right direction.

► **Discussion between the Board and DOC**

Member Cohen expressed appreciation for the Department’s work at RNDC and GMDC. However, he found the Monitor’s Report very negative and disturbing. He noted that during PREA rulemaking, the Board’s ad hoc rulemaking committee had lengthy and serious discussions with DOC and the Law Department about the Investigation Division’s (“ID”) inability to investigate thoroughly and timely allegations of sexual abuse in the jails. The Monitor’s Report contained extensive discussion of areas that were also of concern to the rulemaking committee such as failure to review medical reports following an incident, closing cases without adequate investigation, and completing investigations in a timely manner. Member Cohen asked the Department to explain how they are addressing the deficiencies in ID’s investigative process.

In response, DC Grossman said it was important to note that the Monitor did not hold the Department in noncompliance with Consent Decree standards governing investigations. What the Monitor often does, and did do in his Third Report, is identify issues that DOC must continue to work on with the Monitor to effectuate improvements. The Department is committed to and is now making improvements. DC Grossman further noted that ID closes cases, on average, within 180 days, which is the length of time prescribed in the Consent Decree. In addition, ID previously had a very small headcount, which the Department has increased, and ID has doubled the number of cases subject to full investigations. Also of note is that for the first time, there is transparency at a very early stage of the investigative process; ID completes preliminary investigations only a few days after an incident has occurred, which allows the Department to identify issues and take remedial action early on. Now that DOC has a sense of how its investigative process is working, it can continue to develop and fine tune the process and improve the quality of its investigations.

Member Cohen asked for the current number of investigators in ID, how many more investigators DOC planned to hire, and whether the City had approved this additional hiring. DC Grossman said she would provide the Board with these numbers. She said the Department had received approval to hire some additional investigators and obtaining approval to hire more is an ongoing process.

► **Flagging Issues for Future Discussion**

Executive Director (“ED”) King said that at the next meeting, the Board would seek the Department’s update on two issues of Board concern that were also addressed in the Monitor’s Report — the Department’s misuse of OC (i.e., chemical) spray and the delayed response in providing medical attention following an incident.

Assessment of Enhanced Supervision Housing

► Introduction

ED King stated that in October 2014, as the Board debated punitive segregation reforms, the Department proposed to the Board a new restrictive housing unit, Enhanced Supervision Housing (“ESH”). DOC believed it to be a critical part of its punitive segregation reforms and violence reduction plans. In January 2015, the Board approved a modified version of the proposal which created placement criteria, additional procedural safeguards, programming, training, and steady staffing requirements. The final rule also included a requirement that the Board meet within two (2) years of implementation to discuss the effectiveness and continued appropriateness of ESH.

On April 26, Board staff published an assessment of ESH (“ESH Report” or “Report”), studying the first 22 months of adult ESH placements. Prior to the expiration of the current variance permitting ESH for young adults (“Young Adult ESH”), Board staff will also publish an assessment of the early implementation of Young Adult ESH. Before turning the floor over to the Board’s Deputy Executive Director of Research, Emily Turner, to present a summary of the Board’s findings, ED King thanked the leadership and staff of the Department and Health + Hospitals, the people in custody, and the public for their knowledge and significant assistance in supporting the research and analysis embodied in the Report. She also thanked Deputy ED Turner and her team and the Board’s monitoring staff for their huge commitment to and hard work on this major project. ED King concluded her remarks by saying the Board looks forward to working with its agency partners in the coming months to implement the Report’s recommendations.

► Summary of Findings and Recommendations

Deputy ED Turner began by thanking the Board for the opportunity to share what her team had learned about ESH, and ED King for her commitment to improving the Board’s capacity to produce comprehensive assessments and increase the transparency of the Board’s oversight. She also acknowledged her team — research directors Chai Park and Nashla Rivas Salas, Jim Bennett, and Andrea Hernandez. Deputy ED Turner and her team believe that these assessments are critical to informing the Board’s decision-making, and they look forward to working with the Board and the Department on future assessments.

Before turning to a summary of the report’s findings and recommendations, Deputy ED Turner said her team found that the DOC’s operation of ESH had changed significantly since ESH first opened in February 2015. Changes included the adoption of ESH incentive levels in early 2016, the adoption of new program models in May 2016, and most recently, the use of restraint desks in some ESH housing units. Due to the recent utilization of restraint desks, the team was not able to assess the appropriateness or effectiveness of this practice. The report’s findings and recommendations relate solely to adults placed in ESH from February 2015 through November 2016. Deputy ED Turner and her team will be presenting a public report on assessment of Young Adult ESH in the coming months.

Deputy ED Turner’s PowerPoint presentation of the Report’s findings and recommendations is available at: <http://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2017/May-9-2017/ESH-2017-05-09.pdf>.

The full Report is available at: <http://www1.nyc.gov/site/boc/reports/BOC-Reports/assessment-of-enhanced-supervision-housing.page>.

► DOC and Board Discussion

(i) *DOC*

Chief of Staff, Jeff Thamkittikasem, thanked the Board and BOC staff for their evaluation of ESH. He noted that working with the Board on ESH is one of the reasons why the Department is now able to say that less than one (1) percent of the people in DOC custody are in ESH at any given time and only one (1) percent are in punitive segregation. The combination of these two percentages is even less than the 600 individuals who were in punitive segregation when the Department first began to reduce the number of people housed there. Going forward, DOC will review the Report's recommendations and consider them in the broader context of the Board's rulemaking on restrictive housing.

(ii) *Member Jones Austin*

Member Jones Austin noted her appreciation of the Report's recommendations for improving the Department's operation of ESH. In terms of next steps, she stressed the importance of determining whether the ESH model results in successful outcomes for persons who require placement in some form of restrictive housing other than punitive segregation to ensure the safety and security of staff and other incarcerated persons. Mr. Thamkittikasem responded that the Department would be defining outcomes to measure the success of ESH and developing metrics to evaluate whether these outcomes have been achieved.

(iii) *Member Cohen*

After thanking Deputy ED Turner and her team for their work in producing the Report, Member Cohen remarked upon some of the Report's key findings and recommendations. He said the Board's intention during rulemaking on ESH was that officers would be assigned to steady posts within the same ESH housing unit so that they could get to know the people they were managing. The Report found that, contrary to the Board's intention, staff in ESH were regularly assigned to ESH housing areas but not to specific ESH units.

Member Cohen noted that the report of the Vera Institute of Justice on DOC's use of restrictive housing, including ESH, reached the very same conclusion as did the ESH Report; namely, that the majority of people placed in ESH exit only upon their release from DOC custody and only nine (9) percent progress to a less restrictive ESH level or another housing unit. It is sound correctional practice that the objective of restrictive housing is not to punish those placed there, but to move them out after they act in accordance with certain requirements. Member Cohen expressed the hope that going forward, the Board's rulemaking on restrictive housing would incorporate the Report's recommendation that DOC assume an individual's progression through ESH levels unless the individual engages in problematic behavior. He also noted the Report's recommendation that DOC and Correctional Health Services work together to improve access to health and mental health care services for people in ESH. Finally, Member Cohen remarked that during recent visits to Rikers, he observed that ESH units, particularly those where people are shackled, are characterized by a sense of intimidation. He said that dogs (German shepherds) regularly visit these units, and he was also told that this was for intimidation purposes and not in response to an incident.

In conclusion, Member Cohen acknowledged the tremendous accomplishment of DOC leadership, spurred by strong advocacy from the Board, in ending punitive segregation for young people. He reiterated that the ESH Report's recommendations should be

incorporated in the Board's rulemaking and as conditions to variances that restrict Minimum Standards.

Following the Acting Chair's remarks (see below), Member Cohen asked Deputy Executive Director Turner to discuss some of the ways procedural justice can be implemented in ESH and used to address issues of violence.

Deputy ED Turner said that procedural justice speaks to the idea that if people feel they have been treated fairly and that a neutral independent arbiter has made decisions regarding their case, even if the outcome is not in their favor, they will view the system as fair and will comply with the rules imposed on them. Her team found that there was a level of confusion in ESH as to why certain restrictions had been imposed and what people could do to comply with the program and move on to a less restrictive level. Thus, the ESH Report recommends that there be additional communication and engagement between people in ESH and DOC staff and that very clear goals be set for individuals. The Report further recommends that people be allowed to participate in the review process so they can receive direct feedback on why they are/are not progressing and what they must do to move to a less restrictive setting. These measures would go a long way toward increasing fairness and reducing confusion and frustration, ultimately leading to a safer environment.

(iv) *Acting Chair Cephas*

Acting Chair Cephas stated that the ESH Report is a tremendous addition to the dialogue on alternatives to punitive segregation. Directing his request to Commissioner Ponte, he asked the Department to provide a formal written response to the ESH Report by the next public meeting.

(v) *Member Perrino*

Member Perrino stated that rotating correction officers through various ESH units is not the same as having the same officers assigned to the same unit every single day. In his opinion, the most important part of ESH is the correction officer, who is either going "to make it happen" or just get through the day. Offering incentives to officers to work in challenging housing areas such as ESH and recruiting officers with the right kind of skills and talents would go a long way toward furthering the success of ESH.

(vi) *Member Bryant*

Member Bryant applauded the efforts made to generate the ESH Report and said it was very helpful to the Board and the Department. He also applauded the Department on keeping the people housed in ESH and staff who work there safe. He said the recommendations on procedural justice should be pursued, particularly improving due process and providing people with feedback about why they are housed in ESH and what they can do to move to less restrictive housing.

Young Adult Monitoring and Evaluation Plan and Young Adult ESH Directive

Acting Chair Cephas stated that at the February 2017 public meeting, the Board approved variances allowing the Department to place young adults in ESH until August 14, 2017. The Board imposed a condition on the variances that required DOC at today's meeting to present comprehensive metrics and a plan for ongoing data tracking, monitoring, and evaluating the implementation of Young Adult ESH ("YA-ESH"). The metrics and plan are to be in line with national best practices and address the Department's compliance with Minimum Standards and other conditions. In addition, the Board requested that DOC present an update on the status of the YA-ESH Directive.

► **YA-ESH Monitoring and Evaluation Plan**

Chief of Staff Thamkittikasem presented an overview of the Department's YA-ESH Monitoring and Evaluation Plan ("Plan"). Pursuant to the Plan, DOC's evaluation will report metrics on how the YA-ESH units have performed over time, including metrics in the following areas: (i) security (i.e., incident rates for use of force, slashing and stabbings, and inmate fights); (ii) services (i.e., service requests by young adults by service type); (iii) population (i.e., placements, level progression, and average length of stay in ESH by level); (iv) programming (i.e., number of individuals participating in programming and young adult-only unit participation rates); (v) adjudication (i.e., adjudicated placements by reason, 45-day reviews completed, and average time between last incident/infraction and placement date); and (vi) visits received by young adults. The evaluation will assess the impact of ESH on young adults who have been placed there and the model's effectiveness in reducing uses of force, slashing/stabbing incidents, and inmate fights in general population units that previously housed young adults who were moved to ESH. Mr. Thamkittikasem said the Department does not have the best electronic data-capturing methods, but is trying to work through these challenges to provide the best reporting it can.

In response to ED King's inquiry, the Chief of Staff said that the ways the Department is monitoring compliance with Minimum Standards will be included in the Plan. Member Cohen noted the importance of DOC monitoring compliance to ensure that young adults are offered the total number of lock-out hours afforded under the Minimum Standards.

► **YA-ESH Directive**

DC Grossman stated that the Department has engaged with the Board and the Monitor in finalizing the YA-ESH Directive and has resolved outstanding issues. ED King said there were some outstanding items that needed to be worked out. DC Grossman said these items could be resolved in another conversation with the Board, and the Directive should be finalized in the next few weeks.

Transgender Housing Unit

Acting Chair Cephas stated that at the last public meeting on March 30, 2017, the Department presented an update of its plans for the transgender housing unit and the safe housing and treatment of transgender people in custody. This remains a significant issue for the Board and the community at large, as it is for the Department. At the March meeting, however, DOC presented a plan that raised many serious questions and concerns from the Board and the public. The Board understands that the transgender housing unit remains open; plans to close it have been put on hold; and discussions among the Department, Board staff, and advocates have commenced.

The Department's Assistant Commissioner for Sexual Abuse and Sexual Harassment Prevention, Faye Yelardy, stated that although the transgender housing unit is not compliant with PREA, as per the U.S. Department of Justice, DOC has decided to postpone closing the unit and to work with the advocates in developing a new unit that is sexually safe for all vulnerable populations. The Department has established a working group, which met for the first time on May 3. The advocates who have voiced concerns participated in the meeting as well as staff from the Mayor's Office, the Law Department, and ED King. The group discussed collective concerns and explored ideas that will be considered at the next meeting on May 24. Over the next few weeks, the group will have additional dialogue and continue to collaborate on a housing plan that addresses both sexual safety and programming needs. Additionally, the working group has agreed to share information and work together to develop training on strategies for keeping vulnerable populations sexually

safe and foster respectful communication with LGBTI and gender nonconforming people in the jails. In conclusion, Assistant Commissioner Yelardy said the Department is committed to working with the advocates and all interested parties on this important issue and looks forward to having a productive working group.

Closing of West Facility and Opening of NIC

ED King said the Board had requested that the Department present another update on the closing of the West Facility (“West”) and its use for non-medical purposes, and the opening of North Infirmity Command (NIC) for the West population. The Board remains concerned about the lack of due process afforded to people placed in West despite its restrictive nature and DOC’s stated intention to use the Facility as a highly secure housing area. The Board believes that the new policy governing NIC should include appropriate due process protections if it continues to serve this function. At the Board’s February 2017 meeting, the Department reported that people would be moved from West to NIC in June 2017, pending completion of renovation and training.

Chief of Department Martin Murphy reported that the Department remains committed to closing West and moving its population to NIC’s main building in June 2017. DOC has announced a vacancy for staff to apply for assignment to NIC. ED King asked what populations would be housed there. Chief Murphy responded that non-Contagious Disease Unit individuals would be moved to NIC and that the Department was discussing with H+H the movement of West’s older population to NIC.

Public Comment

The Board heard public comment from Mary Lynne Werlwas (LAS), Paul Sauerteig (UJC), Valentina Morales (Mental Hygiene Legal Services), Shaina Watrous (UJC), Albert Craig (COBA), and Mark Steier (COBA). The public comments are available at: <https://youtu.be/6943Sid0ITw?t=1h47m7s>.

Conclusion

Acting Chair Cephas stated that the next public meeting is scheduled for June 13, 2017 at 9:00 a.m. in this auditorium. At least two weeks prior to the meeting, the Board expects to receive a Department request for the renewal of a variance that allows DOC in highly exceptional circumstances presenting safety and security concerns, to waive the requirement that people be immediately released from punitive segregation for seven (7) days after they have been held there for 30 consecutive days.

There being no more business, the meeting was adjourned.