

NEW YORK CITY
BOARD OF CORRECTION

November 26, 2012

MEMBERS PRESENT

Gerald Harris, Chair
Pamela S. Brier
Greg Berman
Robert L. Cohen, M.D.
Michael J. Regan
Milton A. Williams, Jr., Esq.

Excused absences were noted for Vice Chair Alexander Rovt, PhD and Catherine M. Abate, Esq.

DEPARTMENT OF CORRECTION

Dora B. Schriro, Commissioner
Michael Hourihane, Chief of Department
Lewis S. Finkelman, Esq., First Deputy Commissioner
Thomas Bergdall, Esq., Deputy Commissioner and General Counsel
Sara Taylor, Chief of Staff
Carmine LaBruzzo, Deputy Chief of Department
Martin Murphy, Deputy Chief of Staff
Erik Berliner, Associate Commissioner
Maggie Peck, Director, Constituent Services
Carleen McLaughlin, Legislative Affairs Associate

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Amanda Parsons, M.D., Deputy Commissioner
Homer Venters, M.D., Assistant Commissioner, Correctional Health Services
Ross McDonald, M.D., Medical Director
Daniel Selling, Psy.D., Executive Director of Mental Health/Substance Abuse Treatment
George Axelrod, Director, Risk Management

OTHERS IN ATTENDANCE

Joseph Antonelli, Office of Management & Budget
Jay Caravan, Corizon
Nicola DeMarco, State Commission of Correction
Phyllis Harrison-Ross, State Commission of Correction
Neil Leibowitz, M.D., Director, Mental Health, Corizon
Jennifer Parish, Esq., Urban Justice Center
Michael Rooney, no affiliation given
Regina Ryan, City Council
Eisha Wright, Finance Division, City Council
Milton Zelsermyer, Esq., Legal Aid Society, Prisoners' Rights Project

Chair Gerald Harris called the meeting to order at 9:02 a.m. A motion to adopt minutes from the Board's September 10, 2012 meeting was approved without objection.

Chair Harris praised the efforts of Commissioner Schriro, Department of Correction (DOC) staff, and the inmates who assisted the victims of Hurricane Sandy, and noted the positive news coverage that appeared in the New York Times. He also complimented BOC staff for keeping "the store open," and managing to transport themselves where they were needed.

The Chair mentioned a New York Times article reporting on a large monetary settlement against DOC regarding a 2004 incident involving the death of an inmate. He further noted that the article mentioned two other recent DOC settlements stemming from incidents in 2008 and 2010.

Chair Harris announced that BOC has obtained approval to fund four field representatives, and BOC was forgiven the requirement to make targeted reductions in the budget for this year and next. This will allow BOC to have a presence in nearly every jail facility. The BOC technology staff is also now a full-time position. This will be very helpful in carrying out the Board's charter mandated work in a time of fiscal constraints.

The Chair reported that as of last week, there had been seven uses of temporary cell restriction TCR on inmates, and as of today it may be as high as 11. He added that no mandated services have been affected by the utilization of TCR.

Turning to the Department of Health and Mental Hygiene (DOHMH), Chair Harris requested a report on the hospital prison ward evacuation and related effects as a result of Hurricane Sandy. Dr. Homer Venters, Assistant Commissioner of DOHMH for Correctional Health Services (CHS), reported as follows:

He thanked DOC for its cooperation during the storm. The 19th floor of Bellevue Hospital was evacuated along with the entire hospital, and all patients and services were relocated. This began with the most pressing and complicated concern: the relocation of the 65 forensic mental health ward patients. They now have about 20 in beds at Kirby, a New York State Office of Mental Health (OMH) facility. DOHMH is planning to open a new dedicated Kirby unit with 25 beds in a week. The Health and Hospitals Corporation (HHC) Bellevue staff will provide mental health services at the Kirby unit. DOHMH is hopeful that this will allow for the sickest patients currently at Rikers Island to be removed to an appropriate level of care, which is desperately needed. Many of the Bellevue staff are working on Rikers Island, so DOHMH has assistance they do not normally have. Another significant concern of the Bellevue closing is the 15-25 medical in-patients, who are being managed at Elmhurst and a couple of outposts around the city. The outpatient encounters are yet another issue. Multiple specialists from Bellevue have been coming to Rikers Island North Infirmity Command (NIC) to triage patients, and the specialty encounters are being sent to Elmhurst. DOHMH is keeping on top of the most acute patients, but it is a tricky scenario. The attendant transportation and custody issues are quite complicated, and we appreciate the interaction of multiple agencies, the courts, DOC, and the health agencies.

Board Member Dr. Robert Cohen asked for data concerning numbers of specialty encounters before and after the storm, including the ideal number of clinic encounters. Dr. Venters stated that he would provide that data; however, he noted that some of the delay immediately following the storm was due to the triage assessment that the services should be postponed.

Board Member Michael Regan noted that the storm and closed hospitals are an extraordinary situation. He asked whether the Kirby population is exclusively DOC patients. Dr. Venters answered yes, DOC as well as some police cases. He reaffirmed that the number one priority is to set up a dedicated unit for the DOC mental health patients.

Chair Harris requested that the Commissioner give a report on the effects of hurricane Sandy. She reported as follows:

Rikers Island sustained virtually no damage. The buildings and trailers do well in storms. There was soil erosion on some roads. At Manhattan Detention Center (MDC), DOC experienced the same power outage challenges that others did, but fortunately had generators and had stored fuel to ensure that there was enough to keep the generators going. There was no interruption in services or visits at MDC during the storm. The Vernon C. Bain Center (VCBC), a floating jail in Hunt's Point, sustained no damage; however, during the night the VCBC parking lot was 2-4 feet under water, but measures were taken to pump the water out effectively. All in all, DOC did very well during the storm. Even though staffing was down, Rikers Island had fewer incidents during the storm. The Commissioner noted that inmates were watching TV and worried about how their families were faring in the storm.

The Chair stated that the Board would like to discuss a recent suicide and death at the MHAUII unit. Dr. Venters stated that he would not be able to discuss protected health information regarding the deaths at a public meeting, and the Commissioner stated that the matters were under investigations and therefore she could not discuss them during the public portion of the meeting. The Board agreed to discuss these deaths in Executive Session.

Dr. Venters discussed the expansion of the Restrictive Housing Unit (RHU) and provided an update on the request for proposals (RFP) process as follows:

The RHU for adolescents at the Robert N. Davoren Center (RNDC) has been doing well allowing for time out of cell, reduction in infraction time, and group therapy. The Anna M. Kross Center (AMKC) has a new RHU. Its beds have been slower to fill in part because these are adults, with many decades of behaviors which have steered them afoul of the DOC rules, and their mental health conditions are less amenable to placement in punitive segregation. There are only 15 to 20 people in the RHU because inmates have to be removed if they cannot modify their behaviors. DOC would like to have the units at their max capacity. DOHMH is working with DOC to assign steady officers with mental health and suicide watch training because a unit like that only works if suicide watch can be done on site and if there are steady officers. Executive Director Cathy Potler interjected that the Board's standards require steady officers in such housing areas.

Chair Harris asked how many inmates are currently in each RHU. Dr. Venters responded there are approximately 30 adolescents in RNDC's RHU, and approximately 16 in the adult RHU at AMKC. He added that DOC's expectation is to have full utilization of the new RHU at AMKC, which means filling two units of 30 beds each. Commissioner Schriro noted that 64 punitive segregation beds are planned to be shut down. She explained that the RHU is a joint effort to provide clinical care and time earned for good behavior.

Dr. Cohen commented that he thought the adolescent RHU seemed to have a robust mental health staffing. However, he recently visited MHAUII, which has a similar population, but did not observe a very robust staffing. In fact, Dr. Cohen noted that during his most recent visit, he learned that the Corizon staff person will not see more than a very limited number of inmates at any one time in a group therapy session. Dr. Venters responded that the RHU is an attempt to make things incrementally better than MHAUII. The issue of staffing and the size of the group therapy has been an issue discussed at recent Commissioner meetings. Dr. Venters stated that merely three people attending a group therapy session is unacceptable, and no staff should content themselves with that. Dr. Venters reported that DOHMH has fashioned a better system. He explained that the onus is on the therapists to come up with groups of six inmates, and DOHMH will hold them accountable if they do not. Dr. Venters acknowledged that the situation has been a "failing" born of years of complacency that has built up in those units.

Mr. Regan asked if there were any opportunities to leverage the availability of Bellevue staff. Dr. Venters answered yes, and reported the following:

It has been a huge "breath of fresh air" to have Bellevue staff working on Rikers Island. Everyone has benefitted. For instance, the Bellevue staff is gaining insights into what happens at Rikers. They understand that it is not safe to do medication over objection and without that threat, it is much harder to obtain compliance from patients. They also see how difficult it is to manage patients who are ill in such a chaotic setting. The patients have benefitted with the provision of quality medical care by the Bellevue staff.

Dr. Amanda Parsons reported on the RFP process as follows:

DOHMH is at the tail end of a year and a half long effort to revisit the contracts with vendors that provide health services to the City jail population. DOHMH recently announced that there are two vendors who have been selected. They are Damian Family Care Center and Corizon, Inc. Damian Family Care Centers is a Federally Qualified Health Center (FQHC) in Queens that provides tremendous care to the community and has expertise and experience in drug treatment programs. Details of the final contracts are still being deliberated. Nine groups were vetted. It has been a challenge to find vendors who are able to compete because Rikers Island is such a huge organization, the size of Bellevue Hospital. There is a paucity of entities who are equipped to provide that level of services to such a large population. Most community health centers are simply not able to provide the types of services needed. At the January Board meeting DOHMH should be able to comment on contract details, and how the work will be divided between the vendors. The most substantive global change in this round of contracts will be the shift in the way performance indicators are measured. Historically the performance indicators focused on quantitative values, such as: how many HIV tests have been accomplished.

There will be a shift toward focus on the population level – whether medical conditions have been ameliorated – such as, how effective has the vendor been in controlling blood pressure or cholesterol. DOHMH is hoping this will help incentivize provider focus on the population of patients, not just the number of visits.

Chair Harris asked Commissioner Schriro to discuss Temporary Cell Restriction (TCR). She reported as follows:

The Board has allowed DOC to roll out the use of TCR and to see how well it works. It is a really important reform and one of our first opportunities to intercede before an incident escalates into an infraction and use of punitive segregation. Before implementation, TCR was preceded by training of staff and notifications to inmates and their families. There have been five incidents involving 11 adolescents. No services have been impacted. DOC has critiqued the five TCR incidents and is looking at other incidents where adolescents were infraacted to see if TCR should have been used. Horse-play is characteristic of kids, and if one can jump in before it turns into blows, that is a good thing. Of the 11 who opted for TCR, only one has subsequently been infraacted. That was a case where we realized the adolescent should have been infraacted because it was a real fight. Ms. Potler stated that BOC staff is continuing to review the documentation and video of every TCR incident, and BOC staff has discussed issues of concern with DOC.

Commissioner Schriro discussed budget issues affecting punitive segregation. She stated that the Department submitted a Program to Eliminate the Gap (PEG) to the Office of Management and Budget (OMB) to reduce adolescent punitive segregation housing by 32 beds. She added that that reduction is imminent and that DOC is well on the way to reducing the backlog and the number of punitive segregation beds.

The Commissioner also reported that the Queens House of Detention (QHD) will not be re-opened because both DOC and DOHMH offered it as part of their PEGs. She stated that renovations will continue so that DOC has the space in case of emergency. Board Member Brier asked how DOC would deal with staffing the Queens house in an emergency. The Commissioner explained that the posts could run on over-time in a short-lived emergency. If the census shot up, DOC would submit a “new needs” request.

Dr. Cohen stated that he is very pleased to hear about the PEG reduction in 32 punitive segregation beds for adolescents. He reported that right now 25% of the DOC adolescent population is in punitive segregation status, and once the PEG is implemented, the number will be 20%. He underscored while this is a substantial response by DOC, still more has to be done.

The Chair stated that he understands from Dr. Venters that what is envisioned is that at least in terms of the mentally ill adolescents, something should be developed to obviate the needs for segregation, and he asked Dr. Venters if that was correct. Dr. Venters said the goal is “to address symptoms of mental illness with medical interventions and not with punitive interventions.” He added that DOHMH has embarked on a pathway toward that goal, but they still have a long way to go. Nonetheless, he said that both agencies are working hard to come up with a balance that safeguards the health of inmates and the security needs of corrections.

Commissioner Schriro noted that the City has been focused on the diversion of the mentally ill – in particular what can be done in the first 5-30 days of incarceration to move them out with a plan to deliver services and supervision in the community. She explained further as follows:

DOC is focused on looking at who in the system could be moved back to the community if there was the mechanism to do that. The Department believes there are a number of opportunities to address the problem of inmates in detention who have mental illness. One is low risk individuals – where the risk of re-arrest is low, but the mental health needs are moderate to high. In the first five days we could present plans to the Court to move them into the community. Another opportunity is people who have a high risk of re-arrest and high mental health needs. DOC can try to augment Brad H. discharge planning to improve long term outcomes for recidivism.

Dr. Cohen then noted that there are very few cases where jail is an opportunity and that there is very little utility to detention for the seriously mentally ill and so much harm that can be done. Dr. Cohen opined that people with mental illness would be better off out of the system rather than providing programs for them at Rikers. Noting that people who are mentally ill remain in custody much longer than the rest of the population, Dr. Cohen recommended that the Department should be more actively involved on ways to release them sooner. The Chair suggested that perhaps Dr. Cohen was attributing more control to the Commissioner than she has. Dr. Cohen clarified that he understands the limits of DOC's jurisdiction, and is concerned about where resources are being directed. He stated that they should be directed at release, not more programs.

DOC requested the renewal of two variances: the renewal of all existing variances and a renewal of the variance allowing pregnant adults and adolescents, who are either pre-trial detainees or sentenced, to be commingled in the same housing area. This variance improves access to medical care for pregnant women. The Board voted unanimously to renew both variances.

Chair Harris adjourned the meeting at 9:52 a.m. for an Executive Session. The next meeting will be January 14, 2012.