

**NEW YORK CITY
BOARD OF CORRECTION**

November 10, 1998

MEMBERS PRESENT

John R. Horan, Acting Chair

Canute C. Bernard, M.D.

Louis A. Cruz

David Lenefsky

Barbara Margolis

Richard M. Nahman, O.S.A.

David A. Schulte

An excused absence was noted for Member Stanley Kreitman.

DEPARTMENT OF CORRECTION

Gary Lanigan, First Deputy Commissioner

Edward Reilly, Chief of Department

Tom Antenen, Deputy Commissioner

Antonio Figueroa, Deputy Commissioner

Roger Jefferies, Deputy Commissioner

Elizabeth Loconsolo, Counsel

Roger Parris, Assistant Commissioner

William Frazier, Deputy Chief

Robert Wangenstein, Deputy Chief

Christy Sanchez, Assistant Chief

HEALTH AND HOSPITALS CORPORATION - CORRECTIONAL HEALTH SERVICES

Van Dunn, M.D., Senior Vice-President for Medical Affairs

Michael Tannenbaum, Assoc. Exec. Dir. for Administration

Arthur Lynch, Director, Mental Health

Linda Calzaretta, Director of Risk Management

Zoe Kollaras, Director of Nursing

Jane Zimmerman, Vice-President for Communications and Marketing

OTHERS IN ATTENDANCE

Richard Colon, State Commission of Correction

Michael Cooper, *New York Times*

Katherine Finkelstein, *New York Observer*
Eva Gobotnik, Researcher
Tracie Lucas, State Commission of Correction
J. Moseley, Public
Annette Palk, State Department of Health
Lynn Schulman, Community Board #6
Latonia Scott, Finance Division, City Council
Perry Stein, City Council
William Van Auken, *The Chief*
Amy Webber, City Council
Dale Wilker, Esq., Prisoners' Rights Project, Legal Aid Society
Milton Zelemeyer, Esq., PRP, LAS

Acting Chair John R. Horan called the meeting to order at 1 p.m.. The minutes of the October 15, 1998 meeting were approved unanimously.

Acting Chair Horan noted that there were ten stabbing and slashing incidents, and commended DOC for creating a safer jail environment. He added that DOC was operating at near-capacity. First Deputy Commissioner Gary Lanigan said that several facilities remain closed: the Brooklyn Correctional Facility, the Vernon C. Bain Barge, and the two ferries.

Acting Chair Horan reported that Board Member Father Richard Nahman was seeking to learn about DOC's clergy programs, and that Mr. Lanigan was helping to arrange a meeting about which Father Nahman would report. Father Nahman reported as follows: The Director of Ministerial Services Imam Luqman had invited him to meet the DOC clergy on Rikers Island. When he arrived, Assistant Commissioner Leesa MacLeash said she had a different agenda. Father Nahman introduced himself and, before leaving, arranged to tour a jail with a chaplain, who later called to cancel the tour because Assistant Commissioner MacLeash had advised the chaplains that it would be inappropriate for them to meet individually with Father Nahman. The chaplain indicated that protocol dictated that Father Nahman meet with higher-ranking personnel than he. Mr. Lanigan was contacted by Mr. Horan, and a meeting to resolve the matter will be held on Monday.

Board Member David Schulte reported that he visited the Visit Control Building on Rikers Island. Accompanied by Laura Limuli, Mr. Schulte met with Assistant Deputy Warden Joseph Jones and several staff members. Mr. Schulte said he was told the following: Approximately 2700 visitors come to Rikers Island each visit day. They are not searched at the Control Building. Visitors travel in DOC buses from the Control Building to one of ten jails, where they are searched. A court order mandates that only one search of each visitor is permitted. Mr. Schulte said he believes this is a dangerous procedure, because guns could be brought onto the bus and discharged en route to or at a facility. He suggested that DOC's Legal Division consider seeking to overturn the court order, so that inmates could be searched both at the Control Building and at the jail. Mr. Schulte said that the Control Building is divided into ten rooms, with a "modified-duty" officer (an officer facing disciplinary charges) at a computer. The officer is deprived of his uniform and his shield or other identification. When a visitor presents two pieces of picture identification, the officer enters information into the computer and sends it to the jail where the inmate is housed. The jails respond by indicating whether the inmate is in the facility and wishes to see the visitor. Steady officers complained to Mr. Schulte that the modified-duty officers had little incentive to perform well, and that inaccurate information was sometimes sent to the jails. Mr. Schulte mentioned another problem: when a visitor is suspended from visiting an inmate, that fact is not transmitted to any other jail to which the inmate may be transferred. Mr. Schulte concluded by suggesting that modified-duty officers be assigned to less sensitive posts, and that a computer expert be hired to develop a means of transmitting information when inmates are transferred. Mr. Lanigan responded that there are only a limited number of posts to which modified-duty officers may be assigned. Board Member Louis Cruz suggested that limited-duty officers (injured officers) be assigned to Visit

Control Building posts. Mr. Schulte noted that 60% of the uniformed staff in the Visit Control Building are modified-duty officers.

Executive Director Richard Wolf said that DOC personnel had announced plans to purchase "stun belts". Mr. Lanigan responded that DOC security staff tested the belts, and a decision has been made not to purchase the stun belts.

Mr. Wolf said that no adult education classes were offered over the summer, and that fall term classes have been delayed to date, ostensibly due to contract issues. Mr. Lanigan said that a \$1.3 million contract with LaGuardia College, for "discretionary" adult education classes to provide instruction to 580 inmates each day at several facilities, had been delayed due to negotiations over language regarding liability. He said the contract could be signed by the end of the week, and classes might begin next week. Mr. Cruz asked if the delay affected mandated programs, and Mr. Lanigan said that it did not.

Deputy Executive Director Cathy Potler reported that a new specialty clinic area has been constructed at the George R. Vierno Center and will open soon. She and other BOC staff toured the area yesterday, accompanied by the clinic manager and clinic captain. Ms. Potler said the new area will be much more suitable than the present space in the James A. Thomas Center. She said that she told the clinic captain about some problems in the new area, which will be addressed: number of uniformed staff, whether there are an adequate number of holding cells, porcelain rather than steel toilets, and ventilation problems. Ms. Potler said DOC staff was very responsive to the problems raised during the tour.

Existing variances were renewed unanimously.

Acting Chair Horan reported that last week he visited the North Infirmery Command (NIC) and the Otis Bantum Correctional Center (OBCC). At NIC, Acting Chair Horan was told by the physical therapist and by the manufacturer's representative that St. Barnabas had approved prosthetic devices for all inmates for whom the physical therapist had sought them. He praised Maureen Walker, the BOC field representative, who had pressed for the approvals. Acting Chair Horan reported that at OBCC, he spoke with the "overworked" clinic captain who was trying to keep track of "restless" inmates in the overcrowded waiting area. He said that the situation did not bode well for the future. Acting Chair Horan added that several inmates, after waiting for four or five hours, returned to their housing areas in frustration without seeing a provider. He said it was apparent that there were insufficient numbers of providers.

Acting Chair Horan stated that Correctional Health Services (CHS) had failed to meet with BOC staff to provide information the Board had requested. Instead, CHS issued - without any notice to the Board - its own public-relations report. He added that BOC has had "no successful interchange" with HHC to this day. Acting Chair Horan invited Board Member David Lenefsky to make a report.

Mr. Lenefsky began by noting that last night at 7 p.m., BOC received a fax from CHS responding to several issues, some of which BOC had raised as early as August 4. He said that BOC had asked, on August 4 and again on August 24, for the results of CHS's investigation into the death of inmate Pacheco. He said CHS had led BOC to believe it would receive the information, but last night at 7 p.m. CHS said it would not provide the information. Similarly, BOC had asked, on August 24 and September 23, for information regarding access to on-site clinics. On October 7, BOC asked for information about problems with access to off-Island clinics. Board Member Dr. Canute Bernard had asked, at the September BOC meeting, for information about the availability of medical charts. Mr. Lenefsky noted that each pending request was responded to by fax at 7 p.m. the evening before the Board meeting. He noted that when Board staff attempted to contact CHS staff for clarification, the author was gone for the day. These circumstances made it impossible to adequately address the issues at the Board meeting. Mr. Lenefsky asked CHS to provide responses to BOC inquiries at least four days before a scheduled meeting.

Mr. Lenefsky said that a review of the past month's meeting minutes revealed that Mr. Erazo had agreed to provide the Board with a legal analysis of the St. Barnabas, which Mr. Erazo said was not a managed care contract. Mr. Lenefsky renewed the request for the analysis.

Mr. Lenefsky raised the issue of the number of staff contract monitors employed by CHS. He said that the October minutes disclose that at one point Mr. Erazo said CHS had 60 "people in the field"; that at another point, the number 200 people was used; and at a third moment Mr. Tannenbaum referred to 10 "full-time equivalents". Finally, reference had been made to 3,000 chart reviews done by CHS nurses and headquarters staff. Mr. Lenefsky asked for a report on what staff CHS has to monitor the St. Barnabas contract: names, titles, and staff responsibilities.

Mr. Lenefsky said that Mr. Erazo had mentioned "performance indicators". He noted that the recently-released CHS Interim Report used the terminology "performance outcomes". Mr. Lenefsky said that the report is a "collection of conclusions". He said it was not an analysis. He said that a serious analysis would: (1) identify each performance requirement and expected outcome; (2) a reference to the St. Barnabas data supplied to CHS pertaining to each requirement; (3) CHS's verification and analysis of the St. Barnabas data; and (4) CHS's conclusions. Mr. Lenefsky said that the fifteen-page report is nothing more than a press release. Mr. Lenefsky asked about references, in both the press release and the 15-page report's executive summary, to new on-Island specialty clinics for urology, surgery, plastic surgery and ENT. He asked CHS representatives to identify the time, between January 1, 1998 and November 5, 1998 where a specialized clinic in urology was held on Rikers Island. Arthur Lynch, CHS's Director of Mental Health, said he would get back to Mr. Lenefsky with an answer. Mr. Lenefsky, noting that approximately six CHS representatives were in attendance at the meeting, asked if any CHS representative could tell the Board when a urology clinic was held on Rikers Island between January 1, 1998 and November 5, 1998. Mr. Lenefsky said he had the same question for plastic surgery, surgery, and ENT clinics on Rikers Island. Mr. Lenefsky said that if he were wrong, he would publicly and privately apologize, but that he did not believe that one session of any of the

four specialty clinics had been held on Rikers Island between January 1, 1998, when St. Barnabas began providing correctional health services on Rikers Island, and November 5, 1998, when the CHS Interim Report was released. He said that if he is not wrong, there should be "serious consequences to both St. Barnabas and CHS" because the statement in the report that such clinics have been implemented on Rikers Island is a "false and material statement".

Mr. Lenefsky described as an "affront" a statement on page 6 of the Interim Report, that for 25 years there had been no improvements in the delivery of health services prior to St. Barnabas taking over the contract. He reminded those present that many people around the table helped to develop and implement the Mental Health Minimum Standards in 1986, and that in 1991 the Board's Health Standards went into effect. Mr. Lenefsky said these two sets of Standards materially changed the way correctional health services are provided in the City's jails.

Mr. Lenefsky disputed most of the information in a section of the report entitled, "New and Enhanced Services". Regarding "female health", Mr. Lenefsky said that the 16-bed nursery mentioned is not new and has not been enhanced, nor is the well-baby-care service new or enhanced, nor is the 26-bed infirmary new or enhanced. What is new is the mental health facility for women. He said that the Board of Correction brought that issue to the City, and noted that BOC had been told it would be a \$1 million facility, but that instead \$300,000 had been spent. Mr. Lenefsky said that the reference to six dialysis stations is also wrong: in fact there are seven stations in use, with an eighth available. None is new or enhanced. They existed under the previous provider. Mr. Lenefsky stated that here too, he hoped he was wrong, but if he were correct, serious consequences to St. Barnabas and CHS should result from the "material misrepresentations" regarding items listed as new or enhanced.

Mr. Lenefsky then discussed the staffing analysis on page 9 of the Interim Report. He said that since March, 1998, BOC has been asking for a comparison between St. Barnabas staffing and that of the prior providers. He said BOC repeatedly had been told that such an analysis was impossible. He said that he was nonplused that such a rudimentary "full-time equivalent" analysis was presented in the Interim Report. Mr. Lenefsky said that CHS had given to BOC a printout of Montefiore's staffing for May, 1997, even though the Board had been told that Montefiore did not leave behind much documentation when it left Rikers Island. He urged CHS to produce a similarly-formatted report for St. Barnabas listing, by name, each doctor, nurse, and PA - their title, where they work and when. He contrasted this with the chart on page 10 of the report which Mr. Lenefsky described as conclusory and unhelpful. He said that earlier documentation established that St. Barnabas had decreased the number of physicians by 25-30%, and increased the number of PAs by a like amount. Mr. Lenefsky thus concluded that CHS provided a misleading statement in the report when asserting that the staffing levels were equivalent, because it does not show the break-down between physicians and PAs.

Mr. Lenefsky said that he took exception to the assertion on page 12 that in the first six months of the contract a new CT-SCAN had been installed. He said it was installed during September. He said this is important because St. Barnabas claims that hospital utilization has

decreased because of additional facilities it provides on-Island. Mr. Lenefsky said that this is why the mis-statement in the report about the four on-Island specialty clinics is so important. Finally, Mr. Lenefsky said he did not understand why, on page 12, the definition of the Urgi center is written in terms of "non-sudden, non-serious" issues. He said he had been under the impression that "Urgi center" was the exact opposite, as its name implies. He said the Board has documentation from Mr. Kaladjian to that effect. Mr. Lenefsky concluded by asking CHS to prepare a new document with an analysis designed as he suggested earlier.

Mr. Cruz said he took Mr. Lenefsky's observations about the Interim Report "extraordinarily seriously". He asked CHS for the source of the information in the Interim Report. Michael Tannenbaum, CHS's Associate Executive Director for Administration, said there were several sources. Some were data and reports generated by Correctional Health directly; some of the material was reported to CHS by St. Barnabas; and some was based on an interim report from St. Barnabas that goes beyond its regular reporting requirements. Mr. Cruz asked what efforts were made by CHS - the contract monitor - to verify St. Barnabas's information. Mr. Tannenbaum said he will follow-up on Mr. Lenefsky's comments, although he is not in agreement with them. He said CHS believes the information in the Interim Report is correct.

Mr. Lenefsky said Mr. Cruz's question was a good one. He noted that CHS gave staffing documents, approximately two-and-one-half inches thick to the Board the day before its October meeting. He said that 98% of the materials were staffing plans submitted by St. Barnabas. Mr. Lenefsky said that the only analysis by CHS was a two-page monitoring of nursing during the first eleven days of July, 1998. Mr. Lenefsky said that he did not consider that to be satisfactory monitoring. He added that the contract identifies, in Attachment A, indicators that would enable one to assess contract performance. Mr. Lenefsky said that each indicator should be analyzed, and then CHS should draw conclusions. Mr. Tannenbaum responded that the two pages did not reflect CHS's entire monitoring effort. He said there are 35 indicators; 29 are reported monthly. Many come under "quality assurance" and confidentiality guidelines, and therefore cannot be shared outside of Correctional Health.

Mr. Wolf said that one of the reports that CHS is supposed to receive each month from St. Barnabas is a utilization report which lists how many inmates are seen at each of the clinics, both on- and off-Island. It is supposed to reflect how many inmates were produced for each clinic and whether or not they were seen. Mr. Wolf asked if CHS had been receiving the utilization reports. Mr. Tannenbaum said CHS receives all of the reports St. Barnabas is required to provide. He said that CHS had added additional reporting requirements. Mr. Wolf asked whether St. Barnabas's utilization reports indicated that the four new clinics were seeing inmate/patients on Rikers Island. Mr. Tannenbaum said he would check with CHS staff who receive and analyze the utilization reports and respond. He noted that the language in the report speaks to the renovation of the clinic area.

Mr. Schulte said that Mr. Lenefsky's "brilliant" presentation states that there are alleged

misrepresentations in the report. He noted that if this is true, then the public, the inmates and the Board are being fooled. He said that the Board Members cannot "let this thing sit and eventually be swept under the table." Mr. Schulte said this is one of the most important issues in his 35 years as a member of the Board of Correction. He asked when the Board will receive a response to Mr. Lenefsky's comments. Arthur Lynch, CHS's Director of Mental Health Services, said CHS will check its data source and respond in full. He said CHS will call Mr. Wolf before the end of the week with a timetable for a written response, which will include data sources and how CHS arrived at the conclusions that it did. Mr. Lynch said CHS did much work organizing the data for the report, and that he disagrees with Mr. Lenefsky's conclusions that this may be a falsification issue.

Mr. Cruz said that Mr. Lenefsky "very professionally" stated that he hopes he is wrong, but Mr. Cruz added that Mr. Lenefsky's impression is very important. Mr. Cruz said he does not consider HHC to be "the public relations vehicle for St. Barnabas". He said that if the Board does not receive the answers it seeks in a timely way, he will propose that the Board conduct a formal hearing at which St. Barnabas's administrators would give sworn testimony. Mr. Cruz said he could understand a report being issued for public relations purposes, but not to put "icing on the cake with respect to the real serious concerns of this Board". He said that if the Board does not get "an affirmative statement, real information" then Mr. Cruz will move at the next BOC meeting that the Board should schedule a formal, sworn hearing and subpoena records from St. Barnabas so that BOC might itself verify what services St. Barnabas is providing.

Mr. Schulte said that the nurse Mr. Erazo offered to accompany BOC staff to address allegations of inadequate care had not been made available. Mr. Lynch disagreed, noting that CHS's Director of Nursing met with Ms. Potler to offer such services both to BOC staff and to Dr. Bernard. Dr. Bernard said he was unaware of the offer, but said the Board cannot ensure proper patient care: "the buck stops with HHC". He said HHC needs to do its job of ensuring that corrective actions are taken as needed, and not to "play defensive ball". Mr. Lynch said he agreed, and that was why the offer of nursing assistance was made. Ms. Potler said she had one meeting with Zoe Kollaras, CHS's Director of Nursing, to discuss the "process" issues raised by Mr. Erazo. Ms. Kollaras offered to have one of her three staff accompany BOC field staff. Ms. Potler said she explained that our staff work in the jails on many issues, and noted that only a small percentage of BOC field representatives do constant health reviews. Ms. Potler said she and Ms. Kollaras agreed that as issues emerged, BOC would raise those issues with CHS nursing staff as appropriate, and that she would now receive copies of BOC correspondence to Mr. Erazo, which had not been provided to her by Mr. Erazo in the past. Ms. Potler added that she had invited Ms. Kollaras to tour with Ms. Potler to get an idea of the kinds of issues Ms. Potler addresses, and how she does so. Mr. Lynch said CHS nursing staff were available to assist BOC staff in resolving problems. Ms. Potler responded that BOC staff take inmate complaints directly to each jail's clinic manager or senior physician for facility-level resolution, and that if the issue cannot be resolved at the facility, it is presented to Ms. Potler for resolution. Mr. Lynch reiterated that CHS nursing staff were available to help. Mr. Wolf said that the suggestion that BOC staff is not interested in working collaboratively with CHS staff is belied by what occurred

after Mr. Wolf was given the staffing documents the day before the October BOC meeting. He said he called Mr. Erazo two weeks ago and attempted to meet with whoever had prepared the documents so that BOC staff could begin to understand them. Mr. Wolf said that despite numerous conversations with Mr. Tannenbaum, there had been no meeting. He said BOC staff would work with anyone who was interested in improving correctional health care services.

Dr. Bernard said he previously has offered to meet at any time with members of the "CHS team" to address problems, but that there is no basis upon which to pursue problems if BOC staff is unable to obtain information from CHS to provide to Dr. Bernard.

Mr. Schulte suggested that BOC and CHS nursing staff go together to the clinic visited by Acting Chair Horan to attempt to fix the problems he identified.

Board Member Barbara Margolis asked when BOC could expect specific responses to the issues raised by Mr. Lenefsky. Acting Chair Horan said CHS had agreed to provide a schedule by the end of the week.

Mr. Cruz then said he would not make a motion for a formal hearing at this time. He asked about the status of his proposal, raised at last month's BOC meeting, for a working group to address the issues the Board has raised. Mr. Lynch said that CHS's "systemic task force" and its subcommittees are addressing the issues. He added that BOC has representation on those groups. Mr. Tannenbaum added that the groups were focusing on access to sick call and specialty clinics. Mr. Horan observed that Mr. Cruz was referring to direct dealings between CHS and BOC, and said that the fact that a meeting had not occurred to review the staffing information was a serious problem.

Mr. Tannenbaum said that several CHS managerial staff are now working on Rikers Island, with offices on a ferry. DOC is renovating a Sprung structure which will become CHS's permanent office on Rikers Island. He said the move will enable CHS to monitor St. Barnabas in a way that it had not been able to do before.

Mr. Schulte again raised the issue of Mr. Wolf being unable to obtain information from CHS. Mr. Horan said he hoped that by the December meeting progress will have been made.

The meeting was adjourned at 2:05 p.m..