

NEW YORK CITY
BOARD OF CORRECTION

May 10, 2010

MEMBERS PRESENT

Hildy J. Simmons, Chair
Michael J. Regan, Vice Chair
Catherine M. Abate, Esq.
Robert L. Cohen, M.D.
Alexander Rovt, PhD.
Milton L. Williams, Jr., Esq.

Excused absences were noted for Pamela S. Brier, Stanley Kreitman and Rosemary Maldonado, Esq.

DEPARTMENT OF CORRECTION

Dora B. Schriro, Commissioner
John J. Antonelli, Senior Deputy Commissioner
Lewis S. Finkelman, Esq., General Counsel/Deputy Commissioner for Legal Matters
Florence Finkle, Deputy Commissioner, Office of Excellence
Stephen Morello, Deputy Commissioner, Public Information
Michael Hourihane, Deputy Chief of Department
Archana Jayaram, Chief of Staff
Harry Ahl, Deputy Warden/Executive Officer, Office of Policy & Compliance (OPC)
Felene Breeland, Deputy Warden
Felix Mura, TITLE

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Louise Cohen, Deputy Commissioner, Health Care Access and Improvement (HCAI)
Homer Venters, M.D., Medical Director, CHS
George Axelrod, Esq., Executive Director, Quality Improvement, CHS

OTHERS IN ATTENDANCE

Harold Appel, M.D., Doctors' Council, SEIU
Reuven Blau, *New York Post*
Benny Boscio, Correction Officers Benevolent Association (COBA)
Robert Calandra, Esq., Governmental Affairs Division (GAD), City Council,
Jonathan Chasan, Esq., Prisoners' Rights Project (PRP), The Legal Aid Society
Wil Cruz, *Daily News*
Thomas Farrell, COBA
Susana Guerrero, State Commission of Correction
William Hongach, Policy Analyst, GAD, City Council
Maxine King, Women on the Rise
Jennifer Parish, Esq., Urban Justice Center
Kerry Spitzer, Budget and Policy Analyst, Independent Budget Office (IBO)
Joel Stonington, *The Wall Street Journal*
Dale Wilker, Esq., PRP

Chair Hildy Simmons called the meeting to order at 9:00 a.m. Minutes of the March 8, 2010 Board of Correction meeting were approved without opposition.

Chair Simmons announced that in addition to the Board's regularly-scheduled meeting in July, the Members would inspect one or more Rikers Island facilities on a morning in late June or mid-July, and visit operations would be part of the inspection. She asked Executive Director Richard Wolf to poll the Members' availability on dates he will propose, and asked the Members to respond promptly. She then announced that at the conclusion of the public meeting, the Board would convene in executive session to discuss personnel matters. Chair Simmons noted that DOC Commissioner Dora Schriro would be reporting on the DOC budget, close custody and revision of DOC's classification instrument, and added that Board staff had identified some visiting issues that would be part of the conversation.

Commissioner Schriro reported as follows:

Deputy Chief Michael Hourihane is present, representing Chief Larry Davis who is on jury duty. Florence Finkle is a new deputy commissioner, occupying the place previously held by Richard White. The office has been reconfigured, and now focuses on activities working towards excellence – strategic planning, assessments and evaluations, and investigations. Ms. Finkle's background includes the Citizens Complaint Review Board and the State Attorney General's office. Deputy Warden Breeland is the Chief's point person on visit issues. Archana Jayaram is the new Chief of Staff and is the Department's liaison with the Board.

The challenge of operating within budget is magnified by the fact that in the first quarter of this fiscal year, DOC averaged more than 6000 hours of overtime per day. Had this continued, DOC would have exhausted its personal services budget by the end of the third quarter. 240 uniformed personnel who had not been assigned to the jails have been redeployed to inmate-contact posts. Another 239 officers who had been assigned to the jails, but not in security positions, have also been redeployed. The Department will continue to look for ways to increase safety and security resources. In FY 11, DOC's budget will have a net increase of \$4.6 million.

The Department was one of the first in the country to establish a classification system, but the instrument had not been recalibrated over time. Thanks to the Justice Department, Jim Austin, who developed the original instrument, has been working with DOC at no charge on an evaluation. The Board has requested a copy of his report, and as soon as the Department receives it, a copy will be shared with the Board. It may be received as early as the end of the week. DOC will retain Mr. Austin to help it implement the changes he identified. DOC has a large number of special classification designations. These result in many separations, which in turn results in housing areas being only partially filled. DOC is looking for ways to consolidate housing areas and the revised

classification instrument will help to identify inmates whose security risks are well-matched.

Mr. Wolf asked the Commissioner if she was referring to the item in recently-released budget documents entitled, “Close Special Needs Housing”. She said she was citing an example. Mr. Wolf asked which types of special needs housing DOC would close. Commissioner Schriro said there are a number of high-risk inmate “permutations”, including enhanced restraint, red ID, and others, and DOC believes there are opportunities for housing area consolidations. She said that working with DOHMH, DOC hopes to consolidate some Brad H. and mental observation housing. She added that she hopes to be able to make a presentation at the next Board meeting. Member Catherine Abate asked whether the move of more than 400 officers back into the jails would impact the delivery of program services. Commissioner Schriro said that programs would not be adversely affected, and that reducing idleness is critical to promoting safety and security. Chair Simmons asked about the effects of budget constraints on partnering organizations that provide programs. Commissioner Schriro said that several initiatives with community-based organizations (CBOs) are being led by Deputy Mayor Gibbs, for example, “HHS Connect”. The Commissioner said that, consistent with privacy requirements, relevant information will be shared to facilitate better discharge and aftercare planning. She added that some initiatives will be discussed at a retreat planned for the end of May. Ms. Abate said the Commissioner seemed to be referring to discharge planning rather than programs that occur during incarceration. Commissioner Schriro said the initiatives involve a continuum of care that crosses between the community and the jails. She then continued her report, as follows:

Under the Supervising Warden for Custody Management, DOC is moving towards centralized prisoner intake. This will yield a more consistent result and facilitate a front-loading of assessment instruments. Current intake information is largely self-reported by the inmate. By partnering with other agencies, DOC will have more complete information and better enable DOC to target inmates to services they need.

Member Robert Cohen, M.D., reported that he and Mr. Wolf toured AMKC last week, and that he wished to raise an issue regarding mental health classification that he had not yet had an opportunity to raise with staff from DOHMH or DOC. He said that the security classification and mental health needs sometimes may conflict. He said that housing may be in cells or dormitories, and that presumably mental health staff has a clinical basis for choosing one or the other, and security staff sometimes may see a problem with the selected housing type. He added that the mental health assessment should be very prominent in deciding how to configure the units. Commissioner Schriro said she agreed and thanked Dr. Cohen for making the point.

Mr. Wolf asked for clarification of some additional budget items. He first asked about anticipated revenue from the leasing of beds to federal agencies. Commissioner Schriro said DOC currently leases 100 beds to Suffolk County. She said discussions continue with some federal agencies, and noted that DOC does not anticipate any such

arrangement with ICE or Homeland Security. She added that DOC may again work with the Marshall's Service and the Bureau of Prisons, and perhaps other jail systems as well. Mr. Wolf next asked for information regarding the proposed "Alternative for RMSC Nursery". Commissioner Schriro said that as it considered housing area consolidations, the nursery was identified because the census averages only 3 women per day. She said the low census is due to some pregnant women choosing to opt out, and also the decisions of other City agencies who evaluate pregnant inmates for possible participation, further limiting the potential pool of participants. She said that, given the state law and BOC requirement that DOC provide nursery services, DOC is seeking to find a way to increase inmate participation or deliver the service in another way. Vice Chair Michael Regan asked for today's nursery census. Commissioner Schriro said three. Mr. Regan asked how large the census gets. Commissioner Schriro said that it has gotten as large as 8 prisoners, but often the census is 0. She noted that the capacity is 16 mothers and 17 babies. Noting that his final budget question concerned a proposal that would affect the Minimum Standards directly, Mr. Wolf asked about the proposal to commingle detainees and sentenced inmates. Commissioner Schriro said that increasingly other jurisdictions are commingling prisoner populations. She said that DOC was considering mixing sentenced and detention work crew prisoners because it would yield some housing consolidation savings and also improve security, because all-worker housing areas would remove the pressure from non-workers to bring in or take out contraband. Mr. Wolf asked if DOC was therefore not contemplating a wholesale mixing of sentenced and detention prisoners. Commissioner Schriro said this was correct. Chair Simmons remarked that if DOC intends to pursue this proposal, it will need to obtain approval from the Board. Mr. Regan asked if he was correct that DOC was not contemplating eliminating the nursery. Commissioner Schriro agreed. DOHMH Deputy Commissioner Louise Cohen said that state funding enables a robust program for working with all pregnant women, but the nursery itself needs to be more of a "grandma" model than a "doctor" model, and should focus more on parenting and life skills. Mr. Regan said government is closing firehouses and cutting other services, and some services – including the nursery – need to be continued. He said this is what the discussion is about. Dr. Cohen suggested another possibility – that women eligible for the nursery should be moved off Rikers Island. Ms. Abate said that years ago, she spoke with mothers in the nursery who described it as a nurturing environment that was about bonding with their babies. She wondered how the model moved to a medical one. Chair Simmons said that, for those proposals that may require BOC action, DOC should provide information in advance of the upcoming Rikers Island inspection to facilitate Board review. Commissioner Schriro then continued her report, as follows:

Regarding visiting issues, yesterday was Mothers' Day, and DOC kicked-off a special events calendar. DOC sold tickets enabling inmates to present artificial roses to female visitors on Mothers' Day weekend. 1300 tickets were sold for about \$1. 5000 cards, in English and Spanish, were also sold and mailed out prior to the holiday weekend. These actions are not staff-intensive, are revenue neutral, and can help maintain family ties. Another community-ties activity involved DOC collecting donations for Haiti earthquake relief. Inmates contributed more than \$21000; staff contributed more than \$32000.

In March, DOC increased the number of visit shuttle buses from two to five. Following a court decision, the Department modified its visit restrictions policy to require a nexus between a positive drug test and a contact visit before restricting an inmate to booth visits.

Chair Simmons asked about the practical implications of the policy change. DOC General Counsel Lewis Finkelman said that since March the policy is now clear that DOC cannot impose a penalty of loss of contact visits unless there is a connection between a positive drug test and a visit. Mr. Wolf said that in the last week BOC had received visit appeals from inmates at GMDC who continue to receive only booth visits, well after the policy change, because of a positive drug test prior to March, even though there was no established connection between the test result and a contact visit. Mr. Finkelman said he would look into the situation, and Mr. Wolf said he would provide documentation. Commissioner Schriro said that a second change machine has been delivered. She reported that ion scan machines were tested by the manufacturer and then recalibrated so that traces are no longer identified. Mr. Wolf asked when this occurred. Commissioner Schriro said April 2nd. Mr. Wolf asked if DOC had any data indicating whether the number of positive test results had decreased. The Commissioner said she did not. Mr. Wolf asked for data when it becomes available, and Commissioner Schriro agreed to provide it. She said a photograph with the name of the steady visit captain is posted in each jail visit area to enable visitors to contact the captain if they encounter a problem. Two hundred coin-operated lockers were installed in four facilities, and additional installations are scheduled for other facilities. Mr. Wolf said BOC staff had documented an ongoing problem with broken lockers sometimes requiring visitors to wait for a locker to become available before they are able to enter the VCB. Commissioner Schriro said the problem was that some visitors take the key with them when they leave Rikers. Mr. Wolf said this is part of the problem. He noted that keys break off in the locker because the doors are not properly aligned. He said the result is that the locker becomes inoperable, and that currently one-third of the small lockers are broken. Mr. Regan said the lockers enable visitors to store cell phones and other items they are not allowed to bring into the facilities. Chair Simmons asked if there is a resolution to the lockers issue. Commissioner Schriro said DOC needs to look for lockers that are more durable.

The Commissioner reported that DOC had instituted a logging system for “one-time visit denials”. Mr. Wolf described these denials as occurring outside of the VCB, before a prospective visitor is searched. He said that, until now, the visitor would board a bus departing from Rikers Island, and no record was maintained of the number of these would-be visitors who were denied a visit. Commissioner Schriro agreed, adding that DOC has developed a revised list of impermissible items and a revised dress code, both of which will be shown to the Board before implementation. Chair Simmons asked if these would result in uniformity of rules across facilities and Commissioner Schriro said yes. She added that the list indicates which items must be left at VCB and which may be brought to the jail and then stored in a jail locker. The Commissioner noted that one visit issue is close to resolution: visitor identification, including the requirement of birth

certificates for children. She said the issue should be resolved by May 19th. She reported that DOC will issue a new Operations Order and Directive regarding visit issues, which will create consistent expectations for visit posts at all facilities.

Commissioner Schriro continued her report, as follows:

Visit Express is in place at OBCC, EMTC, AMKC, NIC, West Facility, and GRVC. It will be rolled out in GMDC, RNDC, and RMSC. Some software glitches have occurred, and are being addressed promptly.

Both signage and the Visitor's Guide will be updated and made available to visitors.

DOC and DOHMH staff together are working on a directive regarding visitors' assistive devices, both regarding footwear and in the visit area as well: inmates who have been issued canes or walkers for medical purposes, and visitors who possess them. The goal is to develop uniform responses.

Mr. Wolf asked whether DOC was considering reconfiguring jail visitor security and waiting areas to enable visitors to store possessions before being searched. Commissioner Schriro said Dep. Breeland surveyed each jail visit house with the visit captains and initially concluded that this is not feasible because electrical infrastructure must be moved in addition to lockers. She said the suggestion will be reviewed further. Mr. Wolf offered to have BOC staff accompany DOC staff on further walk-throughs, and Commissioner Schriro agreed. Dr. Cohen, noting that BOC staff has done considerable work on the ion scan testing and visit denial issues, expressed his appreciation for DOC's attention to these issues. Commissioner Schriro next reported on close custody, as follows:

The Department appreciates the time the Board has given for DOC to develop a sound plan that complies with the Court Order and BOC Standards, and provides for safety and security. Needed physical plant modifications, which required SCOC approval, are underway. Close custody consists of inmates who come out of punitive segregation for violent infractions, and protective custody (PC) inmates – most of whom are in PC on a voluntary basis, and some who are there involuntarily. Inmates in the first group also are referred to as “predatory” and are similar to “enhanced restraint” inmates, requiring special management when outside their housing areas. [The Commissioner distributed a chart to the members.] The chart shows where inmates will be reassigned, and enhanced restraint prisoners from MDC's 9 South will be consolidated at NIC. PC inmates at RNDC will be reassigned to different floors at NIC.

SCOC approval was required in advance for renovations on the second floor at NIC to separate the shower from the housing unit. In the 3D overflow area three cells open onto a common mini-dayroom. DOC obtained permission to subdivide

the mini-dayroom so it could separate prisoners, if necessary. These projects will begin shortly.

Mr. Wolf asked if the chart meant that for 3D, the plan is to create three mini-dayrooms. Commissioner Schriro said this was correct. Mr. Wolf said that 2C appears to have two cells, numbers 2 and 3, which have no congregate dayroom. Commissioner Schriro agreed, noting that the occupant of each cell would have his own mini-dayroom. Chair Simmons asked if the plan would require a Board variance. Mr. Wolf said it probably would not, assuming there is an opportunity for congregate outside-of-cell dayrooms. Commissioner Schriro said prisoners could come out of cells and into mini dayrooms in all instances, but that with enhanced restraint prisoners, it will not always be appropriate for them to commingle. She said that even in such circumstances, the partitions between mini-dayrooms is not solid, so prisoners can see and speak with one another. Mr. Wolf said the Board should get further information and decide whether a variance is necessary. Chair Simmons asked that DC provide copies of the chart and some narrative explanation for the Board Members' consideration. Dr. Cohen asked if prisoners in enhanced restraints previously had served punitive segregation sentences. Commissioner Schriro said that enhanced restraints prisoners were placed in the category based on a history of institutional violence. She added that NIC will be undergoing a ventilation and air conditioning project in the Fall, and that during the project, the prisoners will be returned to the 9th floor at MDC where SCOC has authorized DOC to construct mini-dayrooms similar to those at NIC. Commissioner Schriro said that directives regarding enhanced restraint prisoners are being rewritten and staff are being retrained. Mr. Wolf said prisoners had been moved from NIC to AMKC without much notice to the receiving facility, resulting in delayed access to services, including law library and sick call. Commissioner Schriro said this has been corrected, and DOHMH has been informed about the move. Mr. Regan noted that the Board's advocacy on health issues and close custody is informed by its concern for the safety and security of everyone on Rikers Island. Ms. Abate said the Board is concerned about the "nuances" of security classification. Commissioner Schriro said reclassification will occur regularly and also in following triggering events, by trained staff.

Chair Simmons said the Board remains concerned about footwear and lockers. Commissioner Schriro said Mr. Wolf told her that Board staff was again reviewing the footwear issue, that she recently received the report, and will comment on it soon. Chair Simmons asked for a response well before the July Board meeting. She then asked for a report from DOHMH. Deputy Commissioner Louise Cohen reported as follows:

DOHMH must meet a 4% and then an 8% budget reduction, approximately \$48 million. Correctional Health had been held harmless in the past, but now must make some cuts. It is eliminating the Corrections Community Linkage Program, which, working at probation and parole offices, helped people connect with community health care services. It was not a mandated program, and was funded with City tax levy dollars. 13 DOHMH positions will be eliminated, and telephone numbers for community-based programs and services will be provided

to Probation and Parole for referrals. DOHMH will save \$1 million by reducing repeat tests for recidivists, and by reducing PHS overtime.

Mr. Wolf asked that the Board be informed as to which tests will not be performed at intake, so that BOC can determine whether variances are required. Ms. Cohen said she did not believe variances would be necessary, because the tests are not required by the Minimum Standards. Dr. Cohen asked about the five positions to be eliminated that Ms. Cohen had not mentioned. She responded that the positions are not correctional health positions, and reductions were achieved through attrition. She continued her report, as follows:

Electronic medical records have been rolled out at EMTC. Staff were training and assisting practitioners for three weeks, 24 hours/day, 7 days/week. Over the summer, the electronic system will be rolled out at AMKC. Most of the remaining facilities will receive the system in the Fall, with only one or two facilities left by the end of the year. Access to medical information from previous incarcerations will be made much easier, and this will be a great improvement.

Ms. Abate said that clinicians with whom she works were initially resistant to the system, but have embraced it. Dr. Cohen asked when all intake will be on electronic records. Ms. Cohen said this will be accomplished when central intake begins, or when E-Clinical Works is rolled out to all facilities – whichever comes first. Dr. Cohen asked if old records were being scanned. Ms. Cohen said they were not, but the problem lists and meds are being entered. She added that patient summaries will be available from the old electronic system. Ms. Cohen said that the RFP process is moving along, but she cannot discuss it at this time. Finally, she said that DOHMH is working with DOC to cohort high-need patients in VCBC housing areas and to bring services to them. She said diabetic patients no longer must come to the clinic early in the morning for services, and this has resulted in fewer diabetic emergencies. Dr. Cohen suggested that glucometers be available in the housing areas, so that patients who believe they are becoming hypoglycemic can have rapid results and take appropriate steps thereafter. Ms. Cohen said DOHMH is trying to figure out how to do this. Dr. Cohen said this has been done in other prisons.

A motion to approve existing variances was approved without opposition. The public meeting was adjourned at 10:20. The Board then met in Executive Session and discussed personnel matters until 10:35.