

**NEW YORK CITY  
BOARD OF CORRECTION**

**September 15, 2005**

MEMBERS PRESENT

Hildy J. Simmons, Chair  
Stanley Kreitman  
Richard Nahman, O.S.A.  
Jane Paley Price  
Michael Regan  
Alexander Rovt  
Paul A. Vallone

Excused absences were noted for Vice Chair John R. Horan and Member Gwen Zornberg, M.D.

DEPARTMENT OF CORRECTION

Martin Horn, Commissioner  
Tom Antenen, Deputy Commissioner for Public Information  
Judith LaPook, Chief of Staff  
Florence Hutner, General Counsel  
Mark Cranston, Deputy Warden in Command, Office of Policy and Compliance (OPC)  
Elizabeth Myers, Director, OPC

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Arthur Gualtieri, M.D., Deputy Commissioner  
Bruce David, M.D., Assistant Commissioner, Correctional Health Services  
George Axelrod, Director of Risk Management, Correctional Health Services (CHS)  
Robert Berding, Director, Clinical Services, CHS  
Ben Okonta, M.D., Acting Director, Medical Services, CHS  
Blair Lawson, Director, Field Operations

OTHERS IN ATTENDANCE

Nicole N. Austin, Office of Compliance Consultants  
Don Doherty, Division Vice President, Prison Health Services (PHS)  
Sara Goonan, Budget Analyst, Office of Management and Budget (OMB)  
Tatiana Ortiz, Budget Analyst, OMB  
Jeff Krupski, Mayor's Office of Operations  
Carl Thelemaque, Legislative Financial Analyst, City Council  
Russell Unger, Legislative Counsel, City Council  
Paul von Zielbauer, *New York Times*

Chair Hildy J. Simmons called the meeting to order at 9:30 a.m. A motion to approve minutes from the June 9, 2005 meeting was approved without opposition.

Chair Simmons asked Executive Director Richard Wolf to say a few words about Carl Niles, the Board's Director of Field Operations who died over the summer. Mr. Wolf reported as follows:

Mr. Niles, 53, died unexpectedly on July 18, 2005. He joined the Board as a field representative in 1984 and two years later was promoted to the supervisory position in which he served for more than nineteen years. His even-handed approach to problem-solving earned the respect of his BOC colleagues, Department of Correction staff, and inmates. He promoted collaboration between the Board and the Department, encouraging subordinates to identify and resolve small problems before they became large ones.

Mr. Wolf said that Mr. Niles' death is a profound personal and professional loss. Mr. Wolf thanked DOC for honoring Mr. Niles by flying the flags on Rikers Island at half-staff and arranging for the presence of the DOC Pipe Band at the funeral. He thanked Transportation Division Warden Langston for providing transportation so that DOC employees who work on Rikers could attend the funeral. Mr. Wolf also thanked City Council Member Peter Vallone, Jr. for arranging for a Council Proclamation honoring Carl Niles. He also thanked BOC Member Paul Vallone for his assistance. Mr. Wolf said that the Proclamation has been prepared, and details regarding its presentation will be forthcoming. BOC Member Michael Regan praised Mr. Niles' professionalism and enthusiasm for his work. DOC Commissioner Martin Horn echoed the sentiments expressed by Mr. Wolf and Mr. Regan, adding that Mr. Niles served the Board and the City very well. Noting that "it's the people, not the programs," Chair Simmons said that Mr. Niles represents the best of the people.

Board Member Stanley Kreitman, chair of the Minimum Standards Review Committee, gave a report, as follows:

The Committee met for several hours last week and began the process of reviewing the proposed changes sought by the Department. One or two additional meetings will be needed to complete the initial review. The Committee will recommend some items due to changes in the law. The Committee has sent a letter to the Commissioner seeking explanations and additional information regarding other items, including nondiscriminatory treatment, classification, personal hygiene, lock-in and recreation.

When responses are received, the Committee will make recommendations to the Chair and the full Board, which will debate them and seek comments from interested constituencies, including the unions and Legal Aid.

Mr. Regan added that the Committee itself might make recommendations for changes to the Standards. Chair Simmons thanked the Committee for its work thus far and noted that she expects the Department will respond to the current inquiries and to future ones. Mr. Vallone also thanked the Committee, adding that Committee evaluations and other information presented to the Board will be very helpful. Chair Simmons, noting that the next BOC meeting

will occur on Friday morning, October 14<sup>th</sup>, asked Mr. Wolf to draft a plan outlining how the Board will take the Committee's work and "be part of that conversation", and thereafter the steps by which the comments of interested parties will be obtained and considered. She expressed the hope that by the October meeting the Committee could present a time period over which the various steps might occur. Commissioner Horn said DOC would have no problems responding to inquiries in a timely fashion. He said that he received the letter last evening and that all the questions are reasonable ones. He said it might be useful for DOC staff to have a conversation with members of the Committee and the Chair to get a "better sense of exactly what the Committee's concerns are." Chair Simmons and Mr. Kreitman both agreed.

Commissioner Horn presented his report, as follows:

Approximately 70 DOC personnel are in Louisiana working in support of various Parish jails in and around New Orleans, which had to evacuate 8,000 inmates. Not one inmate died, and public safety was not compromised. Courthouses and booking and detention facilities were lost. A temporary facility was opened at the Greyhound bus station, and communications at that site are being managed by personnel from the New York City DOC. DOC also sent two tractor-trailer loads of supplies.

The Mayor's Management Report, issued earlier this week (copies of pages reporting on DOC were distributed to the Members), reports that new admissions decreased to the lowest level in two decades; stabbings and slashings dropped by 25%, while fight and assault infractions remained relatively constant; discharge planning services were provided to more inmates; suicides increased, but there were no escapes. DOC is pleased with its performance.

A DOC document (distributed to the Members) describes the dramatic reductions in inmate-on-inmate violence and serious uses of force. In the past year, there were 110,000 admissions and only 30 stabbings and 50 "A" uses of force. Assaults against staff also are down. The City's jails "are the safest in the country."

DOC's Adopted Budget for fiscal year 2006 is \$803.3 million (a budget summary was distributed to the Members), a reduction from the FY05 budget of \$831 million. DOC's FY05 overtime authorization was \$62 million; in FY06 it is \$43 million. DOC has an aggressive plan to reduce overtime through consolidations, including some that were accomplished with BOC variances. The plan also involves closing down operations in some court houses, such as Long Island City, where DOC had a dozen staff but only six inmates were being produced there each day. There will be a headcount reduction of 241 uniformed personnel and 42 civilian staff. DOC also is achieving savings in the Transportation Division and by reorganizing the Inspectional Services and Compliance Division as the Office of Policy and Compliance, under Deputy Warden Mark Cranston.

DOC just issued a Request for Proposals to outsource its commissary operation. Inmates should not experience a change in what they receive or in the items that are available. Instead of continuing to operate “convenience stores” in each jail, the plan is for “an offsite bagging operation”. Inmates will fill out a shopping list, which will be submitted electronically to the vendor who will deliver to the jails bags of items for each inmate. Inmate banking will change as well, and ultimately it will be possible for deposits to be made to inmate accounts via wire transfers and credit cards. Another important goal is to support the posting of bail electronically. Currently DOC handles over \$50 million per year, mostly in cash deposits, of which more than \$30 million are bail receipts. This poses internal control challenges, and DOC has consolidated operations into one cash room on Rikers Island that is under camera surveillance. By developing an infrastructure to support electronic deposits, DOC hopes to significantly reduce the amount of cash it must handle.

DOC received some additions to its budget, totaling \$1.9 million for 17 officers and 2 captains for corridor security at GMDC and GRVC, and several fire safety positions and two maintenance supervisors. DOC received \$1.4 million for discharge planning, including \$900,000 to perform discharge planning for adolescents. \$300,000 will enable the Fortune Society to operate a drop-in center at the Perry Visitor Center building, to provide services to inmates who have not received discharge planning services because they are bailed out in the middle of the night.

DOC has installed several hundred lockers for visitors to store items they cannot bring into the jails, such as cell phones. DOC will charge \$.50 for use of a locker.

DOC continues to perform drug testing on inmates, at a rate of approximately 1,600 per month. Positive results have dropped from 7% to 3%. The program will begin at the Rose M. Singer Center today. The current rates combine random testing and tests on suspicion. These will be separated and DOC expects the random-test positive rate will continue to decline. An inmate who tests positive is referred to drug counseling, loses good time if sentenced, is designated an “Intended Contraband Recipient”, and is subjected to disciplinary proceedings that can result in punitive segregation.

The Mental Health Assessment Unit for Infracted Inmates (“MHAUII”) has been relocated and expanded to accommodate inmates who have committed infractions but have mental health issues. The new area, located in a 300-bed tower, is brighter than the previous location. DOC will be air-conditioning the 300-bed tower. At the housing area adjacent to MHAUII, an Intensive Treatment Unit will be established by the Department of Health and Mental Hygiene.

A new Day Custody Program will begin on or about September 20<sup>th</sup>. DOC appreciates the Board’s addressing issues for The program will target inmates who receive short misdemeanor sentences from the courts (3 days, 5 days)

following their failure to pay fines or restitution or to perform community service. Judges will be able to sentence inmates to DOC custody during daylight hours. The inmate will go home at night. The Center for Alternative Sentencing and Employment Services (“CASES”) will providing counseling and services through a grant from the Criminal Justice Coordinator’s Office. The program will assess the inmate’s needs and connect him to services in the community.

On August 7<sup>th</sup>, inmate Rodey Swain was found hanging in his cell. He died on August 9<sup>th</sup>. Swain, 36, was in custody since April 27<sup>th</sup>, having been charged with Robbery in the First Degree. His bail was \$10,000 and he also was facing a warrant for violation of parole. Medical staff responded within six minutes. DOC’s investigation concluded that its staff acted appropriately. Swain made six phone calls the day before he hanged himself, and he left a suicide note. There were no warning signs. Swain was not known to mental health personnel.

Board Member Father Richard Nahman asked if the DOC employees in New Orleans are being paid with City funds. Commissioner Horn said the employees are there following a request from the state of Louisiana to FEMA, which was conveyed to the New York State Emergency Management Office and thereafter to the City’s Office of Emergency Management. He said the employees are being paid by the City, but there will be Federal reimbursement to the City. The Commissioner said that the employees are receiving overtime as compensation for being away from home, and added that FEMA will be charged for the overtime.

Mr. Kreitman expressed amazement that it costs \$60,000 per year to house a City inmate. Commissioner Horn responded that the number is arrived at by dividing the total DOC operating budget by the average daily census. He said that to add one inmate does not cost \$60,000. He said the marginal cost of each inmate is much less. Commissioner Horn said the issue is savings through consolidation. He said that typically, DOC may confine only one or two civil inmates but the Minimum Standards require that they be housed separately from criminal inmates, and that this is expensive because DOC must keep open a separate housing area for civil prisoners.

Mr. Vallone said it is commendable that DOC staff responded to assist New Orleans. He asked whether New York is comfortable with its emergency plans. Commissioner Horn said the City has plans, but in the wake of Hurricane Katrina, one must wonder whether they are adequate. He said the City has put “all of its eggs” in one basket, Rikers Island. He asked if there were an accident on the bridge, how would staff and inmates get on and off the Island? The Commissioner said that DOC works with the Office of Emergency Management, the Police Department, and with Transit, and conducts emergency exercises with the Port Authority at LaGuardia Airport and the Fire Department. He said the City may enter into a mutual assistance compact with surrounding county jail systems. Mr. Vallone asked if there should be a joint lobbying effort to secure necessary funds. Commissioner Horn said DOC has never had difficulty securing needed funds for emergency planning. Mr. Regan said that the large number of DOC staff who volunteered to assist Louisiana is reminiscent of DOC’s response to 9/11. He asked whether privatizing commissary operations will delay the delivery of commissary to the inmates. Commissioner Horn said no, noting that forms will be filled out in advance and commissary will be delivered on the appropriate date. Mr. Regan asked if there

were benchmarks for evaluating the drug testing program. Commissioner Horn said the program was too new, and noted that DOC is moving on several fronts to reduce inmate drug use, including improving intelligence, enhancing the K-9 Unit and increasing use of the Ion Scanner. He added that inmates are not tested until they've been in custody for 15 days, noting that if a test given between 15 and 30 days in custody is positive for marijuana, the result is not used because marijuana could remain in one's system for 30 days and the positive test could reflect use in the community prior to custody. Commissioner Horn said that in such cases, inmates are called back for a second test.

Chair Simmons asked Commissioner Horn to present DOC's request for an extension of a previously-granted variance authorizing DOC to house five additional inmates in dormitories at the Vernon C. Bain Center (VCBC). The Commissioner reported as follows:

The jails continue to report high temperatures. DOC has air-conditioned cells only at VCBC and the Bernard B. Kerik Center (BBKC), which was a large part of DOC's plan to house "heat sensitive" inmates. BBKC has four large chiller units, two of which have been out of service for almost ten years.. In July, one of the two operating units "died". The broken unit was repaired, but is "being held together with baling wire". If there were a crisis, it would be best to have the fewest number of heat-sensitive inmates at BBKC because they would then have to be evacuated. Until three chillers are operational, DOC does not feel it can rely on BBKC to house heat-sensitive inmates, and therefore requested the variance. Inmates with Bronx cases were moved from Rikers to VCBC so some of the BBKC inmates could be moved to air conditioned areas on Rikers Island. The Court's oversight extends through October.

DOC General Counsel Florence Hutner said that unless extended, the court order ends on October 15<sup>th</sup>. Commissioner Horn noted that there have been no problems at VCBC since the variance beds were added, nor have there been problems in variance dormitories in other jails. Mr. Regan asked if the request was specifically for air-conditioned housing units. Commissioner Horn said the request is for October through December. Chair Simmons said the likelihood of DOC needing the variance in December is very slim, but the likelihood of needing it in October is greater. She said the point is to give DOC flexibility. Mr. Vallone said the Board could grant a 30-day variance. Ms. Paley Price agreed. Chair Simmons noted that the Board has other matters coming up in October, and asked whether there is any compelling reason not to grant the request. Commissioner Horn said that BBKC is a sealed building with windows that do not open. He said if the air conditioning is needed "just to keep it temperate," and that requiring DOC to renew its request every 30 days "smacks of micro-management. Chair Simmons said she would prefer to entertain a motion that would give DOC authorization to continue the variance through the end of the year, noting that there have been no problems. She said that if incident reports were to show a change in conditions in the dormitories, DOC would convey that information to the Board, which could then revisit the issue. Mr. Regan said that based upon the Commissioner's explanation, he supported granting the Department's request until the end of the year. A motion was made, seconded, and approved without opposition.

Chair Simmons welcomed Dr. Arthur Gualtieri from the Department of Health and Mental Hygiene, noting that BOC Member Gwen Zornberg, chair of the Health Committee, could not attend today's meeting. Chair Simmons reported that the Health Committee will

meet next week, and will provide a full report at the October BOC meeting. Dr. Gualtieri thanked the Board for inviting him to the meeting, and said he looks forward to a continuing collaborative relationship with the Board and DOC. He said he recently was appointed Deputy Commissioner, and noted that Dr. Bruce David has been appointed Assistant Commissioner for Correctional Health Services (CHS). Dr. David said he previously had been CHS's Director of Mental Health, and that a new person has been selected for this position and will begin work in late October. Dr. David reported that Dr. Al Glick, who has been a supervising psychiatrist for PHS, is the Acting Mental Health Director for Prison Health Services (PHS). Chair Simmons asked whether there will be a further decision regarding the position. Dr. David said it is expected that Dr. Glick will remain in the position.

Chair Simmons asked for information regarding the vacant dental positions that were raised by Ms. Paley Price at the Board's last meeting. Dr. David said that the positions were reinstated, and that the waits that had resulted from the reduction in positions have been eliminated. Mr. Wolf asked if all the reinstated positions were filled. Dr. David said yes. Chair Simmons asked when the Board would receive the second quarter Performance Indicators (PI). Dr. Gualtieri said the PI report is issued in the third month of the following quarter, and will be available soon. Chair Simmons said that she and Dr. Zornberg had a "very positive meeting" with DOHMH Commissioner Dr. Tom Frieden, Dr. Gualtieri and Dr. David earlier in the summer. Chair Simmons said she invited Dr. Frieden to attend a Board meeting, and he is tentatively scheduled to come to the December meeting.

A motion to approve a renewal of existing variances was approved without opposition. The meeting was adjourned at 10:35 a.m.