



NEW YORK CITY
BOARD OF CORRECTION

October 13, 2015

MEMBERS PRESENT

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

DEPARTMENT OF CORRECTION

Michael Blake, Deputy Commissioner
Cynthia Brann, Deputy Commissioner
Frank Doka, Deputy Commissioner
Timothy Farrell, Deputy Commissioner
Nicholas Cuttonaro, Assistant Commissioner
James Walsh, Deputy Commissioner of Adult Programming
Shirvahna Gobin, Assistant Commissioner for Strategic Planning
Heidi Grossman, Esq., Deputy Commissioner of Legal Matters/General Counsel
Brenda Cooke, Executive Agency Counsel
Joel Duverge, Administrative Staff Analyst
Danielle Leidner, Director for Intergovernmental Affairs
Marisa Alberti, Policy Analyst
Carleen McLaughlin, Director of Legislative Affairs and Special Projects
Errol Toulson, Jr., Deputy Commissioner of Operations
Annie DiCaterino, Strategic Project Planner
Marsha Forkin, Project Management Analyst
Eve Kessler, Director of Public Affairs
Ada Pressley, Deputy Warden
David Lopez, Correction Officer

HEALTH AND HOSPITALS CORPORATION

Homer Venters, M.D., Assistant Commissioner, Bureau of Correctional Health Services
Patsy Yang, DrPH, Executive Deputy Commissioner and Chief Operating Officer
George Axelrod, Chief Risk Officer
Patrick Alberts, Agency Attorney, Division of Prevention and Primary Care
Lucia Caltagirone, Agency Attorney Intern

OTHERS IN ATTENDANCE

Scilla Alecci, Huffington Post
Natalie Block-Levin, Jails Action Coalition (JAC)
David Condliffe, NYC Bar Association
Joyce Conley, The Moss Group
Laurie Davidson, Doctors Council SEIU
Kelsey Deavila, Brooklyn Defender Services (BDS)
Riley Doyle Evans, Brooklyn Defender Services
Cassandra Golden, Office of Management and Budget
Susan Goodwillie, JAC
Courtney Gross, NY1 News
Kaitlin Hansan, Urban Justice Center
William Hongach, NYC Council
Karen Imas, Weintaub, Connelly, McLaughlin & Woloz
Christine Japely, 15th Street Quakers
Sarah Kerr, Legal Aid Society
Deandra Khan, NYCLU
Josh Kiel, Office of the Public Advocate
Tanya Krupat, Osborne Association
Wendy Leach, The Moss Group
Laura Limuli, BOC Director of Research, Emeritus
Jorge Marin, NYC DOC Officer
Jennifer Parish, Urban Justice Center /JAC
Jake Pearson, Reporter, Associated Press
Kathryn Pliml, BDS
Charlotte Pope, Children's Defense Fund
K. Grace Price, JAC
Stephen Roberts, Vera Institute of Justice
Daniel Sorrel, Public
Jane Stanicki, JAC/Hour Children
Adolfo Vega, Public
Gale Weiner, JAC
Raven Willis, Public

Chair Brezenoff stated that before he began the meeting he wanted to note that Commissioner Ponte and other senior Department of Correction (DOC) staff would not be attending the meeting because they were at the funeral for a Captain who died on duty. He expressed the Board's condolences. He opened the meeting by asking for comments or amendments on the minutes. Member Regan moved to approve the minutes. Vice Chair Cephas seconded. All members voted to approve the minutes.

Chair Brezenoff asked the representatives from the DOC who would be presenting on uniforms to come to the podium and introduce themselves. Deputy Commissioner Timothy Farrell and Assistant Commissioner for Strategic Planning Shirvahna Gobin presented. Deputy Commissioner Farrell stated that on September 10th the Department started to place all inmates in general population in institutional uniforms. The specialty assigned inmates and city sentenced inmates were already in uniforms. This cycle commenced at: Rose M. Singer Center, RNDC, Brooklyn Detention Center and the West Facility. Deputy Commissioner Farrell said that they put protective custody and mental health inmates in uniforms as well and that they plan on continuing the rollout to all other inmates as they replenish inventory. He said that they had sufficient quantity but certain sizes were exhausted so they have ordered more which he expected to arrive in December. He said that the DOC has enough in stock to maintain appropriate exchange policies - each inmate will have three uniforms and has laundry access twice weekly. He said that sweatshirts are provided upon request and outerwear is available to inmates when they leave the facility for recreation or transportation. If inmates are on jury trial they can change into civilian clothing for court appearances and, upon return to the facility, they return their clothes and are placed back in uniforms.

Chair Brezenoff said that members of the Board are very interested in this. He called on Member Regan who welcomed the DOC representatives. Member Regan said that since he has been on the Board, uniforms have been discussed multiple times. He said that part of the issue that came up during previous discussion was concern that inmates need to have access to civilian clothing at other times, not just for jury trials. For example, he said that people sometimes find out they are going to be released and have to commute home in their uniforms. He said that the Department had told them they would figure out a way to house the clothes so that people could access their civilian clothes. He asked where the Department was on that.

Deputy Commissioner Farrell said that they have begun putting together a plan to have a supply of civilian clothing at each court command. Inmates who are discharged from court will have the ability to turn in their uniforms and get a set of street attire to wear out of the facility. Released inmates will then have up to thirty days to return to the facility to retrieve their personal clothing or have it shipped. Member Regan said that he thinks the Department ought to change this process and that he thinks people going to court have the right to wear their own clothes. He said the DOC needs to think this through further and he thought that they had committed to doing so the last time they discussed this issue.

Member Richards said that he was at GRVC on Friday and went to CPSU. While he was there he asked inmates how many uniforms they have. Every inmate told him that they only had one uniform. One inmate told him that he only had pants and no shirt. Member Richards said that there seems to be a disconnect between the proposed plan and the rollout. He said that he spoke to the Deputy Warden who told him that many inmates had been transferred in from other facilities with only one uniform. Member Richards asked Deputy Commissioner Farrell if he thought this was happening at multiple facilities and if so, what they were going to do to address

it. Deputy Commissioner Farrell said that inmates who had been in uniforms previously were not entitled to a set number of uniforms but now they are ensuring that all uniformed inmates will have three sets. He said that they have staff checking to see which inmates do not yet have three sets so that they can rectify the situation. Member Richards asked if, when he goes back on Monday, every inmate will have three sets. Deputy Commissioner said that they will with the exception of city-sentenced inmates at EMTC who wear green uniforms but that an order has been placed. Member Regan said that he wanted to add that he agrees that DOC ought to have uniforms but that he is concerned about this process.

Chair Brezenoff asked for other questions. Member Hamill expressed concern as a former judge and prosecutor about uniforms. She explained that sometimes inmates and DOC do not know when an inmate will actually go to trial and it is prejudicial to see an inmate in uniform before they have been found guilty. She asked DOC to reconsider their policy. Deputy Commissioner Farrell said that inmates going to jury selection, jury trial or grand jury will be allowed to wear civilian clothes. Member Hamill said that her point is that sometimes inmates do not know when they are going to be going to court. She said that once an inmate is on trial DOC can predict their court dates but as far as jury selection goes the Department does not know when an inmate will be called to court.

She said that youth at RNDC don't have outerwear and that she is concerned about laundry only being offered twice a week from a hygiene perspective. She said that many inmates like to work out and may have to wear the same clothes they had sweat in.

Member Cohen said that he had heard concerns in earlier discussions in 2006 about the capacity of the Department to handle uniforms. He said that BOC staff is hearing that laundry is not available and consequently inmates are getting infractions because they are writing their names in clothing after washing it themselves. He said that BOC field staff at all facilities have said that laundry services have been inadequate. He asked that the DOC respect the Board standards stating that in order to use uniforms they would need to demonstrate to the Board that they have the capacity to do so. Member Cohen asked if DOC has instituted a laundry policy at facilities beyond Brooklyn, RNDC and RMSC. Deputy Commissioner Farrell said that they have a laundry policy but have not yet rolled out the uniform distribution beyond these facilities. Member Cohen said that in the letter written by Martha King and Stanley Brezenoff from last week the Board asked that the Department not continue with the uniform distribution until they demonstrate that they have increased capacity. He said that last week at RNDC he saw an adolescent going to court in slippers. When Board staff asked the DOC staff why they were sending him to court in slippers, the DOC staff went and found him shoes. He expressed concern that this was happening. He said that he was worried that even judges could be influenced by seeing inmates in prison garb. He said that the Board needs to review the rule stating that DOC only has to provide civilian clothing when inmates go to hearings. He said that the Board will probably have to intercede and create a rule that states that when an inmate is going to court they must have access to civilian clothing.

Vice Chair Cephas asked if he was correct that when inmates go to court they will be offered general civilian clothing, not their own. Deputy Commissioner Farrell said that for court appearances they will wear uniforms and if they get discharged they can choose from a supply of civilian attire. If the inmate is going before a jury they will be permitted to wear their own clothes. He said that the night before court each facility will pull the clothes for the inmates who are on trial so that they can change before departing the facility. Vice Chair Cephas asked if

when inmates are released they will have institutional civilian clothes. Deputy Commissioner Farrell said that if they were already wearing their civilian clothes at court they would wear the same clothes if they were released. But if the inmate was in court and wearing a uniform, they have the option of either being released wearing institutional clothing or they will have the option to change into civilian clothes made available to them at the court house.

Chair Brezenoff told Deputy Commissioner Farrell that he is sure Deputy Commissioner Farrell will share the Board's intensity and concerns with Commissioner Ponte. Chair Brezenoff said he thinks there are many unanswered questions and there appears to be a gap between the stated policies and the outcomes even at this very early stage in implementation. He asked Deputy Commissioner Farrell to tell the Commissioner that we will be in touch to go over these issues in greater detail to look for more specific and comprehensive answers.

Chair Brezenoff asked HHC to share their updates, presented by Dr. Venters. Dr. Venters said that the DOC and HHC are in the third week of joint facility huddles. He said that the Commissioner learned about this strategy from Chicago. In GRVC, GMDC and AMKC the senior leadership of the facility, the security staff and the health staff get together every morning. They have an agenda that includes staff and patient safety, staffing levels and how to handle challenging patients. Dr. Venters said that it has been good for strengthening communication among these entities and individual staffers from each facility as well as for identifying larger systemic issues that need to be addressed. Dr. Venters said that they are planning on spreading this practice to all facilities and want to create an expectation that this will happen at every jail, every morning. He also shared that they are still waiting to get the fourth PACE unit open which will happen in the coming weeks once welding is completed.

Member Cohen asked Dr. Venters about the status of the HHC affiliation agreement and how staffing is working given the uncertainty around the transition to HHC. Dr. Venters said that transferring the Department of Health staff over to HHC was a large administrative burden. Now that they had completed that transfer, he said that they would be vetting the Corizon staff and management and will then design the new structure. Dr. Venters said that they are working with the Office of Labor Relations and are in the process of solidifying key structural decisions but that transferring 1100 people is a massive endeavor. He said that they have made a lot of progress internally and are designing a system that looks more like a community health system. For example, he said, traditionally there had been substance abuse services spread between medical and mental health services, and under the new structure there will be a centralized unit. He said that they hope to have more clarity on the details of the structure and transition in the coming weeks. Member Cohen asked what HHC's plans for accreditation are. Dr. Venters said that they want a community standard of care for their patients. He said that most correctional facilities avoid that but they want to pursue a system that can be judged on the same standards as a community facility. They are also hiring a Director of Quality Improvement. This person will build a Quality Team that will independently monitor the facilities.

Member Hamill asked if there has been thought given to addressing inmates with developmental disabilities. Dr. Venters said that they are focused on thinking about how doctors and PAs who are doing initial medical screenings can identify people with developmental disabilities. He said that they are also interested in building housing areas specifically designated for newly arrived inmates who may have mental health conditions.

Member Richards asked Dr. Venters how HHC and DOC are treating people who have mental illness who do not belong in punitive segregation. His request was in light of a BOC analysis on punitive segregation overrides which showed that 89% of overrides had three or more interactions with mental health services. Dr. Venters said that traditionally over half of the people in solitary have a mental illness. CAPS, he said, was intended to find people with a serious mental illness to steer them into a clinical setting but actually a small share of people who have mental health problems in jails are classified as having serious mental illness. He said that we need to build treatment settings for these people before infractions occur. He also said that people who do not meet higher thresholds of serious mental illness often get punished and put into places in which they become more problematic. He said that HHC needs to focus on mental observation units for people with behavioral issues and a mental health service for them that is coordinated with the security service.

Member Cohen said that BOC's punitive segregation override analysis showed that all of the inmates granted overrides had mental illness. He said that it is the Board's feeling that solitary confinement is harmful and he wondered if it would be possible for mental health services to be involved in the override decisions. He asked Dr. Venters for his opinion. Dr. Venters said that there are a small number of patients known extensively to corrections and health staff. He said that these people are more aggressive in more restrictive environments but that we need to think about safety instead of punishment. Doing so would require tolerating an approach where there is more out of cell time but also an understanding that these inmates will still be persistently aggressive. He said that we would need to build facilities that can handle these types of inmate behaviors without focusing on a punishing approach because that will not eliminate the aggression.

Judge Hamill said that, because of rulemaking, the Board has been talking to correctional experts across the country. She had heard from many of them that they offer programming to inmates in punitive segregation. She asked if Dr. Venters could imagine implementing programs to offer all inmates in punitive segregation. Dr. Venters said that some state prison systems have made accomplishments in this area. He said that if the ultimate goal was to get these inmates to return to the community or to the general population, we would need to think about how to get them out safely. This would require a plan of engagement. He said that patients in restrictive settings are missing opportunities to engage with people. He said that we do not have a system developed for the staff working in these units and we ought to develop a plan that puts these inmates on a path to return to the community.

Judge Hamill then asked Dr. Venters about his impression of Enhanced Supervision. Dr. Venters said that he thought they were talking about two different groups of people: persistently aggressive people in CPSU and less troublesome inmates in ESH.

Chair Brezenoff said that the Board needed to address four variances that had been voted on previously but need to be extended for two days to reach the November Board meeting. They involve: comingling of inmates, providing suicide smocks and providing limited recreation for inmates in the communicable disease unit. He asked for a comprehensive motion. Member Regan moved to extend all of the variances. Vice Chair Cephas seconded. Chair Brezenoff asked if there was any discussion. The motion passed unanimously. Chair Brezenoff said that they would discuss committee meetings starting with Member Hamill and the Adolescent and Young Adult Committee.

Member Hamill said that providing adolescents at RNDC with program counselors had been a very successful reform. She said that these counselors have credentials in mental health or counseling and that their job is to be in the housing units, de-escalating incidents, setting the stage for programming and enhancing security. She said that the DOC has not yet finalized policies on TRU and SHU units but the TRU and SHU in RNDC will be the model for the young adults in GMDC. She said that the Committee is working with DOC to review specific admission criteria, due process and placement review for these units.

Member Hamill said that all young adults will soon be at GMDC. She said that so far there are five co-mingled units with about 270 young adults and more officers. She said that DOC is doing assessments to learn the needs and interests of young people and that more programming will soon be available. She said that Commissioner Ponte's reforms at RNDC created a culture shift and the same changes are starting to happen at GMDC. She said that the Committee does have concerns - 19 weapons were found in administrative segregation earlier this week; 17 of these weapons were fashioned from jail materials (sharpened Plexiglas or metal, spokes from a fan). She said that there were only two non-institutional razors discovered. Another concern is that there are 90 young people signed up for school in GMDC but very few actually attend. She said that the list showed that these inmates refused school but that the Committee would need to explore this further.

Member Hamill said that DOC is looking closely at alternative housing to move young adult inmates in punitive segregation to as well as a discipline system. She said that the BOC intends to monitor the implementation and effectiveness of the Young Adult Plan and will be creating a dashboard to monitor compliance. She commended Commissioner Ponte and his team for the development and implementation of the Plan. Chair Brezenoff asked for questions and comments. Member Cohen said that about a month ago he received emails because two adolescents had been sent from ARDC to the West Facility. He said that they were removed but he was concerned about why they were there in the first place. Member Hamill said that in the weekly meetings with the Department, DOC staff is very open and transparent about the challenges they have with adolescents. She learned that these individuals were sent to the West Facility because our field staff found out and notified her and Martha King. She explained that the West Facility is the most extreme isolation because of the intended purpose of containing inmates with infectious diseases. After learning about this, she said that she intervened and contacted DOC's General Counsel who made arrangements to have the youth moved immediately.

Member Hamill also shared a story about an inmate who she learned about at a DOC committee meeting who was very challenging. The warden said that she could not manage this person. Member Hamill learned that he was a foster care youth (she said that there are about 40 on Rikers on any given day) and she suggested that DOC Deputy Commissioner Saunders reach out to the first deputy commissioner at ACS to see if they could move him into an appropriate placement. Ultimately they were able to move him to a therapeutic foster boarding home. There was also a young person who was sent to NIC because he needed medical care. He was put in a ward with 34 adults. Member Hamill said that it was a violation of federal law (PREA), state law and BOC standards. She said that there was not appropriate medical housing for young people and the need seems to be pretty rare but this inmate needed to be in a special unit. He was released after a judge saw his broken jaw and realized that Rikers was not an appropriate place for him. Member Cohen responded that he thought it would be more appropriate to move adolescents off of Rikers, and he was surprised that Nunez did not demand this but called for

“best efforts”. He said that he knows the City wants to do it but won’t unless they have to. He also mentioned that he had visited the library at RNDC with Martha King. He said that it flooded years ago and is still flooded with books stacked. He said that this needed to be addressed. He said that despite being told it would be fixed it has not been and staff was distressed about this. Member Hamill said that it is her understanding that the City is actively working at moving youth off of Rikers but there are many challenges in looking for an appropriate facility.

Chair Brezenoff asked Member Cohen to share Violence Committee updates. Member Cohen said that the Committee has begun looking at violence data from Rikers gathered from the Mayor’s Management Report and other sources. He said that it shows increasing use of force despite a decrease in population. Serious uses of force and serious injury to officer staff are both down but there appears to be an increased use of gas. He said that he would be asking HHC to work with the Committee to identify the impact of using gas on inmates and staff. He said that most of the reports of gas use say that the officer used a two second spray but BOC staff hears conflicting reports. He said that the analysis done by Board staff on punitive segregation overrides and ESH confirm that ESH is relatively non-aggressive. He said that he has asked the Commissioner why there are so few people there and DOC says that it is not a place for dangerous people. He said that the presentation to the Board a year ago stated that ESH would house the worst of the worst. He also said that twenty percent of the Mayor’s criminal justice/mental health budget was applied to ESH but it has not been a mental health program.

Member Cohen said that arrest of visitors is down from last year. The Commissioner of DOC and the Commissioner of the Department of Investigation have taken contraband coming from staff very seriously which is different from previous administrations. Member Cohen said that the data suggests that contraband is not coming in with families. He said that it is disturbing that officers are bringing in these materials that put them and everyone else at risk. He said that we are going to be looking into the use of administrative segregation and that the Board is concerned about access to law library among other issues. He said that the number of adolescents in administration segregation is very high at 14%.

Member Hamill said that the evidence showed that three weapons had been found on inmates. She said that no one is sure how many weapons are getting in that are not caught in searches after visits but that we also know that seven officers have been arrested in five weeks. She said that she also wanted to raise an issue with her colleagues about Enhanced Supervision. She said that Enhanced Supervision was supposed to only allow seven hours of lockout but that because the Commissioner, Dr. Venters and others have said that the most aggressive inmates are not housed there she thought the Board should review the rule and consider making it a 14 hour lockout.

Member Cohen said that in 2011 with 14,000 inmates on Rikers there were 2,000 non-contact visits. In 2015 there were 6,500 non-contact visits even though the population has decreased 30%. He added that the number of people turned away for visits had doubled in the past month. He said he wasn’t sure why these people were being turned away but he expressed concern that the Department is implementing a rule that the Board has not agreed to. Member Richards said that during his tour last week he went to GRVC to the Accelerated Program Unit and he was impressed to hear how well the unit was operating from the inmates. He said the inmates told him that there were four gangs in the unit and they were focused on making sure that there was not violence or aggression. They utilized programming and had additional hours out of their cell, phone calls and school. Member Richards said that these incentives were important to them so

they did not want violence to affect their access. Chair Brezenoff said that that program has been seen as a pilot and as the merits are seen hopefully the Department will be able to extend the program.

Chair Brezenoff said that we would begin the public comment period and reminded the public about the upcoming public hearing. Member Regan asked to comment and congratulated the staff on the quality of materials the Board received in preparation for the meeting. The first comment was given by Kelsey DeAvila (of Brooklyn Defender Services) who spoke about uniforms. In response Chair Brezenoff offered the DOC officials in attendance an opportunity to comment on the report. Deputy Commissioner Farrell said that they understood these concerns and are working through communication issues. He said that they want the program to succeed, and they are dedicated to making it work. Chair Brezenoff responded saying that he understands the operational challenges but that we cannot tolerate any failure whatsoever because each individual has rights that cannot be compromised. He said that monitoring has to pick up on all of these instances so that we can learn of problems instantly and remedy the situation. He expressed concern that the Department would be able to deliver on their intentions.

The next comment was given by Christine Japely (NYC Quakers). Member Cohen responded and thanked Ms. Japely for her comments and for bringing up the issue of race. He said that he wanted to share some statistics from the Department of Justice that show that the black/white ratio and Hispanic/white ratio on incarceration nationally is much lower than the ratio for New York. He said that we often think of ourselves as progressive but that we have a racialized system. He expressed concern about the proposed visiting rules' impact on this issue. Further comments were given by Kelly Grace Price (JAC) and Jorge Marin (NYC DOC Officer). Chair Brezenoff said that the Board would be sharing the essence of Mr. Marin's testimony with the Department. Member Richards thanked Mr. Marin for his testimony and commended his bravery and said that he has heard of similar incidents to the ones Mr. Marin shared. The full public comment period can be viewed at: <https://youtu.be/tKc2jjFzE3Q?t=4588>. Chair Brezenoff asked if there was further business. He said that he would assume a movement to adjourn and thanked the audience for their attendance.