



NEW YORK CITY
BOARD OF CORRECTION

May 10, 2016 Public Meeting Minutes
125 Worth Street, New York, NY, 10013 – Second Floor Auditorium

MEMBERS PRESENT

Stanley Brezenoff, Chair
Derrick D. Cephas, Esq., Vice Chair
Gerard W. Bryant
Robert L. Cohen, M.D.
Honorable Bryanne Hamill
Jennifer Jones Austin, Esq.
Michael Regan.
Stanley Richards
Steven M. Safyer, M.D.

Martha W. King, Executive Director

DEPARTMENT OF CORRECTION

Joseph Ponte, Commissioner
Martin Murphy, Chief of Department
Dr. Nichole Adams, Deputy Commissioner
Cynthia Brann, Deputy Commissioner
Timothy Farrell, Deputy Commissioner
Winette Saunders-Halyard, Deputy Commissioner
Peter Thorne, Deputy Commissioner
Angela Tolosa, Assistant Commissioner
James Walsh, Deputy Commissioner of Adult Programming
Heidi Grossman, Esq., Deputy Commissioner of Legal Matters/General Counsel
Sean Cussen, Deputy Director of Investigations
Gregory Kuczinski, Acting Deputy Commissioner
Danielle Leidner, Director for Intergovernmental Affairs
Jeff Thamkittikasem, Chief of Staff
Marisa Alberti, Policy Analyst
Melissa Andre, Compliance Analyst
Anna Marzullo, Senior Policy Advisor
Carleen McLaughlin, Director of Legislative Affairs and Special Projects
Frances Taormina, Project Management Analyst
Francis Torres, Director of Education

Benjamin Seebaugh, Staff Analyst
Faye Yelardy, Director of Special Projects
Eve Kessler, Director of Public Affairs
Marsha Elliot, Captain
Elizabeth Seibold, Press Officer
David Lopez, Correction Officer
Mackenzie Dancho, Intern

HEALTH AND HOSPITALS CORPORATION/CORRECTIONAL HEALTH SERVICES

Homer Venters, M.D., Assistant Commissioner, Bureau of Correctional Health Services
Ross MacDonald, M.D., Medical Director
Elizabeth Ward, Senior Director, Correctional Health
Patrick Alberts, Agency Attorney, Division of Prevention and Primary Care
Levi Fishman, Associate Director of Public Affairs
Patsy Yang, DrPH, Executive Deputy Commissioner and Chief Operating Officer
George Axelrod, Chief Risk Officer
Carlos Castellanos, Director of Operations
Lucia Caltagirone, Agency Attorney Intern

OTHERS IN ATTENDANCE

Anna Andel, Columbia University Mailman School of Public Health
Robert Berry, Craven Films
Natalie Block-Levin, Jails Action Coalition (JAC)
Shande Burch, Student
Dahiana Castillo, Office of Management and Budget (OMB)
Angel Castro, Correction Officer's Benevolent Association (COBA)
David Condliffe, NYC Bar Association
Joyce Conley, The Moss Group
Brian Crow, New York City Council
Laurie Davison, Doctors Council SEIU
Kelsey De Avila, Brooklyn Defender Services
Margret Egan, CUNY
Riley Doyle Evans, Brooklyn Defender Services/JAC
Erin George, JustLeadershipUSA (JLUSA)
Elizabeth Gewirtz, JAC
Dennis Gonzalez, Nunez Mentorship
David Hafetz, Institute for State and Local Government (ISLC)
Deborah Hertz, Urban Justice Center
Sara Kerr, Legal Aid Society (LAS)
Deandra Khan, New York Civil Liberties Union
Deryck Khan, Student
Mik Kinkead, Sylvia Rivera Law Project (SRLP)
Tanya Krupat
Victoria Law, Independent
Caroline Lewis, Press
Jeff Mailman, NY City Council

Jonas Martin, JLUSA
Amanda Masters, NYC Public Advocate – Hon. Letitia James
Kathleen McKenna
Andre Moss, Moss Group
Celia Rhoads, Law Department
Elizabeth Mayers, JAC
Warren Ovalle, Public
Jennifer Parish, Urban Justice Center /JAC
Juana Peralta, SRLP
Kathryn Pliml, Brooklyn Defender Services
Charlotte Pope, Children’s Defense Fund -NY
Grace Price, JAC
Raven Rakia, Press
Corinne Ramey, Wall Street Journal
Steve Riestler, NYC Council, Finance Division
Marc Steier, COBA
Bella Week, SRLP
Keith Zobel, NYS Commission of Correction

The start of the public meeting was delayed due to a fire drill at 125 Worth Street.

March 8, 2010 Meeting Minutes

Chair Brezenoff asked for a motion to approve the March 8, 2016 meeting minutes; Vice Chair Cephas moved the item and Member Richards seconded. There were no amendments. Chair Brezenoff asked for a vote on approving the minutes and they were approved unanimously.

Election of Board Vice Chair

Chair Brezenoff moved the re-election of Derrick Cephas as Vice Chair of the Board for a term running through January 2017. Member Safyer seconded. The Chair asked for discussion and there was none. Chair Brezenoff asked for a vote on the item. The Vice Chair's re-election was approved unanimously.

Adolescent and Young Adult Committee Update

Chair Brezenoff asked Member Hamill to report on the ad hoc Young Adult and Adolescent Committee. Member Hamill reported that all adolescents, including those in TRU and SCHU, were going to school. In addition, the Department had created a dormitory at RMSC specifically for the young women, who are going to school and receiving additional programming. Member Hamill also remarked on the opening of the PEACE (Program Education and Community Engagement) Center – a large, open space for additional programming at GMDC.

Member Hamill reported that GMDC was calmer than she had ever seen it in the two and a half years she has served on the Board. When she visited the facility recently, many of the young people in TRU and SCHU were in school and those who were not were actively engaged with counselors and officers. It appeared that the units were off to a good start. Member Hamill remarked that, two years ago, many of these young adults would have been in punitive segregation. She ended her report by saying that the Mayor and the Department are on the verge of an historic and momentous moment – the end of punitive segregation for young adults.

Department of Correction Young Adult Plan Update

Ending Punitive Segregation for Young Adults/GMDC

Jeff Thamkittikasem (Chief of Staff) provided an update on the Department's punitive segregation reform efforts under Commissioner Ponte's leadership. In addition to ending punitive segregation for adolescents, the Department has reduced the number of young adults in punitive segregation by 70 percent. As of this date, there are 38 young adults remaining there and DOC is firmly committed to ending punitive segregation for all 18-21 year olds.

640 young adults, or 73 percent of the young adult population slated for placement in GMDC, are now housed there. Young adults in CAPS, PACE and detox units, and other members of this population who are exempt from placement in GMDC, will continue to be housed elsewhere. At GMDC, work involving cell doors, cameras, and TV installation is moving forward; staff is being trained; and there is a special focus on programming. The Department still plans to eliminate punitive segregation for young adults in June 2016, and in doing so, will set a national precedent.

Secure Units

The Chief of Staff gave a presentation on the Secure Units, including a power point description which is available [here](#). He stated that these Units would house young adults who had engaged in persistent, violent behavior that could not be addressed in TRU or SCHU. Secure Units will have a high officer-inmate ratio, and the officers will be trained in cognitive behavioral intervention, crisis management and direct supervision. Initially, young adults will receive three hours of daily programming, which will include dialectical behavior therapy, interactive journaling and individual counseling, with proposed additions of creative writing, art courses and physical exercise. Recreation will take place in an open outdoor yard. Placement in the Units will be adjudicated with regular reviews and an opportunity to appeal, similar to ESH and PHD processes.

Mr. Thamkittikasem said the Secure Unit program model is based on best practices at DOC (e.g., Second Chance, TRU, ESH) and in other jurisdictions, and is divided into three phases. Young adults graduate into the second and third phase based on compliance with their individual treatment plans, lack of infractions, and positive interaction with their peers. Each successive phase is associated with increased incentives such as more lock-out time and increased commissary spending.

Commissioner Ponte noted the importance of continuing punitive segregation for some period of time after the Secure Units open to demonstrate to staff that these Units are a safe alternative to punitive segregation. Member Hamill asked why DOC had not requested a variance permitting the Department to keep punitive segregation open past June 1. The Commissioner responded that they are working as quickly as they can and that there a lot of moving parts to deal with in meeting this deadline. He voiced his concern that DOC is operationalizing an alternative to punitive segregation, which has not been undertaken anywhere else in the country. In response to Member Safyer's question about how much additional time the Department required, the Commissioner said an additional 30 days.

Member Cohen asked why young adults currently housed in punitive segregation could not be locked out more than one hour per day pending the opening of the Secure Units. The Chief of Staff responded that given the construction that was underway, that would not be possible. Member Cohen asked, hypothetically, whether a young adult who commits a 30-day infraction and who does not participate in programming, would be held in a Secure Unit more than 28 days. Commissioner Ponte responded that one size does not fit all and that the Department must consider a variety of factors relevant to a particular inmate. Finally, Member Cohen voiced concern that young adults could remain in Secure Units indefinitely.

The Chair stated that a special Board meeting later in the month may be required to consider the Department's request for a variance extending the Department's time to end punitive segregation for young adults.

Member Hamill said that she had recently visited the construction site for the Secure Units and that these Units are a vast improvement over the NIC. Law library kiosks will be used; the day rooms are larger than NIC's; and there is a fairly large space for clinical programming and a nice classroom. Additionally, a congregate recreation space is being built adjacent to the Units while a mini clinic is being constructed in close proximity to them. Member Hamill noted that the

Department had not yet provided the Board with a directive on the Secure Units but that such directive would be required before any young adults are housed there.

Public Comment on the Variance Request

Public comment was heard on the Department's request for a six-month variance commencing on May 10, 2016, during which the Department may provide young adults housed in Secure Units with a minimum lock-out time of ten (10) hours per day and access to law library services by means of a law library kiosk and typewriters in the Secure Units.

Jennifer Parish (UJC/JAC), Natalie Block Levin (JAC), Kelsey De Avila (Brooklyn Defender Services/UJC), and Riley Doyle Evans (Brooklyn Defender Services/UJC), Charlotte Pope (Children's Defense Fund – New York), and Amanda Masters (Public Advocate) addressed the Board. Their comments are available at <https://youtu.be/YnUoRF1J0Kk?t=54m33s>.

Discussion of Secure Unit Variance

Member Cohen proposed three amendments to the variance.

First Proposed Amendment

Member Cohen proposed that instead of a 6-month variance, the Board grant one for a shorter period of time, i.e., until the September Board meeting.

Chair Brezenoff asked for a second on the motion; Member Cephas seconded; and the Chair asked for the Department to comment. The Chief of Staff said that a period of less than six months would not be sufficient time to fully assess the effectiveness of the program model in managing young adults who have engaged in persistent, violent behavior.

Member Hamill noted that, in addition to the Board, the *Nunez* Federal Monitor would be reviewing the Department's draft directive regarding operation of the Secure Units. She expressed her support for the six-month variance. Vice Chair Cephas voiced his concern that the Board is often granting extensions to the Department, but if the Department fails to evaluate its actions under the variance in a timely manner, the six-months would become a year.

After hearing further comment from Members Jones-Austin, Bryant, and Richards, and Vice Chair Cephas, the Chair called a vote on the amendment. Two (2) voted in favor (Vice-Chair Cephas and Member Cohen); while seven (7) opposed (Chair Brezenoff and Members Jones Austin, Bryant, Hamill, Safyer, Richards, and Regan). Accordingly, the amendment failed.

Second Proposed Amendment

Member Cohen proposed that the maximum duration of a young adult's placement in a Secure Unit not exceed the maximum punitive segregation sentence the young adult would have received for the infraction.

Mr. Thamkittikasem stated that once punitive segregation ends, the Department will not be "sentencing" young adults to Secure Units for infractions, because the program model is therapeutic, not punitive.

Deputy Commissioner Adams explained that the behavioral treatment model requires that young adults remain in the first phase of the program for at least 28 days in order to effectuate true behavioral change. A discussion then ensued among various Board members about whether the Secure Units are therapeutic or punitive in nature and whether additional protections are needed for young adults who are placed in these Units. Chair Brezenoff concluded the discussion by stating that the Board would examine these issues more closely once it receives more information from the Department about how these Units are operating.

The Chair then asked whether Member Cohen and Member Richards (who had earlier expressed support of the proposed amendment), would withdraw the amendment pending the Department's evaluation of the Secure Units after they have been operationalized. Upon both Members' agreement, the proposed amendment was withdrawn.

Third Proposed Amendment

Member Cohen proposed an amendment requiring the Department to provide to the Board with a directive regarding the Secure Units prior to the next Board meeting. Member Cohen then withdrew the amendment upon being informed that this requirement was already a condition to the requested variance.

Member Hamill proposed four conditions to the requested variance and stated that the Department had agreed to them.

Proposed Condition No. 1

Member Hamill read out loud the first proposed condition: "During the pendency of this Variance, the Department shall (a) provide all young adults housed in Secure Units with a minimum out-of-cell time of ten (10) hours per day, except for instances of de-escalation the parameters of which shall be set forth in the Department's written directive concerning Secure Units; (b) provide all young adults with due process in connection with their placement in Secure Units; and (c) exclude all young adults with serious mental or serious physical disabilities or conditions from placement in Secure Units."

Chair Brezenoff seconded the motion and asked for discussion. Hearing no discussion, Chair Brezenoff called the question. The condition passed unanimously (Chair Brezenoff, Vice Chair Cephas, Members Jones Austin, Bryant, Cohen, Hamill, Safyer, Richard). Member Regan was absent for this vote.

Proposed Condition No. 2

Member Hamill read out loud the second proposed condition: "During the pendency of this Variance and before the assignment of any young adults to Secure Units, the Department shall provide the Board of Correction with a Directive, which shall include a detailed description of:

(a) The specific due process protections that each young adult will be provided in connection with his placement in a Secure Unit (e.g., written notice stating reasons for placement, a hearing, ability to submit a written statement, call witnesses and present evidence, hearing facilitator if necessary, burden of proof, written decision, post-transfer periodic review with advance notice of review and ability to submit written statement);

- (b) Admission criteria, including the specific role that the Correctional Health Authority will play in the initial placement and periodic review process and the categories of young adults who will be excluded from Secure Units;
- (c) Staffing (e.g., staffing ratios, steady posts, staff positions; specialized staff training);
- (d) Security procedures (e.g., use of enhanced restraints);
- (e) De-escalation parameters;
- (f) The treatment of a young adult's owed punitive segregation time upon entering a Secure Unit;
- (g) Mandated and other services (including recreation, sick call and other health care/mental health care services), phone calls, visits, law library, education, commissary) and limitations on accessing them (e.g., whether recreation will be congregate or in individual cages; whether educational instruction will be provided in classroom or in cell);
- (h) Therapeutic and other programming; and
- (i) Description of privileges that can be earned.”

Chair Brezenoff called the question on the item and it was unanimously approved (Chair Brezenoff, Members Jones Austin, Bryant, Cohen, Hamill, Richards). Vice Chair Cephas and Members Safyer and Regan were absent for this vote.

Proposed Condition No. 3

Member Hamill read out loud the fourth proposed condition: “During the pendency of this Variance, the Department shall provide the Board with a monthly written assessment of its operation of Secure Units, which shall include the following information:

- (a) The housing units from which young adults were transferred to Secure Units and the number transferred from each such unit;
- (b) The number of young adults in Secure Units' Phase I, Phase II and Phase III and the minimum, maximum, median and average length of stay in each Phase;
- (c) Number of young adults participating in each therapeutic or other program;
- (d) The number of young adults who subsequently were released into Second Chance, Transitional Restorative Unit (TRU), or other housing unit and the number released into each such unit;
- (e) The number of young adults who challenged their initial placement in a Secure Unit and the number who were subsequently placed elsewhere;
- (f) The number of young adults who received a periodic review and the number who were released from a Secure Unit as a result of such review;

- (g) The number of young adults in Secure Units who were placed in de-escalation areas, including the minimum, maximum, median and average length of time in such areas;
- (h) The rates of violence in Secure Units and the young adult general population since implementation of Secure Units;
- (i) The rates of use of force in Secure Units and the young adult general population since implementation of Secure Units; and
- (j) The rates of acts of self-harm in Secure Units and the young adult general population since implementation of Secure Units.

The Department shall provide the Board with its first monthly assessment by August 10, 2016 and shall provide an assessment for each month thereafter on the tenth business day of the following month. In the event the Department experiences difficulty in reporting on any items enumerated in (a) through (j) of this condition, the Department shall provide the Board with a written explanation of such difficulties.”

Chair Brezenoff seconded the item and asked for discussion. Hearing none, he called the question. The condition passed unanimously (Chair Brezenoff, Vice Chair Cephas, Members Jones Austin, Bryant, Cohen, Hamill, and Richards). Members Safyer and Regan were absent for this vote.

Proposed Condition No. 4

Member Hamill read out loud the fourth and last proposed condition: “During the pendency of this Variance, the Department shall continue to (a) provide the Board with a monthly progress report on its implementation of the Young Adult Plan and implementation of alternatives to punitive segregation (i.e., Second Chance, TRU and Secure Units); and (b) provide its progress report for each month on the fifth business day of the following month.”

Chair Brezenoff seconded the item, and asked for discussion. Hearing none, he called the question. The condition passed unanimously (Chair Brezenoff, Vice Chair Cephas, Members Jones Austin, Bryant, Cohen, Hamill, and Richards). Members Safyer and Regan were absent for this vote.

Chair Brezenoff then asked for discussion on the variance request including the four conditions. Member Hamill said that the conditions are meant to ensure that (1) the Secure Units operate as described by the Department; (2) DOC drafts a comprehensive directive before opening the Units so that both the Board and the *Nunez* Monitor can review it; and (3) the Board can monitor DOC’s compliance with the directive and the effectiveness of the Secure Units in managing young adults who have engaged in persistent acts of violence. Member Hamill further noted that the Board intends to conduct rulemaking regarding restrictive housing units, including the Secure Units, and that the Department’s reports on these Units would inform the Board’s rulemaking on this subject.

Chair Brezenoff then called the question on the variance with the four approved conditions. The variance with all four conditions passed unanimously (Chair Brezenoff, Vice Chair Cephas, Members Jones Austin, Bryant, Cohen, Hamill, and Richards).

Executive Director's Update

Executive Director (“ED”) King reported that the Board’s budget had increased to approximately \$3 million or more than twice its budget for FY15. She thanked the Board’s partners, the City Council and City Hall for supporting a strong, active, and more effective Board of Correction.

ED King announced that there are three new reports on the Board’s website: H+H’s monthly report on inmates’ access to medical and mental health care; the Board’s first monthly report on visit restrictions; and a quarterly report on punitive segregation.

The Executive Director said that the next Board meeting – on June 14 – would focus on punitive segregation. Expiring on that date is the limited variance authorizing the Department in highly exceptional circumstances presenting safety and security concerns, to waive the requirement that inmates be immediately released from punitive segregation for seven (7) days after they have been held in punitive segregation for 30 consecutive days. ED King further stated that the Board anticipates that by June 1, the Department will provide the Board with a major report on violence reduction and alternatives to prolonged stays in punitive segregation.

ED King thanked the Board’s partners who had submitted letters regarding this month’s variance request. She explained that the Board is working on a better system for communicating updates on its website and until that system is formalized, the Board will email all variance requests to interested parties.

Due to the delay in starting the meeting, the Chair moved the next two agenda items (Monthly Progress Report on Health Care and Suicide Prevention) to the May meeting.

PREA Rulemaking Update

Chair Brezenoff thanked the Public Advocate for putting the issue of sexual violence in the jails front and center by filing a petition for PREA rulemaking. He said the Board has been working diligently on a proposed rule and has leaned heavily on experts in the field to inform their work. The Chair noted that while the Board had hoped to vote on a proposed rule at this meeting, the complexities of rulemaking in this area required the Board to take more time in developing a proposed rule. He said the Board’s current expectation is that it will publish a proposed rule in advance of its June meeting.

DOC Visit Workgroup

Member Richards reported on the visit workgroup, which DOC created to enhance the inmate visiting experience at Rikers. He and other members of the workgroup have met regularly with the Department and described their discussions as having moved two steps forward and one step back. Member Richards asked the Chair and the Executive Director to put visits on the standing agenda and to request comment from the Department. He said that he would like this issue to be part of the public conversation.

Member Cohen said he found the new visit tables disturbing. He noted that the booth visit areas at GRVC are terrible – the walls through which visitors and inmates communicate are scratched and they cannot hear what each other is saying.

Member Richards asked that as Board staff expands, it devote resources to monitoring the visit areas and the visit house.

Public Comment

The full public comment period can be viewed at <https://youtu.be/YnUoRF1J0Kk>. The Board was addressed by Kelsey De Avila, Tanya Krupat, Elizabeth Mayers, Xena Grandichelli, Kelly Grace Price, Mik Kinhead.

At the conclusion of public comments, Chair Brezenoff adjourned the meeting.