



NEW YORK CITY  
BOARD OF CORRECTION

May 12, 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

An excused absence was noted for Steven M. Safyer, M.D.

**DEPARTMENT OF CORRECTION**

Joseph Ponte, Commissioner  
Michael Blake, Deputy Commissioner  
Winette Saunders-Halyard, Acting Deputy Commissioner for Youthful and Adult Offender Programs and Assistant Commissioner for Community Partnerships and Program Development  
Shirvahna Gobin, Assistant Commissioner for Strategic Planning  
Heidi Grossman, Esq., Deputy Commissioner of Legal Matters/General Counsel  
Brenda Cooke, Executive Agency Counsel  
Danielle Leidner, Director for Intergovernmental Affairs  
Jeff Thamkittikasem, Chief of Staff  
Errol Toulon, Jr., Deputy Commissioner of Operations  
Sean Jones, Deputy Chief of Staff  
America Canas, Senior Policy Advisor  
James Perrino, Acting Assistant Chief  
Jeff Jacamantz, Department of Public Information  
Eve Kessler, Director of Public Affairs  
Anna Marzullo, Director of Field Operations  
Marsha Elliot, Captain  
Ana Billingsely, Urban Fellow

**DEPARTMENT OF HEALTH AND MENTAL HYGIENE**

Homer Venters, M.D., Assistant Commissioner, Correctional Health Services  
George Axelrod, Chief Risk Officer  
Patrick Alberts, Agency Attorney, Division of Prevention and Primary Care  
Nathaniel Dickey, Special Assistant

## **OTHERS IN ATTENDANCE**

Alex Abell, Urban Justice Center  
Skylar Albertson, Bronx Defender Services (BDS)  
Anna Andel, Columbia Mailman School of Public Health  
Sarah Ball, New York Public Library  
Ian Bassin, Mayor's Office Deputy Counsel  
Amanda Becker, Jails Action Coalition (JAC)  
Reuven Blau, NY Daily News  
John Boston, Legal Aid Society  
William Clareman, Paul, Weiss, Rifkind, Wharton & Garrison LLP  
David Condliffe, NYC Bar Association  
Mark Cranston, New Jersey Department of Correction  
Megan Crowe, JAC  
Michael Czaczkes, NYC Public Advocate  
Kelsey Deavila, Brooklyn Defender Services  
Riley Evans, Brooklyn Defenders Services/JAC  
Cynthia Golembeski, Fortune Society  
Susan Goodwillie, JAC  
Vaidya Gullapalli, Bronx Defender Services  
Candie Hailey-Johnson, Public  
Colby Hamilton, Reporter, Capital New York  
Elissa Hyne, Children's Rights  
Deandra Khan, New York Civil Liberties Union  
Lutful Khan, Osborne Association  
Martha King, NYC Mayor's Office  
Mik Kinkead, Sylvia Rivera Law Project/ JAC  
Tanya Krupat, Osborne Association  
Neil Leibowitz, M.D., Director, Mental Health, Corizon  
Jennifer Levy, NYC Public Advocate  
Dori Lewis, LAS  
Alexandra Lisonek, Cleary, Gottlieb, Steen & Hamilton, LLP  
Evelyn Litwok, JAC  
Katrina Maier, Anat Gerstein, Inc.  
Jeff Mailman, City Council  
Amanda Masters, NYC Public Advocate – Hon. Letitia James  
Elizabeth Mayers, JAC  
Alison Mikkur, LAS  
Andre Moss, The Moss Group  
Scott Paltrowitz, Correctional Association  
Jennifer Parish, Urban Justice Center/JAC  
Amanda Parsons, Montefiore  
Gloria Pazmino, Capital NY  
Jake Pearson, Reporter, Associated Press  
Bichha Pham, Anat Gerstein, Inc.  
Victoria Phillips, JAC  
Charlotte Pope, Public  
Beth Powers, JAC  
Grace Rauh, NY 1  
Margaret Ravenhorst, Hour Children

Kathleen Rubenstein, Law Department  
Steve Riestler, NYC Council, Finance Division  
Lillian Rivera, Community Disability Activist  
Amy Robinson, Stoll, Glickman & Bellina  
Cindy Rodriguez, WNYC Radio  
Michael Schwartz, New York Times  
Cynthia Soohoo, CUNY Law  
Jane Stanicki, JAC/Hour Children  
Gale Weiner, JAC  
Rebecca Weintraub, Connelly, McLaughlin & Woloz  
Mercedes Williams, NY 1  
Michael Winerip, NY Times

The Board meeting began at approximately 9:00 AM with introductions from the Board members. A motion was made to approve the minutes of the April 2015 meeting and was approved unanimously.

Chair Brezenoff started by noting anticipation of a petition from the Department of Correction regarding visitation and other Department operations. The BOC has not yet received that petition and so it is not on the agenda although Commissioner Ponte might discuss. The Chair noted that the Board has also received a petition from the Public Advocate on PREA a topic, which warrants Board attention. The Chair noted that some aspects of the Public Advocate's petition require additional analysis. The BOC deferred a decision on that petition pending additional conversations.

The Chair then turned to a report from the Board's ad hoc violence committee, composed of Dr. Cohen and Derrick Cephas. Dr. Cohen presented a report based on studies prepared by Board staff and visits made by Board members to Rikers Island. Cohen noted the BOC's recent report using DOC data which found that 80% of weapons that DOC recovers are constructed on site or in other words not brought in by visitors or staff.

Cohen then discussed lockdowns, noting several prolonged lockdowns of inmates over the past year. Cohen said from March 25 – April 14 2015, 18 year olds at GMDC were locked down for 21 - 22 hours per day with no due process or accusations of doing anything wrong and they were denied visits, recreation, and access to calls and personal property. BOC wrote a letter to DOC putting them on notice of a violation of BOC standards requiring minimum lock out times for inmates. Cohen noted this was bad practice and was the second violation of the 105 Minimum Standard that was raised to the Department by the Board in the past 6 months; the other was in relation to TRU in RNDC. Cohen also showed a photo of a memo from the warden of GMDC to the first deputy commissioner describing process for limiting time out of cell, prepared on March 25 and posted through the facility.

Cohen then referenced BOC analysis showing increased use of lockdowns in recent months and specifically that in September 2014 there were 64 lockdowns and in October there were 72. Compared to the same time in the prior year, the numbers have doubled. Cohen noted there seem to be problems in ending lockdowns via the chain of command. (Slides available on the BOC website.)

Cohen turned to the topic of visits, contraband and future DOC petition. Cohen noted seven weapons and 23 instances of drugs were found following hundreds of thousands of 2014 visits. Cephas and Cohen recently visited visit areas at multiple jails to better understand how it works. Cohen summarized some of what they noticed: no steady officers at the central visit house; every officer is on overtime there; sometimes shifts are not filled; posts in the k9 unit were not filled; the central visit package room is serving multiple functions and is crowded; visitors who come into central area who are coming to pay bail or pick up property are going through same process which may be inefficient. Cohen notes that at GMDC, there are tables, which are blocked below but no barrier above the desk and that seemed adequate to prevent contraband transfers and provide reasonable visiting setting. Cohen's observations of non-contact visits included that the booths and Plexiglas are difficult to see through and hard to communicate through. Cohen cited data that during the past nine months, the number of visits per person has gone down and the rate of contact visits has gone down while the rate of non-contact visits has gone up.

Cohen concluded that the current jail system is decreasing access to contact visits and the DOC's forthcoming proposal may accelerate these trends. He said the culture of violence deserves everyone attention and that staffing and scanning equipment should be utilized but friends and families are not the cause of violence contact visits are not the cause of violence. Visitors should be welcomed and not humiliated. Vice Chair Cephas said he accompanied Cohen on the view and his views are consistent with his.

Judge Bryanne Hamill then presented on behalf of the ad hoc adolescent and young adult committee. She noted that Commissioner Ponte has convened a weekly adolescent advisory board including many stakeholders and which is a collaborative approach to policy and practice affecting adolescents and young adults. There is planning underway to end solitary confinement for young adults. Hamill noted that collaboration is making Rikers a stronger and more secure place.

She said that the group's aspiration is to program 80% of youth 80% of the time to make them calmer, less violent and more productive while there. She noted the TRU and Second Chance Housing directives have not been finalized but will be once the DOJ lawsuit is no longer in negotiations. The group is working on de-escalation and due process issues and Hamill noted there might be a basis for new rulemaking in this area.

Judge Hamill said she has found a number of PREA violations over the past few years and in those cases after she notifies DOC's general counsel they are resolved relatively quickly but part of the issue is simply knowing what the problems are. Adolescents were in a waiting room for visits with adults without direct supervision. Hamill noted the opportunity for PREA violations in RNDC since adolescents are housed though separated in the same facility as adults. Hamill also discussed a recent violation of the Board's minimum standards when 18 year olds in GMDC were lockdown for weeks and were only allowed to recreate in cages. General Counsel went with Hamill to GMDC and confirmed the violations. She said this seemed to happen at the jail level without the knowledge of the Commissioner and was ended after this visit.

Hamill cited as significant escalating violence and lockdowns and therefore the greater need to track compliance with the Board's Minimum Standards because we do not know the relationship between failure to comply with these and growing frustration and tension. She also noted visiting as an issue for adolescents and young adults, adding an 18 year old said it was so wonderful to see and touch his mother after a long time. She said the GMDC unit was calm after contact visits returned.

Hamill said the Department was waiting to mix 18 year olds with 19 – 21 year olds until cameras and programming are ready. She said the BOC is spot-checking to understand the utilization of recreation. She noted that affording of it may have been low because it is offered very early in the morning or because very early and if it is not congregate and because services offered at the same time. She said the Board must work with DOC to develop a systematic electronic monitoring of compliance with the BOC Minimum Standards to make sure there is compliance. She noted the importance of this work because these issues of non-compliance may be related to rising tensions in the jails.

Hamill said the Vera Institute of Justice is now working with the Department on safe alternatives to punitive segregation and that they reported administrative segregation correlates with

increased violence. She said the Board will look forward to see the ultimate plan to minimize reliance on segregated units. She also said that we have to improve conditions of general population so there is less reliance and Commissioner Ponte is working hard on this.

Hamill asked DOC Deputy Commissioner Saunders to update the Board on the DOC's plans. Deputy Commissioner Saunders said that the young adult plan is underway and that the Department has received funding for it. The details are being sorted and the Department will provide an update to the Advisory and they are on track to end punitive segregation for young adults by 2016. Hamill thanked Saunders for her report.

Chair Brezenoff said these reports point to a number of continuing issues that the Board will be engaging with the DOC on, and we will make an effort to track them from meeting to meeting to mark progress or lack thereof in a systematic way. The Chair then invited Commissioner Ponte to address these issues in his update. Member Michael Regan then commended Cohen and Hamill on getting the Department to address issues quickly.

Commissioner Ponte started discussion enhanced supervision housing. He said everyone is aware two units are open and neither one is full and that this is a brand new program started in late February. He said that they are functioning as they should and have operated well and they aim to open a third unit at end of June. He said that the Department formerly indicated we would house 250 inmates in this status but the numbers will be dictated by the impact of these. Member Cephas asked how many people are currently assigned there and the Commissioner responded that 60 inmates are there, 30 in each unit. The Commissioner continued that he will now cover where agency the agency is it. (PowerPoint slides available on the Board website.)

Member Cohen commented on ESH saying there is a 45-day review process in ESH where people confined can appeal. He said his understanding is that in the 3<sup>rd</sup> floor unit there are no programs so they could not show participation to support any appeal. He asked the Department to comment on availability of programming in ESH. Deputy Warden of ESH Kelly responded that the 3W Unit that opened on April 6 there now has all programs running now following start up transition.

Judge Hamill asked if the Department is tracking participation and compliance with individual inmates since the 45-day review includes a look at this. She said a recent BOC report says this is not being tracked. Deputy Warden Kelly said that there is a sign up sheet for all services and that he does interviews to ask about participation so that inmates have their reviews. Kelly also discussed a journal program involving uniformed and non-uniformed staff to create better atmosphere and collaboration.

Member Regan asked if the Department has any good news about less violence on there or as a result of ESH. Ponte responded yes as it pertains to the ESH units, citing good behavior and participation there. He said no as it pertains to open population and ESH has not yet had an impact on larger population.

Commissioner Ponte went on to discuss the Department's 14 point anti violence agenda, including culture change, accountability of staff, new housing classification, and the need for rule change in general way. He discussed forthcoming model programs at GRVC and GMDC. He said the Department has spent four to five months looking at the organization, the drivers of

violence and trying to understand how to fix the culture allowing these issues to continue to surface.

He noted that the jailed population has shifted over past decade such that now there is a higher proportion of inmates with higher bails, more serious charges, and mental illness. He said the average length of stay is 53 days but that is misleading because if someone stays over just one night with DOC then he will be there 176 days on average. He said DOC does not understand its true staffing needs. He said we have seen good progress at RNDC with a 1 to 15 ratio. He noted as the Department creates new programs they will also need to address new skills and staffing.

He said the Department is working to improve its supply distribution and getting products to the end user so inmates have what they are supposed to have. He said there have been serious breakdowns in this process and they need to work hard to develop better system for distribution and tracking. He said the Department has done a lot of work on housing and classification for more safety as well. He also said that uniform staff struggle to adhere to correctional practice and that they want to get back to basics and do these well before moving forward on other areas. Ponte discussed the staff survey and many agency wide forums and town halls he has been conducting. He also noted the first five objectives of the 14 point plan focus on reducing violence - keeping weapons and drugs out have to be first priority, more cameras, more inmate education, better classification, and redefining first responders.

Commissioner Ponte said the Department needs rule changes as they look at many options to create safer facilities. He said violence is up across the board and many things contribute to violence and that the Department needs to address staff concerns and deliver more training for recruits, on the job and for managers. Ponte said any amount of drugs or weapons coming in is unacceptable. He said he is concerned about those weapons and drugs they are not finding. He said if the Department was catching everyone then people would stop bringing them in. but this is not the case. He said contraband needs a comprehensive approach and this has included more investigative staff, full time ID teams in three facilities, improved staff searchers, three k9 units within the ID unit, better coordination with DOI on investigations of staff corruption and better targeted searches. He noted the department is also looking to get better technology including body scanners.

Commissioner Ponte went on to say that the policies he wants to implement with visitors are in line with other major jails across the country and they balance the need for family contact with safety of staff and inmates in custody and they will reduce the opportunity to pass contraband and reduce gang influence during visits. He said the Department is also committed to reducing waiting time, improving steady posts, increasing transport options, standardizing search procedures, centralized lockers, and improved physical appearance of all visiting areas. The need for potential rule changes are to limit physical contact to the beginning and end of the visit and allow for tables with small petitions to allow for better monitoring. Ponte said this is closer to policies in Pennsylvania, Miami, and Cook County, places that have same or more restrictive policy.

Commissioner Ponte continued that the Department wants to take comprehensive look at each visitor and inmate history and to link intelligence to activity in the visit area. He said that need for a rule change also relates to punitive segregation overrides. He said the Department needs to be able to respond to inmates during the 7 day out period and they estimate this will only be

applicable to 2% of those people released. He said the Department cannot have inmates feel that they are immune from segregation and they need to keep staff and inmates safe. He said the Department created a housing strategy unit which tracks inmates going in and out of punitive segregation to make sure they are safely housed.

Judge Hamill then asked how many of the inmates that have been released from punitive segregation went to ESH. Ponte responded that some have and some were housed in more restrictive housing like NIC but he did not have the number.

Commissioner Ponte then said that the Department wants to look at packages and hopes that uniforms for all inmates will reduce the need for personal articles and that any remaining items inmates can buy in commissary in order to reduce the need for carry on items. Ponte noted that they will bring violence down with the new housing classification, improved staff training, coaching and programming in GRVC the second model in GMDC which will be full facility model and they will repeat this in other large facilities. He said RNDC is good example of a facility's ability to radically change and that GRVC has done very well under leadership of Augustus in bringing violence down.

Member Jennifer Jones Austin said she is concerned about proposed visitation changes and noted that the Commissioner on a couple of occasions that these changes bring the Department more inline with other jurisdictions but she was not sure if those systems are more effective. Ponte agreed this was a fair question and agreed to answer this later.

Vice Chair Cephas commended the Department's effort to roll out major programs and asked if the Department required additional staff or skills for this. Ponte responded that they need different types of staff and for example have hired counselors to provide services on site. He said DOC used to have 100 plus correctional counselors and today they have 16 and this is a key function for programming and connections to the outside.

Member Cohen said that the Commissioner raised very serious injuries to staff, noting these are horrible events but they have decreased recently. Cohen continued that therefore punitive segregation reform has been associated with a decrease in these assaults. Cohen said he is concerned with the logic of changing policies when they appear to be working. He added a complaint that the Department has not yet given the petition as unfair to community to have time to review it carefully. Chair Brezenoff interjected, saying Commissioners are powerful but are not all-powerful people and that he believe the petition was likely going through vetting and he was optimistic they would receive something soon. Member Austin added that she is hopeful that the thoughts and comments made throughout the process will be reflected in the petition.

Judge Hamill asked that the Commissioner consider that the proposed regulations might be overly broad and not narrowly tailored and overly punitive for inmates and she urged them instead to consider changes on individual determinations focused on inmates posing a danger rather than across the board. Commissioner Ponte said he hoped to have a lot of dialogue. Member Regan mentioned concern over assaults on staff and said he is interested in understanding changes to visitation as he thinks it makes sense.

Chair Brezenoff then asked the Department to discuss their PREA related work. The Commissioner introduced his work with the Moss Group and then Andie Moss, President of the

Moss Group spoke. Moss described her group's experience and their plan to work with the Department to help the Department work toward compliance. Judge Hamill commented that this is terrific news and she is very optimistic.

Chair Brezenoff offered the Department time on requests for continuing variances and other business. Chief Martin Murphy described requests for three continuing variances (1. Comingling of adolescents with city sentence and detained adolescents at RNDC; 2. Jumpsuits, suicide smocks and suicide blankets for inmates in punitive segregation; and 3. West Facility's communicable disease unit's exception to congregate recreation variance.)

Before the vote on those, Judge Hamill suggested that since the Department will bring a petition for rulemaking she would like to see these in there since it might be time to think about these continuing variances in that format so that it can go through CAPA process and review by board. Member Regan then moved the item and the variances were voted unanimously to continue.

Chief Murphy then described a new variance they are seeking to comingle pretrial and sentenced pregnant inmates at RMSC, which he said would be beneficial to both populations to prevent infectious disease such as influenza. Member Cohen said he thought this had been practiced for a while and that BOC and Ponte have allowed this in the past because of limited capacity. Chair Brezenoff said it was allowed but somehow it lapsed. Assistant Commissioner Venters then added to the conversation (remarks inaudible.) Chief Murphy clarified that this variance would only be applicable to inmates 18 years old and over in response to a question from Judge Hamill. Chair Brezenoff called it to vote and it passed unanimously.

Then DOHMH provided an update on their work. Assistant Commissioner Venters said DOHMH received OMB support for an expansion of programming, including therapeutic interventions and group modalities, for young adults and to develop substance abuse programming for this group. He noted the importance of this funding since substance abuse is the most prevalent diagnosis in the jails and it accounts for the dramatic rise in mortality of people coming out of jail and prison across the country.

Venters then discussed plans for Crisis Intervention Teams (CIT) that was funded as a result of the Mayor's Task Force on Behavioral Health and the Criminal Justice System. He said this will result in teams of both DOC and health staff trained together so that in jails where there are behavioral health issues instead of a probe team and security response there will be a joint crisis intervention response. He said that in June training will start and will roll out first in AMKC. Venters then described the new PACE units as innovative approaches to mental observation houses and said there are 20 mental observation houses and more resources are needed there and PACE will help. He then described correctional health's new pre-arraignment screening program, which is being piloted in Manhattan and involves a nurse practitioner and other new staff. The program, he said, will help with better information to better identify people who are sick quickly and will help divert people to alternative dispositions. Venters' final update was on working with DOC to reform the restrictive housing units which all agree are not working. DOHMH and DOC are working on better timely information sharing but the plan for RHUs is not ready yet and they will want to discuss with the Board soon.

Member Cohen said that that all have been engaged for a long time on changing the RHUs this but he is concerned that these are dangerous units and people are at risk there without access to mental health services. He asked what is the interim plan to ensure safety. Venters responded

that DOHMH is working with DOC to aggressively review, who can leave these units and he shared the concern. Chair Brezenoff said this is something the Board should keep an eye on through its ad hoc violence committee.

Members Regan and Hamill congratulated the DOHMH on these reforms, noting their promise. Member Regan asked when DOHMH would tell the Board about its review of the overall delivery of health care and Venters responded that the review led by the Mayor's Office is still ongoing.

Chair Brezenoff then began the public comment period and noted that at the conclusion the Board will move into an executive session about personnel matters. The public comment period began at approximately 10:39 and included comments the Public Advocate's office, the Osborne Association, Hour Children, Legal Aid society, Bronx Defenders, Sylvia Rivera Law Project, Brooklyn Defenders Services, New York Civil Liberties Union, JAC, and other members and advocates from the community. The full public comment period can be viewed here <https://www.youtube.com/watch?v=gODXKSqD6Ck> on YouTube in the NYC Board of Correction videos.

Before concluding the meeting, Chair Brezenoff thanked Richard Wolf for assisting the Board through recent months of no staff leadership. The meeting concluded at approximately 11:25.