

**NEW YORK CITY  
BOARD OF CORRECTION**

**September 11, 2008**

**MEMBERS PRESENT**

Hildy J. Simmons, Chair  
Stanley Kreitman  
Rosemary Maldonado, Esq.  
Alexander Rovt  
Paul A. Vallone, Esq.

Excused absences were noted for Vice Chair Michael Regan and Members Pamela Brier and Milton L. Williams, Jr., Esq.

**DEPARTMENT OF CORRECTION**

Martin Horn, Commissioner, NYC Department of Correction  
Mark Cranston, Deputy Chief of Staff and Commanding Officer, Office of Policy & Compliance (OPC)  
Ronald Greenberg, Director of Inspections, OPC

**DEPARTMENT OF HEALTH AND MENTAL HYGIENE**

Jason Hershberger, M.D., Assistant Commissioner, Correctional Health Services (CHS)  
George Axelrod, Esq., Director, Risk Management, CHS  
Charles Luther, M.D., Director of Mental Health, CHS  
Dwayne Turner, Deputy General Counsel

**OTHERS IN ATTENDANCE**

Harold Appel, M.D. Contract Administrator, Doctors' Council, SEIU  
Trevor Parks, M.D., Medical Director, Prison Health Services (PHS)  
Kerry Spitzer, Budget and Policy Analyst, Independent Budget Office (IBO)  
Milton Zelermyer, Esq. Legal Aid Society, Prisoners Rights Project (PRP)

Chair Hildy Simmons called the meeting to order at 9:35 a.m., and noted that September 11 is a day of commemorative events all over New York City. The minutes of the July, 2008 Board meeting were approved without opposition.

Chair Simmons discussed the Board's decision at the July meeting to modify the meeting schedule, and to make a commitment to spend more time visiting DOC facilities, collectively or individually. She said the Rikers Island inspection has been scheduled for October 6<sup>th</sup>, when the most Members are available. She said the Board will gather at approximately 9 a.m. and that Executive Director Richard Wolf will arrange for transportation, if necessary, with DOC. Chair Simmons noted that time constraints may permit inspection of only three areas, so Members should decide upon areas beforehand. She said the Board should review DOC's progress in rolling-out the amended Standards, and suggested that Members spend time with DOC staff who have been trained in new procedures authorized by the amendments, especially phone call monitoring and recording, and opening mail and packages. DOC Commissioner Martin Horn reported that DOC recorded 460,000 phone calls but that it may be another month before recording is performed at all jails. He said that only 33 phone calls were monitored as a result of requests from DOC officials, and 159 phone calls were monitored as a result of requests from District Attorneys' offices. He reported that no correspondence was delayed, opened or read. Commissioner Horn said that, thus far, phone numbers have been listed as privileged for 91,000 attorneys and 8,500 staff members from oversight agencies, but no clergy or physicians have submitted phone numbers for inclusion on the Do Not Record list.

Chair Simmons suggested that during the October inspection, Members should perform their own due-diligence by checking for posted signs, documents that have been distributed to inmates and staff, and other indications of the Department's implementation of the amendments. She also suggested that Members see first-hand the substance abuse treatment unit described by DOHMH officials at past Board meetings. She added that Members should become familiar with the program so as to evaluate plans that might emerge for expansion. In response to a question from Member Paul Vallone, DOHMH Deputy Commissioner Louise Cohen described the program as "highly effective" and attributed its success in part to collaboration with DOC. Chair Simmons concluded her suggestions for the October inspection by suggesting that Members should meet with BOC's field representatives, upon whom the Board relies to be its "eyes and ears". She said the Members will hear about the field staff's observations about implementation of the amendments. She asked if DOC could provide meeting space for Members and BOC staff to meet for an hour, perhaps over lunch.

Mr. Vallone reminded Members of their concerns about DOHMH's electronic health record system involving centralizing of Intake records, and how it is progressing at each facility. He asked if the Board could review the system during the tour. Ms. Cohen responded that the system will not be "live" by October 6<sup>th</sup> but that she can arrange a demonstration if the Members visit the Rose M. Singer Center (RMSC). Chair Simmons told Ms. Cohen to inform her or Mr. Wolf if there is anything else that DOHMH might want to show the Members during the October inspection. She asked Board Members to

notify Mr. Wolf if there are other topic-areas they want to cover on the inspection. Chair Simmons asked Mr. Wolf to inform Member Milton Williams about the inspection, as he will not be able to attend. She suggested that when Members are unable to participate in a group inspection that they arrange with Mr. Wolf to conduct an individual inspection of the sites visited by the Board.

Chair Simmons announced that the BOC website is up and live. She congratulated BOC staff and thanked them for their work. She added that she already was able to refer to the site someone from a foundation who asked to learn more about the Board.

Chair Simmons announced that the Board's new procedures for processing rulemaking petitions became effective on September 8<sup>th</sup>. She then asked Ms. Cohen to present the DOHMH report. Ms. Cohen reported as follows:

Regarding electronic medical records, much has been accomplished during the past year to customize the quality improvement software, such as providing suggested treatment directions to providers who type in a diagnosis or symptoms. The City has been implementing new software to be the basis for its Citywide primary care records. 650 primary care providers are included – the largest number in the United States. Many serve Medicaid patients and the under-insured, the same population as in the City's jails. DOHMH is in the "final stretch" of implementation, and the system may be up in the current calendar year. DOHMH already has some ability for Rikers Island providers to communicate with community-based providers. However, this new system greatly will expand such capability to provide access for both jail-based and community-based providers to electronic records of many of the same patients.

Board Member Stanley Kreitman asked if NYC can sell this product to other jurisdictions. Ms. Cohen said no, explaining both that the base product is proprietary software and that, due to DOHMH customization, the system contains information not needed by other parties, such as inmate book and case numbers, NYSID numbers, and incarceration histories. She said that the system provides invaluable tools, such as a registering component that enable doctors to register patients, and to track them and their ailments. Ms. Cohen said that currently in NYC, most primary care providers do not know how many of their patients suffer from high blood pressure, for example, but the customized software can reveal how many patients in AMKC suffer from this condition and how they are being treated and progressing. She said that customization, including statistical components, is making the system state-of-the-art.

Chair Simmons asked if Ms. Cohen could demonstrate the electronic records system at the November Board meeting. Ms. Cohen explained that the system requires internet access and perhaps other capabilities as well, and she could not promise that DOHMH's IT staff could arrange a presentation in the BOC conference room. She said a demonstration could be provided in the Rose M. Singer Center (RMSC). Chair Simmons responded that the Board will include an inspection of RMSC during its

October tour but that, if not in the Board's conference room, Ms. Cohen should look into providing a demonstration in her office, hopefully in November. Ms. Cohen continued her report, as follows:

Chair Simmons had asked for suggestions for correctional health topics that the Board should pursue during the next year or two, and at a previous meeting DOC Commissioner Horn had said that mental health is the biggest issue on Rikers Island, a statement with which she agrees. NYC inmates receive a higher quality of mental health care from a wider variety of staff than in most jurisdictions nationwide.

CHS has a new Mental Health Coordinator, Angela Solimo. Ms. Solimo is the person to contact about inmate mental health status and treatment. At a previous BOC meeting, Board Member Pamela Brier asked how families, lawyers and others may contact jail clinic staff with information and concerns about specific inmate/patients. The On-Island Administrator has the telephone number to contact Ms. Solimo. Ms. Solimo also acts as intermediary with drug courts and mental health courts city-wide.

Other important correctional health topics (mentioned at previous Board meetings) include HIV, diabetes, hypertension, and asthma as representing the greatest public health concerns and therefore topics about which DOHMH could report to BOC regularly. Public health is the direction in which NYC is moving. Core public health activities occur daily within the jails. This is a primary reason why DOHMH took back responsibility for correctional health from the Health and Hospitals Corporation.

The efficient providing of large numbers of inmate immunizations demonstrates the City's preparedness for emergencies. DOHMH records already are sufficiently coordinated so that, during a small meningitis outbreak in Brooklyn, DOHMH was able to identify Brooklyn inmates who might have been affected, and immunized a housing area within 15 minutes, proving that emergency preparedness can lead to effective response even in a difficult environment.

Chair Simmons said that the Board will look to Ms. Cohen to educate Members about each of the selected topics – mental health, HIV, diabetes, hypertension, and asthma – and to provide follow-up information.

Dr. Jason Hershberger, Assistant Commissioner for Correctional Health Services, presented DOHMH's requests for renewal of two variances. He said that one authorizes providers to maintain two medical records for each inmate/patient. He said this variance enables DOHMH to phase-in mental health modules of an electronic records system while maintaining paper records on medical care. He added that neither DOHMH nor PHS had experienced any problems with the variance. Dr. Hershberger said that the second variance authorizes providers to write psychotropic medication prescriptions for stable, adult inmate/patients in general population for up to 28 days. He added that no

problems were experienced with this variance, which frees up clinicians to have more time for encounters with inmate/patients. Ms. Potler assured the Board that the writing of a 28-day prescription does not mean that a psychiatrist will not see an inmate/patient or change a prescription if warranted during that time. Motions to approve both requests for six months were approved without opposition.

Following a request from Chair Simmons, Commissioner Horn presented a report, as follows:

The Fiscal Year ending June 30 was one of the Department's most successful years statistically since DOC started maintaining statistics. In FY08, DOC recorded 19 stabbings or slashings as compared to 37 in FY 07 and 40 in Fiscal 2003. 52 "A" Uses of Force were recorded in FY08, as compared to 83 in FY07, 49 in FY05 and 66 in FY02. 53 assaults on staff resulting in serious injury were recorded in FY08 as compared to a low of 43 in FY05. There were no homicides for the third consecutive year. There were 2 suicides in FY08 as compared to 6 in FY02, 6 in FY03, and 5 in FY05.

Consent Decree requirements that DOC house newly-admitted inmates within 24 hours and transfer inmates within 12 hours, were eliminated. Nonetheless, DOC continues to follow these time limits. During FY08, there only were 8 violations of the 24-hour rule and 2 violations of the 12-hour rule.

There were no escapes in FY08 as compared to one in FY06 and none in FY07 and FY05. There has been one escape thus far in FY09. On August 24 an inmate escaped from the Brooklyn Criminal Court prior to movement through a tunnel to the Brooklyn Detention Center. The escapee was apprehended after 16 hours, and is facing new criminal charges.

The Board Members have inspected years-old dormitories on Rikers Island that originally were considered "temporary". These dormitories are inefficient to operate, not conducive to good corrections practices, and are in awful condition. The Department has closed 1100 dormitory beds since it closed the Brooklyn Detention Center in 2002. DOC needs to demolish approximately 3000 more dormitory beds during the next several years. These dormitories – extensions of large jails -- place untenable demands on jail program sites, such as clinics, and make those jails harder to manage. The City's goal is to reduce the number of jail beds on Rikers Island by 4000, and to reduce the total number of beds by 3000.

DOC sought to build in Oak Point a replacement for the Bronx jail that was near Yankee Stadium. In meetings with Community Boards and other Bronx community groups, a plan has been presented to build a 1500-bed jail in the current parking lot of the 800-bed Vernon C. Bain Center (VCBC) barge in Hunts Point. The plan calls for the jail's street-level floor to be a parking facility and removal of the barge. The City has committed \$10 million to build a boardwalk and make other waterfront improvements for community use. The City's

Department of Design & Construction is hiring an engineering firm to perform an environmental assessment that includes traffic patterns and pedestrian flow, and to present the findings to the local Community Board. The final Environmental Impact Statement must be approved by the Community Board, the Borough President, the City Planning Board, and then the City Council, which can vote to block the plan.

DOC continues its efforts to enlist community approval for DOC to re-open and expand the Brooklyn jail on Atlantic Avenue. For three years, DOC unsuccessfully sought a developer who could plan for 759 additional jail beds and solicit businesses to install commercial entities in a large portion of the jail's street level to make the jail's presence on that corner more palatable. Last Spring DOC sent a letter to the Community Board announcing DOC intention to proceed, in the belief that the plan does not violate any zoning restrictions. A firm has been hired to conduct an environmental assessment. The Brooklyn jail is attached to the Criminal Court building by a tunnel, thereby eliminating the cost and risk and pollution and traffic-congestion of driving inmates from a jail elsewhere to a courthouse, and then walking them into and out of a court building.

Mr. Wolf noted that today there are almost 700 fewer inmates than one year ago. He asked if this number represents a trend or is an anomaly. Commissioner Horn responded that he thinks there is a downward trend, but will share with Board Members all projections as they are developed. He noted that when the Bloomberg administration took office in 2002, there were approximately 21,000 beds and now there are approximately 19,000. He said that the City believes that the target of 17,700 will be sufficient to meet the expected 10-year census peak. Mr. Kreitman asked, in light of strong community opposition to expanding or even reopening the Brooklyn jail, whether DOC could expand existing large jails on Rikers Island or build new ones there. Commissioner Horn responded that, although he is not ready to concede that the City forever will be dependent upon Rikers Island, DOC's 10-year capital plan does include significant investment on Rikers Island. He cited plans to improve sight lines, renovate severely deteriorated areas, and for construction. He noted that eliminating free-standing dormitories will reduce pollution and improve efficiency because each dormitory has its own generator. Commissioner Horn reported that \$90 million has been budgeted to renovate the 1200-bed, high-security James A. Thomas Center. He said JATC, originally built in 1937, would be modernized with air-conditioning and electronic security.

Board Member Alexander Rovt asked if there were many escapes from Rikers Island, and if escapes result in property damage. Commissioner Horn responded that, during his administration, there were no escapes from any Rikers Island jail, and no escape had resulted in damage to property. With respect to the amended Standards, Commissioner Horn noted that he reported earlier in the meeting about implementation of changes to the telephone and correspondence Standards. He added that, with DOC's advance and ongoing notice to inmates, there has been no adverse reaction from inmates. He said that the value of phone monitoring already has proven useful on at least two occasions. Citing summertime media reports about notorious inmate Lee Woods

allegedly receiving contraband from several correction officers, and allegedly having a sexual encounter with one of them, access to phone call records after the fact was extremely useful in the investigation. The Commissioner said that the escape investigation benefitted from reviews of phone call tapes. He said that DOC is very rigorous about adhering to restrictive procedures for listening to phone calls: only about five staff members are authorized to listen to calls, and DOC has an internal “warrant” process whereby listening has to be based upon a written justification that ultimately is reviewable. He said that he has learned of no complaints about improper listening to inmate phone calls.

Commissioner Horn said he probably will be able to submit to the Board a roll-out plan for implementing the amendments regarding inmate clothing at the November meeting. He said implementation may begin by first confiscating inmates’ personal shoes and replacing them with plain black sneakers. He expressed his belief that replacing personal shoes with black sneakers will not reveal to a judge or jury that a defendant is in custody when appearing in court. Commissioner Horn said that concerns about laundering uniforms when personal clothing is confiscated is less complicated for DOC than the issue of inmates wearing uniforms to court and then being released from court in Department-issued clothing. He noted that approximately one-third of the inmates brought to court each day are released from court. He said DOC will not want to transport those defendants who no longer legally are in DOC custody back to their last jail to collect their personal property, and expressed his belief that such defendants would not want to return then to Rikers Island, even though their wallet and house keys probably are stored there. Commissioner Horn concluded that this is the biggest hurdle that DOC must overcome before replacing personal garments with Department-issued uniforms. He reported that, as with the roll-out of other amendments, DOC will use a detailed notification process to all inmates, providing sufficient opportunity for inmates to send their shoes home.

Board Member Rosemary Maldonado asked about the Department’s success in reducing violence. Commissioner Horn responded as follows:

A trend already was in motion when he became Commissioner. There used to be 100 stabbings and slashings per month, but the number already had been reduced to 70 or 40 per month when he arrived. His predecessor, after deciding that violence can be controlled, reduced, and averted, created TEAMS, which applies an analytical approach to reducing violence, similar to the Police Department’s COMSTAT program. DOC expanded on improvements previously-made to management and management-accountability, to the collection and use of data, to a variety of mechanisms for identifying inmates who have disruptive characteristics, such as being general security risks or gang members, being notorious for crime allege or subject to behavioral disorders and other mental health risks. DOC now is able to identify precursor behaviors, classify and isolate inmates into small special-category houses where such inmates cannot destabilize whole housing areas or jails, or be harmed. The Department used to have 300 protective custody inmates but now has only 42. Inmate explanations for injuries

and incidents, such as fracturing an orbital or leg by falling out of bed or in the shower, no longer are readily accepted but, instead, DOC's Intelligence Unit is assigned to investigate. Staff do extensive searching to control dangerous contraband and weaponry, but cannot totally interdict it all.

A motion to renew existing variances was approved without opposition.

Chair Simmons adjourned the meeting at 10:36 a.m.