

**NEW YORK CITY  
BOARD OF CORRECTION**

**January 8, 2009**

**MEMBERS PRESENT**

Hildy J. Simmons, Chair  
Michael Regan, Vice-Chair  
Catherine M. Abate, Esq.  
Pamela S. Brier  
Stanley Kreitman

Excused absences were noted for Members Rosemary Maldonado, Esq., Alexander Rovt, Paul Vallone, Esq. and Milton L. Williams, Jr., Esq.,

**DEPARTMENT OF CORRECTION**

Martin Horn, Commissioner  
Carolyn Thomas, Chief of Department  
Florence Hutner, Esq., General Counsel & Deputy Commissioner for Legal Matters  
Judith LaPook, Chief of Staff  
Harry Ahl, Assistant Deputy Warden, Office of Policy & Compliance (OPC)  
Ronald Greenberg, Director of Inspections, OPC

**DEPARTMENT OF HEALTH AND MENTAL HYGIENE**

Louise Cohen, MPH, Deputy Commissioner, Health Care Access and Improvement  
Jason Hershberger, M.D., Assistant Commissioner, Correctional Health Services (CHS)  
George Axelrod, Esq., Director, Risk Management, CHS  
John Assali, Associate Staff Analyst

**OTHERS IN ATTENDANCE**

Harold Appel, Doctor's Council, SEIU  
William Hongach, Government Affairs Division, City Council  
Caroline Hsu, Prisoners' Rights Advocacy Project (PRAP), Fordham Law School  
James Marton, PRAP  
Timothy Rudd, Analyst, Office of Management and Budget (OMB)  
Eisha Williams, Legislative Financial Analyst, Finance Division, City Council  
Milton Zelermyer, Esq., Legal Aid Society, Prisoners Rights Project (PRP)

Chair Hildy Simmons called the meeting to order at 9:36 a.m. She introduced a new Member, Catherine Abate, noting that Ms. Abate is a former Commissioner of the Department of Correction. Chair Simmons said that Ms. Abate brings a considerable amount of experience and expertise in the City's criminal justice system, and currently is involved in health care matters.

Noting that New York City's economic situation worsened since the last meeting, Chair Simmons asked Executive Director Richard Wolf to report on the Board's budget. Mr. Wolf said that BOC was exempted from the last two rounds of City-wide budget cuts because of its already limited personnel and very small budget. He explained that if the Office of Management and Budget (OMB) does not accept his proposals for meeting BOC's targeted reduction, the Board will lose at least one staff person from its thirteen full-time lines. He expressed his hope that OMB would recognize the potential damage to BOC and to the City's jail system if BOC loses more staff lines. Chair Simmons supported Mr. Wolf's contention that OMB should apply proportionality when imposing budget cuts on agencies of vastly different sizes, instead of imposing an identical percentage reduction on every agency.

DOHMH Deputy Commissioner Louise Cohen reported on her agency's budget generally, and on the Correctional Health Services (CHS) budget in particular, as follows:

Earlier cuts barely touched CHS but the current round caused a loss of all vacant personnel lines. Additional targeted cuts are expected in the March Executive Budget and will be responded to by proposals for increased work efficiencies. As a result of the State's budget crisis, the NYS Office of Alcohol and Substance Abuse Services (OASAS) is eliminating one million dollars allocated for NYC jail-based methadone treatment and maintenance. 15,000 inmates receive detoxification services while in DOC custody. Approximately 5000 inmates enrolled in methadone maintenance programs prior to arrest receive maintenance services while in custody; intensive case management results in 74% of these inmates reporting to community-based maintenance programs upon release, an extraordinarily high rate.

DOC Commissioner Martin Horn endorsed DOHMH's jail-based methadone program, noting that the program is critical because people detoxifying from heroin are at high risk for suicide.

Ms. Cohen reported that DOHMH Commissioner Frieden and Commissioner Horn already sent two letters to the OASAS Commissioner requesting a restoration of funding. Chair Simmons asked if Board Members should write also. Ms. Cohen responded that Member letters and phone calls could be beneficial, and that she would send a briefing package to familiarize Members with the program and its benefits. Chair Simmons urged everyone at the meeting to weigh in with their elected officials.

Ms. Cohen next introduced John Assali, who participated in the development and implementation of DOHMH's electronic health record system, which she said was

implemented at the Rose M. Singer Center (RMSC) on November 19, 2008. She then reported as follows:

RMSC providers record virtually all intakes, medical encounters, lab tests and radiology orders using the electronic system. The CHS staff was unable to present a live demonstration at the BOC offices, so Members are invited to Ms. Cohen's office to view this system.

DOHMH also implemented Department-wide a digital radiography system: all x-rays are ordered and stored electronically where they can be read by an expert radiologist, and the x-ray and expert's report can be viewed by medical staff in every clinic.

[Ms. Cohen continued her report in conjunction with a PowerPoint presentation.]

"E-Clinical Works", which is used by Ms. Abate's organization for out-patient clinic visits, has been customized for use by CHS.

When court-based DOC staff enters an inmate in DOC's Inmate Information System (IIS), the inmate's name, NYSID, and Book & Case Number appear in the electronic records system, enabling Prison Health Services (PHS) managers to plan in advance of the inmate's arrival time at a particular clinic. By alerting managers to the condition of each incoming inmate, and to the number of new inmate-patients, the electronic system enables managers to plan the allocation of provider staff, and to triage intake examinations. Providers perform 100,000 intakes per year.

When the inmate is delivered to a clinic waiting area, the Clinic Officer checks-off on the console that the inmate has arrived, and the system automatically records the date and time of arrival. On a separate screen visible only to medical staff, wait time to see medical staff is tracked.

A patient care associate (PCA) is the first provider to see an incoming inmate. The electronic Intake screen gives the PCA a check-off form for HIV pre-test counseling, including risk factors, history of domestic violence, and reasons an inmate refuses a test. Embedded throughout the system are information sheets – in both in English and Spanish – that staff can edit and print-out, which explain to inmate-patients their condition or treatment plan.

Basic information from the intake screen is "pushed" into the progress note screen and other screens so that repetitive background questions are unnecessary. The PCA records vital signs and other basic data on the progress note screen. If a vital sign is abnormal, the system automatically alerts the intake physician.

The system is designed to make the "right" course of action the easiest course for the provider to take. It offers a click-on list on a "smart form" that enables

physicians to choose between courses of action involving medication, tests, x-rays, etc. Red buttons alert staff to allergies, medication contra-indications and the presence of alcohol. Using the “smart form” can effectively drive the intake questions as well as enable staff to determine the timing and type of follow-up appointments.

To improve continuity of care, the system features two ways to look at an inmate’s records from prior incarcerations: Staff is able to see the dates of the most recent lab tests, x-rays or immunizations, which help them decide whether to repeat tests and the system enables a jail doctor to have the same immediate access to an inmate-patient’s medical history as community-based physicians.

Other screens prompt providers to obtain information vital to treatment and to discharge planning, including an inmate’s address and community-based doctors. Scanned documents can be attached to patient records and allows inmate-patients to sign medical releases.

The system enables managers to track public health issues such as how many inmates have diabetes or asthma, and the number of inmates who are treated for foot, eye or skin conditions.

Member Stanley Kreitman expressed concern about increased provider time needed to ask, and enter, the many questions on the screens. Member Pamela Brier said that most questions already are asked by providers and recorded by hand. Mr. Kreitman voiced concern that there is not sufficient staff to accommodate the electronic records system. Ms. Cohen said that medical encounters will take longer at first but, in the long run, prompt access to medical histories will result in increased efficiencies. Ms. Abate noted that significant cost savings will result from reducing redundancy in tests and procedures.

Ms. Cohen said that whenever a record is accessed, a time stamp and a notation of the IP address is generated. In response to a question from Member Michael Regan, she said that only certain providers have access codes enabling them to edit, rather than to merely read, inmate-patient medical records.

Chair Simmons asked when the electronic medical records system will be operational Department-wide. She said that significant staff training must be involved. Ms. Cohen responded that, beginning November 19 at RMSC, she assigned five to six people 24-hours daily for two weeks to train, and to be available to answer questions. She added that providers from other clinics are being rotated through the RMSC clinic to learn the system even before it is introduced in their facility’s clinic. Ms. Cohen said there are several technological matters that must be addressed before the system can be rolled-out in all sites.

Ms. Brier asked about using this electronic record system for mental health care. Ms. Cohen responded that all psychiatrists already order medication through “e-Clinical

Works” and scan completed intake forms into the system. She reported that, in the next six-month cycle, the mental health intake form will be embedded in the system. Ms. Abate said that her organization is working with DOHMH to develop some of the templates for mental health information.

Ms. Cohen stressed that the interaction between jail and community-based providers facilitated by the system puts NYC’s health care above that of other cities. Mr. Regan asked about plans for updating the system. Ms. Cohen responded that medical records are updated as new information is entered.

Minutes from the November Board meeting were approved without opposition.

DOC Assistant Deputy Warden Harry Ahl presented the Department’s request to renew existing variances. Mr. Wolf explained that when the Board amended the Minimum Standards, the need for most longstanding variances was eliminated, and that remaining variances, addressing housing capacity and classification, are summarized on the Board’s website. In response to a question from Ms. Brier’s inquiry, he said that a formal request by DOC or DOHMH for a new variance must be submitted sufficiently prior to a Board meeting for him to prepare an analysis for Members to review prior to a vote. Members then voted unanimously to renew existing variances.

Commissioner Horn presented a report, as follows:

The average daily census in 2008 was 13,722, the second consecutive year DOC averaged fewer than 14000 inmates per day.

There was one suicide in 2008. The Department has established a new position at the Training Academy, which will focus exclusively on suicide prevention. Former Deputy Commissioner for Health and Programs Roger Parris has been assigned this post, and will be responsible for developing programs, training staff, auditing facility operations, and tracking and distributing professional literature. DOC plans to establish a Suicide Prevention Institute.

In 2008 there was one escape from DOC custody, from the Brooklyn court house, and the escapee was apprehended within approximately twelve hours.

In 2008, there was an increase to 1729 uses of force. Every use of force (UOF) must be recorded and evaluated to determine if it conformed to DOC procedures. UOFs are classified as “A” or “B”, and a large part of the increase was in “B” UOFs. An “A” is a UOF that results in outside hospitalization. A “B” involves any use of pepper spray, any forcible use of mechanical restraints irrespective of injury, and any injury that does not require medical treatment beyond over-the-counter analgesics or minor first aid, including superficial bruises, scrapes, scratches and minor swelling. If staff struggle with an inmate who bangs his head and gets a lump on his head, this is a “B” UOF.

Mr. Wolf said that Board Members asked him to inquire about UOF data. He said that there were as many “B” UOF incidents in 2008 as occurred in 1990, when DOC confined 6700 more inmates each day. Mr. Regan noted that in 1990, there also was a stabbing every day. Commissioner Horn said that there was a steady growth in “B” UOFs from 2004 through 2007, which he attributed primarily to the increase in staff use of chemical agents. Noting that “Bs” increased from 1300 in 2007 to approximately 1600 in 2008, the Commissioner said this is due to staff being instructed not to stand back when they observe inmate-on-inmate incidents, but to intervene as quickly as possible, and with minimal physical contact that could result in injury. He said pepper spray is often effective, but that any intervention invariably involves some physical struggle. Mr. Wolf said that use of chemical spray is thought to reduce staff injuries. He asked if DOC data confirms this. Commissioner Horn responded that he does not have information on staff injuries. He continued his report, as follows:

“B” UOFs increased as DOC separated more inmates into smaller categories with less free movement, and required more inmates to be locked-in their cells and be escorted by staff. As one-on-one encounters between staff and inmates increase, the number of “B” UOFs increases. DOC’s data reveals the highest proportion of “B” UOFs involves inmates resisting cuffing and struggling with escort officers, rather than spontaneous assaults on officers. A majority of incidents occurred in special Close Custody units at the George R. Vierno Center (GRVC) and the Manhattan Detention Center (MDC), whose capacities have been increased, and in the Central Punitive Segregation Unit (CPSU).

Before GRVC’s “bing” for mental health inmates – the Mental Health Assessment Unit for Infracted Inmates (MHAUII) – was established, the Department had no means of dealing with inmates who were found guilty of rules infractions, but were deemed ineligible for confinement in punitive segregation for mental health reasons. As DOC increased the number of MHAUII beds to 100, more inmates whose mental health condition may contribute to ongoing behavioral problems, are being confined in punitive lock-in status in GRVC, and this results in increased physical contact with staff. Each time an inmate comes out of his cell, even to go to the shower, staff must apply cuffs and escort the inmate.

Another reason for the increase in reported “B” UOFs is DOC’s increased installation of cameras – now totaling 2500. Cameras cause staff to report incidents that they now assume have been taped, and wardens now are expected to review videotapes not only after a major incident, but also at regular intervals, thereby increasing the potential for unreported incidents to be noticed. Also, supervisors and the Investigations Division now evaluate incidents, reported as “accidents” but which “do not ring true”. Examples include a fractured jaw or orbital bone, or a broken arm attributed to an inmate having “fallen out of bed” or “slipped in the shower”.

“B” UOFs rose sharply in December due to considerable inmate resistance to the Department’s “footwear exchange” program. Approximately 100 UOFs were related to the exchange: comparing December 2007 to December 2008, reported UOFs increased from 6 to 21 in MDC, and from 10 to 26 in CPSU. The footwear exchange is the first stage of implementing the Board’s amendment to the Personal Hygiene Standard on inmate clothing, and DOC is replacing inmates’ personal shoes with Keds-type slip-on sneakers. The exchange followed a notification to inmates that, if they possessed more than one pair of shoes, they should send them home or place them in DOC property storage by December 1<sup>st</sup>, after which DOC would confiscate them. On December 2<sup>nd</sup>, DOC had 13,000 inmates and 36 hours to exchange one pair of personal issues shoes for Department-issue, and to confiscate the rest. DOC did not handle the process entirely perfectly but, given the circumstances, did fairly well. Some inmate grievances regarding unavailability of larger-sizes sneakers are being addressed. Health issues also were raised through grievances by inmates who entered custody wearing, or needing, orthopedic shoes or orthotics. Procedures were developed for inmates to apply to medical providers to keep or obtain orthopedic shoes and related orthotics, and over-the-counter orthotics are sold in commissaries. DOC now distributes boots, purchased from the NYS Department of Correctional Services, to inmates who medical staff determine require more support than is provided by sneakers. [Commissioner Horn displayed the boot he described.] An inmate who is on trial may wear his personal shoes in court. The shoes are stored in the jail’s property room.

Inmate assaults on staff increased from 406 in 2007 to 458 in 2008, and stabbings and slashings rose from 19 to 21. For several years, the Department has had success in keeping the number of stabbings and slashings low. Serious injuries to inmates decreased from 209 in 2007 to 177 in 2008. Inmates sustain more serious injuries when, as in the past, staff do not intervene directly but instead sound an alarm to summon a squad. Supervisors used to regard fights as isolated incidents, but now view them as possible indications of bullying or extortion. Supervisors now are instructed to take a more comprehensive view, to identify more inmates who are predators or targets, and then to classify and house them accordingly.

Mr. Wolf explained that BOC tracks serious injury inflicted during inmate fights as well as in general, and noted a reduction in this figure as well. He noted however that the rate for adolescent inmates seriously injured during fights is five times the rate for adults. Commissioner Horn said the Department calculates the rate for adolescents as four times higher. He reported that, among the 106 instances of serious injury inflicted during a fight, 19 were adolescent fights at RNDC. He said that the frequency of serious injury during fights is 2.75 per 100 adolescent inmates but only .67 per 100 adult inmates. He added that DOC does not have historical data by which to determine whether the much higher rate among adolescent inmates is a recent development. The Commissioner said that disputes among adolescents develop and escalate more rapidly than among adults. He said that idleness breeds adolescent violence, and noted that many adolescents spend part of each weekday in school, which is mandated for 16 and 17 year olds. He

said that in housing areas, few adolescents read. Commissioner Horn said that adolescents are unable to sit in a dayroom watching TV for very long before their attention turns to arguing with each other. He said that the City provides little money for DOC detention programs, particularly for adolescents, adding that RNDC and Central Office program staff were directed to pursue cultural programs to offer at RNDC such as musical and theatrical performances. The Commissioner added that he directed staff to locate non-profit organizations and community-based groups interested in volunteering to work with the adolescents in RNDC. Chair Simmons cited increasingly poor prospects as non-profits lose funds previously derived from investments, government grants, and private donations.

Ms. Abate noted that the issue of adolescent violence did not arise under Commissioner Horn's administration or even shortly before. She said that, based on her own experience with adolescent inmates, reducing leisure time and providing special training for staff is essential. She added that interpersonal work and engagement with adolescents can reduce their violent behavior and lead to the collection of good security-intelligence.

Commissioner Horn reported that, six months ago, the Department reestablished the Institute for Inner Development (IID) program, which includes intensive training with a formal curriculum at the Correction Academy for RNDC staff who volunteers and is screened for this special assignment. He explained that the specially-trained officers were assigned to housing areas targeting 200 of the 800 adolescents housed in RNDC. He noted that, within the IID housing areas, mini-libraries were established, and staff conducts group meetings and provide extra recreation sessions. He said DOC intends to increase the number of IID housing areas in RNDC.

Commissioner Horn announced Department-wide changes to address the violence issues discussed at this Board meeting, and also changes particularly affecting adolescent inmates. He said some of the changes already are reducing violence, citing increased staffing in RNDC's adolescent areas since mid-December. He stated that a "C"-post officer now is assigned in the new admission dormitory, in high classification cell houses such as Administrative Escort, and in Close Custody, and that these additions are being funded with overtime. The Commissioner said that an additional officer allows staff to observe violence, bullying and extortion sooner and respond more quickly. He explained that the extra officer enables closer patrolling in house corridors and a physical presence in dayrooms. He asserted that the nearby presence of a "back-up" officer empowers and emboldens the other officers to intervene.

Mr. Wolf asked the Commissioner to discuss the increase in reported lockdowns of housing areas and jails. Mr. Wolf said DOC reported 188 lockdowns between July and November, 2007, and 500 lockdowns during the same period in 2008. In response, Commissioner Horn distributed copies of DOC's 24-Hour Reports, noting that the Board's staff receives the reports daily. He said that lockdowns are part of the Department's response to inmate fights, and are reported on the 24-Hour Reports. He explained that a lockdown facilitates a thorough investigation, because if inmate



movement is not curtailed, evidence could be lost or witnesses intimidated. The Commissioner said that since August, 2008, there had been 722 lockdowns with an average duration of 2 hours 3 minutes. He said he does not think it is “onerous”. Mr. Wolf asked if the increase reflects an increase in inmate fights or simply a more aggressive response by the Department to fights. Commissioner Horn responded that, from 2007 to 2008, the number of infractions written for fighting declined slightly, and the number of instances of serious injury arising during fights declined by 7%. He said that, whereas in the past the decision to lock down was inconsistently implemented, four commanders now are instructed always to lock an area down so as to conduct a comprehensive investigation of an inmate fight.

Mr. Wolf said that the statistical analyses in the report he submitted to the Members were prepared by BOC’s part-time Director of Information Services, Jim Bennett.

Ms. Brier asked for details about the DOC budget. Commissioner Horn responded as follows:

Along with other City agencies, DOC was directed in October to cut 2.5% of its budget for FY09. In response, the Department gave up 148 positions, both uniformed and civilian, in headquarters and support areas. This was done through reassignments and by attrition. In December, the Department was directed to cut 5%, and then an additional 2%, from its FY10 budget, for a total targeted reduction of approximately \$46 million. DOC offered the Office of Management (OMB) \$31.6 million in potential cuts for FY10. DOC did not achieve through negotiation with DOCS the \$18 to \$20 million savings the City hoped to realize by housing DOC’s City-sentenced prisoners in DOCS beds, which is permitted by state law. DOC and DOCS could not agree upon a price per prisoner. DOC was also unable to obtain a higher reimbursement rate for housing State prisoners in City. Beds. Thus far, DOC has not identified alternative ways to meet the \$18 to \$20 million budget reduction target.

A mechanism the Commissioner proposed to the Mayor’s Office and OMB for cutting another \$15 million is not achievable by DOC itself: reducing the daily census by 1500 inmates through changed arrest, bail and remand practices, faster court processing of felony cases, and increased court releases to alternative to detention and incarceration programs. The number of felony arrests per year is down, but the time between plea and sentence on a felony case has increased from 25 to more than 40 days.

Ms. Abate asked if delays in completing pre-sentence investigation reports (PSI) by the Probation Department is causing or contributing to the delay, as in years past. Commissioner Horn responded that PSIs now are transmitted electronically, and 100% are transmitted on time. He reported that the length of stay (LOS) for detainees now averages 45 days, and said that a 10-day reduction in adjournments for each Supreme Court felony case would save DOC approximately \$10 million per year.

Commissioner Horn reiterated his position that DOC cannot sustain further cuts. In response to an inquiry by Ms. Brier, he said that he had not yet received a response from OMB about his failure to incorporate targeted budget cuts into DOC's budget for FY10 that might result in jail-based staff loss. He said that he could not speculate if this means that the Mayor's Office understands that DOC would be dangerously crippled if such cuts are imposed. The Commissioner expressed concern about budget cuts outside DOC that would adversely affect DOC and public safety generally: cuts to the many organizations that work with DOC to provide addiction treatment, violence-reduction, parenting, job readiness and training, and other programs within the jails. He said that the City had developed a nationwide reputation for effective discharge planning services, a reputation that quickly could be lost if budgets for service organizations are slashed.

Commissioner Horn next reported on jail construction issues, as follows:

An engineer engaged to perform an environmental assessment in the Bronx will complete work in the Spring, after which DOC must return to the Community Board, which has been briefed on the City's plan to build a new jail in the parking lot of the Vernon C. Bain Center (VCBC) barge. The Commissioner has presented the plan to the City Council Member in whose district the jail would be constructed. It is possible that the engineer's assessment could contain findings requiring more time-consuming work that could delay or prevent the current plan from going forward.

As to the Brooklyn jail, an average of 32 City-sentenced prisoners is housed there each day. They work in the jail and also provide sanitation in the courts. DOC historically bused inmates to the courts to perform sanitation tasks. It is DOC's goal to have inmates prepare and maintain the jail's intake area for use as a substitute pre-arraignment central booking area during renovations to the Brooklyn Criminal Court, which is connected to the jail by a tunnel.

DOC plans to fully reoccupy the original jail, which contains 759 beds. A group of local residents sought a preliminary injunction to block both DOC's immediate use of the original jail space and jail expansion unless DOC commits to going through the City's land-use process. The matter is before the Court, which promised a decision in February. DOC does not concede that opponents have a right to block it from using the original jail. There is no court order or temporary restraining order preventing use of the old jail. There had been a stipulation between the parties, but it expired.

DOC operated a jail at the site for fifty years. If it is determined that ULURP is required for jail expansion, DOC will comply if the City decides to proceed with expansion. DOC hired an architect to conduct an environmental assessment. A feasibility study is required to determine if the expansion can occur. The City must verify that ground conditions and the infrastructure can support expansion and that cost estimates are accurate. If costs are projected to be higher, the City

may decide that expansion is too expensive to pursue. It is DOC's position with the Court that expansion plans are not yet ripe for submission for ULURP consideration because feasibility is not settled and the City may decide not to expand the Brooklyn jail.

New technology introduced on January 7, 2009 – "Visitor Express" – will enhance security and improve the visiting process for visitors. Visit procedures have been that when a visitor gets off the public bus at the Visit Control Building on Rikers Island, identification is checked at two locations and the visitor is searched before getting on a DOC bus going to the jail where the inmate is housed. At the jail, the ID is checked again and the visitor is searched again. Going forward, a visitor first encountering Visitors Express will present personal ID and have a thumbprint taken as soon as he/she gets off the bus. Once DOC confirms the visitor's identity, DOC staff will ask him/her to scan the thumb at sites where ID currently is checked. This will generate data about the visit process, such as the wait times at different locations. Visitor Express is being tested with visitors on a voluntary basis at AMKC only. When Visitor Express is implemented Department-wide, thumb-printing will be mandatory.

Other measures already taken to improve visitor processing include: installing several hundred lockers at the Visit Control Building, and showing a video and distributing a handbook explaining the process to visitors. DOC suggests that visitors arrive at times of day when few visitors are being processed. It also has set up a play area for visitors' children and hired a full time civilian cleaner for the Visit Control Building rest rooms.

Ms. Cohen added that DOHMH set up a health information and testing center in the Visit Control Building.

Chair Simmons noted that the next public BOC meeting will be on March 12. She reminded Board Members that the purpose of reducing the number of public meetings is to enable Members to inspect jails so as to obtain a better understanding of DOC jail operations and performance. She urged Members to take advantage of the opportunity to do so.

Chair Simmons adjourned the meeting at 11:04 a.m.