

**NEW YORK CITY
BOARD OF CORRECTION**

May 12, 2005

MEMBERS PRESENT

Hildy J. Simmons, Chair
John R. Horan, Vice Chair
Stanley Kreitman
Jane Paley Price
Michael Regan
Alexander Rovt
Paul A. Vallone
Gwen Zornberg, M.D.

An excused absence was noted for Member Richard Nahman, O.S.A.

DEPARTMENT OF CORRECTION

Martin Horn, Commissioner
Tom Antenen, Deputy Commissioner for Public Information
Florence Hutner, Deputy Commissioner for Legal Matters
Judith LaPook, Chief of Staff
Mark Cranston, Deputy Warden in Command, Office of Policy and Compliance (OPC)
Elizabeth Myers, Director, OPC

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

George Axelrod, Director of Risk Management, Correctional Health Services (CHS)
Robert Berding, Director, Clinical Services, CHS
Bruce David, M.D., Mental Health Director, CHS
Donald Kern, M.D., Medical Director, CHS
Nancy Miller, M.D., Coordinator, Chronic Disease Program
Michael Tannenbaum, Executive Director, Vendor Operations & Support Services

OTHERS IN ATTENDANCE

Jeff Krupski, Mayor's Office of Operations
Trevor Parks, M.D., Medical Director, Prison Health Services (PHS)
Becky Pinney, Group Vice President, PHS
Paul von Zielbauer, *New York Times*

New Chair Hildy J. Simmons announced that her first order of business was to thank former Chair Stanley Kreitman who will continue to serve as a Member of the Board of Correction. Chair Simmons welcomed two new Members, Alexander Rovt and Dr. Gwen Zornberg.

A motion to approve minutes from the March 2005 meeting was approved without opposition. Chair Simmons asked Mr. Kreitman to give a report from the Minimum Standards Review Committee.

Mr. Kreitman said that the Minimum Standards are one of the most important functions of the Board. He described the process he established for review, as follows: first he established a committee to meet internally, to determine whether any Standards provisions were no longer appropriate or required language changes; the second step would be a joint meeting of the staffs of BOC and the Department of Correction to hear suggested changes from DOC; then, the Board would meet to review the results of the joint staff meeting; then BOC would solicit comment from other groups, including unions and the Legal Aid Society; finally the Board would debate and vote on potential changes to the Minimum Standards. Mr. Kreitman said the Review Committee met twice and considered several changes. He said the Chair could reconstitute the committee. He noted that the process of revising the Minimum Standards is complicated and needs to be thought about carefully. Chair Simmons said some very good work had been done by the Committee. She asked the Board and DOC staffs to meet to consider the work done thus far, and to compile for the Board a list consisting of three categories: first, provisions that require revision because the law has changed; second, provisions that either the Board or the Department feel should be reviewed because of the amount of time that has elapsed since passage; and third, those provisions that are as relevant today as when they were first adopted in 1978. Chair Simmons asked that the staffs meet and report to the Board by its next meeting. DOC Commissioner Martin Horn said the Department had identified provisions for which variances have been in effect without untoward effects, suggesting that the Standards provisions should be changed. He added that Mark Cranston and the Office of Policy and Compliance will share its work with BOC staff. The Commissioner added that DOC had compared BOC Standards with those of the State Commission of Correction and those of the American Correctional Association. He noted that changes to the Standards must comply with the City Administrative Procedure Act (CAPA). Chair Simmons said that the Board is aware of the need to comply with CAPA requirements. Executive Director Richard Wolf said that CAPA requires a sign-off by the Law Department that rule changes do not exceed the authority of the Board. He said that the Board's Standards Review Committee had identified several variances that it recommended be converted into amendments to existing Minimum Standards provisions.

Commissioner Horn acknowledged Mr. Kreitman's leadership and expressed his appreciation for Mr. Kreitman's cooperation, courtesies and friendship. The Commissioner then presented a report from the Department, as follows:

There was a suicide on May 8th. At 11:15 a.m., inmate Jay Labanca was found hanging from a bed sheet in his general population cell at the George R. Vierno Center (GRVC). A parole violator, Labanca had been in custody for just over one month, having earlier been released from state custody after serving a sentence of 11 to 22 years for robbery. His next court date on the parole

violation was to have been May 11th. He had no prior mental health history with DOC or while in State custody. Labanca had returned from a visit approximately one hour before he was discovered, and had made a telephone call between the time he returned from the visit and the time he was found hanging. Staff response appears to have been prompt and appropriate.

Inmate Charon Watkins committed suicide in the Central Punitive Segregation Unit on March 18. At 6:18 p.m. Watkins was discovered in a seated position on the floor – with a sheet tied around his neck and attached to the top of the sink -- by a correction officer during the institutional feeding. The air vents in the cell had been retrofitted. BOC staff have reviewed the videotape, which was produced by wall-mounted cameras. Officers are required to make rounds every half hour and, although they were busy, the officers did not make the required rounds. Charges are pending against officers. The inmate may have covered over the cell door window. Watkins was serving 90 days in punitive segregation. He left a note, indicating he was tired of living. Once Watkins was found, the staff response was appropriate. There was no indication on Watkins' intake forms that a suicide watch was indicated.

Mr. Wolf asked about the absence of inmate observation aides in the area. Commissioner Horn said that observation aides were not on duty. He said DOC is “trying to be very careful about who we put in punitive seg” as observation aides. He said observation aides are no substitute for staff. Member Jane Paley Price asked what the Department intends to do, noting the “air vents situation” and some staff liability. Commissioner Horn said DOC's suicide prevention and screening are as aggressive as any in the country. He said that short of building new facilities and putting all inmates in bedding that cannot be torn “there is not a whole lot more we can do.” He added that staff training includes a videotape. Commissioner Horn said that DOC is working collaboratively with the health providers, and is enlisting the help of other inmates. He said that the design of the new 800 cells DOC will build at GRVC will be influenced by the new Westchester County Jail construction, and will include high ceilings and sinks and toilets that will have no parts to which anything could be tied. Ms. Paley Price asked about the air vents. The Commissioner said the problem is not just the vents. He said one could argue that suicide-resistant bedding could be used in CPSU. Member Alexander Rovt asked if DOC had information as to whether inmate Watkins had told anyone he was considering suicide. Commissioner Horn said there might have been a death in the family or he might have broken up with his fiancée. Mr. Rovt asked how long Watkins had been in jail. Commissioner Horn said Watkins was taken into custody on January 10th. Mr. Rovt asked if Watkins had expressed suicidal thoughts to the doctors. Commissioner Horn said no. Member Paul Vallone asked whether DOC had any recommendations to improve communications between DOC staff and the health providers regarding inmates who have psychiatric issues, including isolating them in a better way. Commissioner Horn said that when mental health providers believe an inmate is at risk for self-harm, they will place the inmate in a mental observation area or on a one-on-one suicide watch. He added that uniformed staff are aggressive in reporting disturbing behavior to mental health. The Commissioner said that the suicide rate in City jails is one-half the nation-wide rate, and it is lower than the rate among the residents of New York City. Mr. Vallone asked if there is another model for suicide prevention in jails that could be implemented. Commissioner Horn said he was unaware of the existence of one. Ms. Paley Price asked whether it was significant

that the suicide occurred on Mothers' Day. Commissioner Horn said it would be pure speculation on his part. Ms. Paley Price asked whether DOC "heightens alerts" around holidays. Commissioner Horn said DOC does this.

Commissioner Horn continued his report, as follows:

There were two recent lockdowns. At the George Motchan Detention Center (GMDC), on May 1, 2005 there was a "substantial" fight in the yard. The fight was over "turf" in the yard – who could be in the shady area of the yard and who could walk the track. Several inmates were slashed. DOC locked down 786 inmates. There was a subsequent fight the next day in GMDC. It appears that the tension is a result of groups of inmates extorting other inmates for commissary and controlling access to food. Some of the instigators have been identified. This does not seem to be a continuing source of tension.

Member Michael Regan asked if the incident was gang-related. Commissioner Horn said this always is a concern. He said some of the inmates had been identified as members of security risk groups (SRGs) and some had not. He said individual inmates are responsible for their own actions, and DOC does not negotiate with "groups" of inmates because to do so could elevate the status of a particular group of inmates. Commissioner Horn said he did not believe there was a hierarchy, but rather that situations vary from housing area to housing area. He said there was additional information he would prefer to discuss in another setting. Chair Simmons said she would entertain a motion to go into executive session to continue the conversation at the end of the public meeting. Ms. Paley Price so moved and her motion passed without opposition. Mr. Kreitman asked what kinds of weapons were used in the slashings. Commissioner Horn said that most weapons generally recovered are sharpened pieces of metal broken off from facility radiator covers or hot water heaters, which are sharpened and embedded in toothbrushes. He said a recent stabbing was accomplished with a pen, and that sharpened pieces of plexi-glass from light fixtures and metallic molding also are used as weapons. He said that very small razors that are not picked up by magnetometers also have been recovered. The Commissioner added that there have been 24 stabbing or slashing reports this fiscal year; last year there were 40; in 1999 there were 102.

Chair Simmons next requested a report from the Department of Health and Mental Hygiene (DOHMH). Robert Berding, Clinic Director for Correctional Health Services (CHS), thanked outgoing BOC Chair Stanley Kreitman for his efforts and assistance. He reported as follows:

Correspondence from the Board regarding the suicide of inmate Pennington will be responded to in writing next week. Regarding correspondence BOC has received from the Nursing Association concerning HIV testing, it is DOHMH's position that the Nursing Association's position is "unfortunate" but the testing program is going forward as DOHMH is "exploring its options".

Early monitoring reports regarding dental services under the new contract have raised concerns. The number of dentists has been reduced and

DOHMH is looking at the role of support staff in organizing dental clinics to run efficiently. The agency commits to restoring resources if monitoring continues to reveal problems.

Chair Simmons asked for the time frame by which a decision will be made. Mr. Berding said that within the next month DOHMH will be able to decide exactly what is causing the problem. Chair Simmons asked whether the matter will be addressed by the Board's next meeting. Mr. Berding said that by the June meeting DOHMH either will have taken action or will have decided what action, if any, needs to be taken and will present an implementation schedule. Ms. Paley Price said she raised the issue at the Board's March meeting. Noting that the average inmate's stay is very short, she urged Mr. Berding to attend to the issue promptly. Mr. Berding agreed, and stated that the reductions took effect in late February so DOHMH has not had much time to monitor and analyze the issue. Mr. Berding continued his report:

FTEs ("full-time equivalents") have been added to the mental health staff. The "Frontline" television program earlier in the week presented the difficulties of providing mental health services for an inmate population, although it blurred some of the statistics: jails and prisons, mental health and substance abuse. The exact number of FTEs will be provided to the Board. Recruitment continues, but it is an industry-wide issue. Ads have been placed in the *New York Times* and area professionals are being solicited directly.

Mr. Regan asked Mr. Berding to present the number of new hires at the next Board meeting. Mr. Berding agreed, and noted that DOHMH has instituted a pro-active mental health model that identifies mental health needs of inmates and responds appropriately. He said that DOHMH has a number of supervising psychiatrists who promote greater continuity of services by reviewing all the cases of individual practitioners. Mr. Regan asked if this means an inmate will see the same mental health provider. Mr. Berding said that this is one goal; the other is to increase the mental health presence on the evenings and weekends. He said the plan is to develop a core group of therapists to manage each jail's caseload. Mr. Wolf said that in the "Frontline" program, the Ohio Corrections Director said he now operates the largest *de facto* mental hospital in his state. Mr. Wolf asked if there is a City-wide collaborative initiative to divert more mentally-ill people into treatment rather than jail. Commissioner Horn said that he and DOHMH Commissioner Thomas Frieden met with Criminal Justice Coordinator John Feinblatt to discuss opening a fourth mental health court, in Queens. The Commissioner agreed that the best solution is to keep mentally-ill people out of the criminal justice system and provide them with needed services. Mr. Berding said that DOHMH works with Alternatives to Incarceration programs to work towards this goal. Chair Simmons asked if Deputy Commissioner James Capozziello will attend the Board's June meeting. Mr. Berding said he did not think so.

Mr. Regan noted that DOC received considerable media attention at the Tribeca Film Festival. All agreed that the documentary "Rikers High" was an excellent film, and it was noted that the film will appear on the Showtime channel. Chair Simmons asked to be informed when it will be shown. Commissioner Horn said that the film showed the

dedication of the teachers and officers, and also the difficulties that the youngsters face upon release. He said this was true as well of the “Frontline” program, which documented that of the six released prisoners whose situations were followed by the program, five returned to prison. He said the former prisoners stopped taking their medications shortly after being released, and promptly got in trouble.

Commissioner Horn asked BOC staff to look into new plans for a variance to house additional inmates in dormitories at the Vernon C. Bain Center (VCBC). He said that with the approach of summer, DOC has a large number of “heat sensitive” inmates who by court order must be placed in climate controlled housing areas. The Commissioner said DOC has a very small number of locations with good air conditioning systems, and VCBC is one of those places. He said DOC has a “new approach” and wishes to house an additional five inmates in each of the dormitories at VCBC, for a total of 70 additional beds. Commissioner Horn said that one option would be for the Board to grant the variance for a time-limited period, from June through October. He said square footage per inmate would be reduced from 63 to 57 square feet. Mr. Rovt asked if the dormitories currently house 50 inmates, as did dormitories he visited on Rikers Island. Commissioner Horn said yes, and noted that the dormitories have very large dayrooms. He said that DOC considered moving a wall to increase dormitory space but it would be expensive and take too long to do so. Chair Simmons said DOC would have a response by the June meeting.

Chair Simmons proposed that the Board and Department conduct an inspection tour on Rikers Island in July. She suggested that the tour begin in the morning and end at lunch time. Commissioner Horn agreed.

Mr. Vallone asked for DOHMH’s reaction to the state of its contractual relationship with Prison Health Services. He said the Board has concerns about the health care that is being provided. He noted a recent report that PHS is being investigated by the State. Mr. Berding said that DOHMH is in favor of any investigation that brings new information to light. He said DOHMH will continue to monitor the contract carefully and thoroughly.

A motion to renew existing variances was approved without opposition. The public meeting was adjourned at 1:52 p.m. and the Board went into Executive Session until 2:10 p.m.