



NEW YORK CITY
BOARD OF CORRECTION

September 8, 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

Joseph Ponte, Commissioner
Martin Murphy, Chief of Department
Michael Blake, Deputy Commissioner
Cynthia Brann, Deputy Commissioner
Timothy Farrell, Deputy Commissioner
Winette Saunders, Deputy Commissioner
James Dzurenda, First Deputy Commissioner
James Walsh, Deputy Commissioner of Adult Programming
Shirvahna Gobin, Assistant Commissioner for Strategic Planning
Jeff Lindor, Strategic Planning Manager
Heidi Grossman, Esq., Deputy Commissioner of Legal Matters/General Counsel
Turhan Gumusdere, Assistant Chief of Field Operations Unit
Brenda Cooke, Executive Agency Counsel
Danielle Leidner, Director for Intergovernmental Affairs
Shaleem Thompson, Deputy Director of Public Affairs
Jeff Thamkittikasem, Chief of Staff
Marisa Alberti, Policy Analyst
Rina Desai, Program Specialist
Anna Marzullo, Senior Policy Advisor
James Perrino, Acting Assistant Chief
Carleen McLaughlin, Director of Legislative Affairs and Special Projects
Annie DiCaterino, Strategic Project Planner
Marsha Forkin, Project Management Analyst
Frances Taormina, Project Management Analyst
Eve Kessler, Director of Public Affairs
Becky Scott, Warden
Steven Bastian, Deputy Warden

Jacqueline Brantley, Deputy Warden
Tonya Hayes, Deputy Warden
Angelo F. Jamieson, Deputy Warden
Maxsolaine Mingo, Deputy Warden
Brian Calloway, Assistant Deputy Warden
Luis Matos, Assistant Deputy Warden
Steven Ramkissoon, Captain
Damian Brown, Correction Officer
Lynn Munro, Correction Officer
Leslie Brunson, Investigator
Tolani Elumade, Intern
Carla Lewis, Intern
Kimberly Douglas

HEALTH AND HOSPITALS COORPORATION

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

OTHERS IN ATTENDANCE

Alex Abell, Urban Justice Center
Jui Agrawal, Office of Management and Budget
Ryan Budhu, Assistant Corporation Counsel for Government Policy
Angel Castro, Correction Officers' Benevolent Association (COBA)
Deanna Clugston, Legal Aid Society (LAS)
David Condliffe, NYC Bar Association
Joyce Conley, The Moss Group
Mark Cranston, Warden, Middlesex County Department of Correction and Youth Services
Megan Crowe, Urban Justice Center (UJC)
Julia Davis, Children's Rights
Laurie Davidson, Doctors Council SEIU
Kelsey De Avila, Brooklyn Defender Services
Tommy Demenkoff, Stella Adler Studio
Anat Gerstein, Anat Inc.
Thomas Giovanni, NY Law Department
Susan Goodwillie, Jails Action Coalition (JAC)
Courtney Gross, NY1 News
Alyssa Katz, NY Daily News
Sarah Kerr, LAS
Deandra Khan, NYCLU
Tanya Krupat, Osborne Association
Sierra Kuzava, Stony Brook University
Elena Landriscina, Disability Rights New York
Victoria Law, Independent

Laura Limuli, BOC Director of Research, Emeritus
Evelyn Litwok, JAC
Jeff Mailman, NY City Council
Rachel Maremont, Bronx Defenders
Amanda Masters, NYC Public Advocate – Hon. Letitia James
Andie Moss, Moss Group
Jaouhar Nao, Reporter
Tom Oppenheim, Stella Adler Studio
Scott Paltrowitz, Correctional Association
Jennifer Parish, Urban Justice Center /JAC
Amanda Parsons, Vice President, Community and Population Health, Montefiore Hospital
Jake Pearson, Reporter, Associated Press
Suzy Petcheam, Stella Adler Studio
Bichha Pham, Anat Gerstein Inc.
Charlotte Pope, Children’s Defense Fund
Celia Rhoads, Law Department
Steve Riester, NYC Council, Finance Division
Marc Steier, COBA
Amelia Warner, COBA
Gale Weiner, JAC

Chair Brezenoff opened the meeting by asking for a motion to discuss the July meeting minutes. Vice Chair Cephas moved to approve and Member Cohen seconded. There was no discussion on the minutes. Chair Brezenoff assumed unanimous acceptance and the minutes were approved. Chair Brezenoff welcomed Department of Correction (DOC) Commissioner Ponte to begin the meeting with a discussion of DOC updates with particular emphasis on the young adult plan. The Commissioner said that the Department has increased programming for adolescents and decreased staff ratios. He said that DOC plans to take similar steps for young adults and DOC has already increased staff and the number of incentivizing programs. There are 1200 young adults in DOC care accounting for a very high proportion of violent incidents (about one third of the overall violence). He explained that so far they are doing well on the plan which he lauded as setting a national precedent. He said that many staff members had already received training on crisis intervention. Further, age-appropriate programming is being implemented with \$9-11 million annually to support these efforts. He stated that counselors are already in place at GMDC. Due to the elimination of punitive segregation for young adults, they will be moving towards incentive-based systems to improve behavior. He said that young adults would begin being transferred to GMDC that week for educational programming. The challenge, he said, would be to ensure that DOC addressed the staffing changes in a timely fashion.

Commissioner Ponte asked for questions. Member Cohen said that he would like to make a comment and expressed his optimism and complimented the Department. Member Jones Austin requested that Commissioner Ponte update the Board at all meetings as the program rolls out. Member Hamill expressed concern regarding the alternative housing for challenging young adults. Unlike with the young adult population who, with variance approval, will be able to stay in PACE units, adolescents do not have a specialized mental health housing unit like PACE, she said. Member Hamill commended the DOC leadership for changing the culture at GMDC.

The HHC (Health and Hospitals Corporation) update was given by Dr. Homer Venters. He reported that three PACE units are now open and the fourth unit will be open soon. That unit will be two tiers with a security barrier on the top tier so that inmates cannot hurt themselves. This unit will work to accommodate inmates who cycle between DOC and state hospitals (known as 730 returns). He reported that Crisis Intervention Teams (CIT) are still being rolled out. Dr. Venters asked the Board for questions or comments. Judge Hamill expressed concern that there are not robust mental health services for adolescents and asked if there is a plan to address that need. Dr. Venters explained that HHC would like to expand other units but that their priority was to start with units with the highest morbidity. He said that they will be looking into creating units for adolescents with mental health needs.

Member Cohen asked for an update on RHU and for discussion of an article Dr. Venters had recently published. Dr. Venters said that there is only one RHU functioning and that it seems to be beneficial to have inmates coming for limited amounts of time. In addressing the journal article, Dr. Venters said that he and his colleagues looked at data from 45,000 inmates who were new to the jail and focused on disparities. They found that white and older patients were more likely to go to mental health services. They then looked at when those who received mental health treatment got their treatment. They found that white and older patients came in earlier. Many non-white, younger people came in because of solitary confinement, not clinical encounters. The research raised the question of whether health service is adequately prepared to find people with mental health needs. They have received federal funding to retrain staff and HRSA funding to provide training on delivering culturally appropriate care.

Chair Brezenoff asked Dr. Venters to address the PACE-related variance. Dr. Venters said that HHC is involved with and supportive of DOC's efforts to address care for young adults. He said that HHC is seeking a variance so that a very small number of young adult inmates (probably 5-10) are allowed to stay in the specialized programs, including CAPS, PACE and the methadone program, with adults. The request is in part based on resource and efficiency considerations. Member Hamill stated that the regulations require Board Members to consider all interested parties and given the untimely notice of variance the Board will need more time before having a vote on this. Dr. Venters said that would be fine so long as the Board grants the variance that DOC can push the young adult move to December.

Chair Brezenoff asked Member Hamill for a report on the Adolescent and Young Adult Committee but she had nothing further to add. Chair Brezenoff asked Member Cohen for a Violence Committee update but the Committee had not met since the last public meeting. However, he wanted to comment about a tour of Brooklyn House that he took. He said that administrative segregation is closing down there but that there had been problems (Note – administrative segregation did not end rather, it was moved out of Brooklyn House). There was no programming for those inmates and nothing for them to do except for one hour of recreation. He expressed concern that only one third of people scheduled for mental health services in Brooklyn House receive their scheduled follow up and asked that the Board discuss this with HHC and DOC soon.

Chair Brezenoff introduced discussion on how the Board responds to variance requests and how to improve the process. Member Cohen explained that the Board is currently considering how to effectively respond to emergency variance requests. He said the Board is also considering the development of an experimental variance process, a new approach.

Chair Brezenoff commenced the public comment period. Comments were given by Jennifer Parish (of the Urban Justice Center and JAC) and Tanya Krupat (of the New York Initiative for Children of Incarcerated Parents of the Osborne Association). The full public comment period can be viewed at <https://youtu.be/bKE94C50LnI?t=42m12s>.

After the public comment period, Chair Brezenoff introduced a presentation on the proposed rule pertaining to punitive segregation, visitation and packages. Chair Brezenoff noted that the proposed rule began with a petition from DOC that the Board staff has worked on already. He explained that this is an early part of the CAPA process and that there will be an extended public input period. Vice Chair Cephas moved to discuss and Member Hamill seconded. Member Hamill asked Commissioner Ponte why he was opposed to some provisions that were removed, specifically the proposed definition of family. Commissioner Ponte thought that the proposed definition may create problems because of how broad it was. Judge Hamill asked Commissioner Ponte if he would oppose requiring the Department to explain why an inmate cannot be placed in less restrictive housing when issuing a seven day override. She also asked why ESH and the West Facility are not being utilized more. Commissioner Ponte said that the decision to override necessarily means that other options are not available. He said that while ESH is a more proactive approach to safety, it is not as safe an option as punitive segregation. Commissioner Ponte continued that because of the West Facility's layout for infectious disease situations it is not functional.

Member Richards asked Commissioner Ponte if there is a correlation between the proposed eligibility criteria for visits being revoked and the likelihood of contraband being brought in.

Commissioner Ponte explained that it is hard to get that data. Vice Chair Cephas said that the Board is concerned that the criteria used to prohibit visits seems arbitrary. Member Jones Austin agreed and added that she wanted to ensure that the way this rule is implemented is as equitable as possible. Member Richards asked for data on the visitors who are arrested and their relationship to the inmate. Member Cohen asked for data on the visitors who are not arrested and whether they have been involved with the justice system. Member Cohen said that he had not seen any evidence from the DOC that solitary confinement is beneficial for safety and security and that the Board should not put forth any rules pertaining to that. He also said that the Board's actions in January were positive and that the Board should not be starting the CAPA process so he would be voting "no." Commissioner Ponte said that punitive segregation probably does not help the inmate but is used to protect staff safety. He also said that New York City is a national leader in this area and has much more progressive policies than other cities. Member Cohen commended Commissioner Ponte for his work collaborating with the Board and the national leadership on this issue. Member Hamill commented that she would not be voting in favor because the language surrounding visitation may impede on the important role of outside visits for inmates' mental health. Chair Brezenoff said that he would support the proposed rule because Commissioner Ponte is a reformer and has brought the DOC a long way and will support him if this rule will help the Department. Chair Brezenoff asked for a move. Vice Chair Cephas moved and Member Regan seconded. Chair Brezenoff asked for all of those in favor: Chair Brezenoff, Vice Chair Cephas, Member Jones Austin, Member Safyer, Member Regan. Opposed: Member Richards, Member Cohen, Member Hamill. Chair Brezenoff announced that the motion carried. He suggests that the Board goes through the proposed variances A-G.

Chief of Department Martin Murphy requested a variance to move the young adult accommodation plan back from October 15, 2015 to December 31, 2015 so that they can ensure programming, staff and training is in place. Member Hamill said that she would substantively support the request but wondered why DOC had not submitted the variance request in a timely manner which is in violation of the regulations and expressed procedural concern. Jeff Thamkittikasem of the DOC said that it was time-consuming to put the plan together and to understand what variances were needed and expressed an apology. Chair Brezenoff said that he accepted the explanation but that the late submission was not acceptable moving forward. Member Richards asked if the Department thought that realistically the December rollout goal was feasible. Chief of Department Murphy said that they thought it was realistic given the over six hundred students in the Academy class on track to graduate in December. As far as capital preparations they also expect to be complete by December. Member Cohen said that he does not think it is appropriate to vote on the variance request given the untimely submission to the Board. Jeff Thamkittikasem said that they thought it was necessary for planning purposes to have the Board vote today. Member Cohen asked whether other Board members would consider having a vote later. Chair Brezenoff clarified that DOC is looking for assurance that they do not need to meet the October 15th deadline. Member Hamill said that although she is unhappy with the untimely submission, she thinks that it is truly pressing that the DOC has a vote. Member Jones Austin expressed that if the Board did not vote it may endanger the young people who need to be moved so if voting would provide relief she would cooperate. Member Hamill said that in revising the rules of the Board concerning variances they would consider adding language about these types of scenarios. Chair Brezenoff asked for a motion to approve the variance. Judge Hamill moved the item; Member Regan seconded. All Members except for Member

Cohen voted in favor of passing the request. Member Cohen abstained from the vote. The variance was approved¹.

The next considered variance addressed the comingling of special category sentenced and detainee adolescent inmates at the RNDC. There was no discussion. Chair Brezenoff asked for a motion. Member Regan moved. Member Jones Austin seconded. Member Cohen said that he would be abstaining from the vote for the same reasons as the previous vote. All other Members voted in favor. The variance was approved.

The Board then considered the proposed renewal of a variance regarding the comingling of detainee and sentenced pregnant inmates at RMSC. There was no discussion. Member Regan moved. Vice Chair Cephas seconded. Chair Brezenoff asked for a vote. The motion unanimously passed. The variance was approved.

The next considered variance was a renewal allowing the DOC to provide inmates on suicide watch with suicide-resistant smocks and suicide-resistant bedding. There were no comments or questions. Member Regan moved. Vice Chair Cephas seconded. The motion unanimously passed. The variance was approved.

The Board then considered the proposed variance renewal to provide indoor recreation to inmates in the communicable disease unit. Member Regan moved. Vice Chair Cephas seconded. The motion unanimously carried. The variance was approved.

The Board then considered the proposed variance regarding the ability of the DOC to waive the requirement that inmates be immediately released from punitive segregation for seven days after they have been held in punitive segregation for thirty consecutive days. Member Cohen asked whether there had been incidents since May 29th and the DOC answered no. Vice Chair Cephas said that he is not sure DOC needs this variance but he was questioning whether it was the role of the Board to inhibit the DOC from getting relief they are asking for. He expressed his concern about punitive segregation and requested that the DOC seek better solutions. Chief of Department Murphy said that every case would need to be approved by him. Many Members echoed concern about the use of punitive segregation. Member Richards explained that he thinks the fact that the DOC has been functioning without the override shows that it is not necessary. Member Regan expressed concern that rulemaking would give any future Chiefs of the Department the ability to waive the requirement. Member Hamill said that she would be willing to vote in favor provided that language is added to make the variance in effect “pending the rulemaking” and that the Chief states the reason for each override and why less restrictive housing is not an option. Commissioner Ponte addressed the concerns of the Board. Chair Brezenoff asked for a motion to include the discussed language about the Chief’s description of reason for the override. Member Hamill moved to amend the variance. Vice Chair Cephas seconded. The vote on the amendment passed unanimously. Vice Chair Cephas moved to vote on the amended variance. Member Jones Austin seconded. The full motion passed 6 to 2 with Members Cohen and Richards voting “no.”

Doctor Venters asked that the final variance be withdrawn.

There were no other requests for public comment so Chair Brezenoff adjourned the meeting.

¹ All records of variance action and variance requests can be found on the BOC website.