



NEW YORK CITY
BOARD OF CORRECTION

January 12, 2016 Public Meeting Minutes¹

MEMBERS PRESENT

Stanley Brezenoff, Chair
Derrick D. Cephas, Esq., Vice Chair
Gerard W. Bryant, Ph.D.
Robert L. Cohen, M.D.
Honorable Bryanne Hamill
Michael Regan
Stanley Richards
Steven M. Safyer, M.D.

Martha W. King, Executive Director

Jennifer Jones Austin, Esq.: Absent

DEPARTMENT OF CORRECTION

Joseph Ponte, Commissioner
Martin Murphy, Chief of Department
Cynthia Brann, Deputy Commissioner
Timothy Farrell, Deputy Commissioner
Peter Thorne, Deputy Commissioner
Winette Saunders-Halyard, Deputy Commissioner
Dina Simon, First Deputy Commissioner
Errol Toulon, Jr., Deputy Commissioner of Operations
James Walsh, Deputy Commissioner of Adult Programming
Gregory Kuczinski, Acting Deputy Commissioner
Brenda Cooke, Executive Agency Counsel
Joel Duverge, Administrative Staff Analyst
Danielle Leidner, Director for Intergovernmental Affairs
Jeff Thamkittikasem, Chief of Staff
Karen Collins, Assistant Chief
Marisa Alberti, Policy Analyst

¹ At its public meeting on February 9, 2016, the Board of Correction voted to approve these minutes as amended.

Anna Marzullo, Senior Policy Advisor
Linda Eaddy, Director of Community Partnerships
Eve Kessler, Director of Public Affairs
Carleen McLaughlin, Director of Legislative Affairs and Special Projects
Frances Taormina, Project Management Analyst
Florina Getman, Agency Attorney
Luigi Ottaviano, Assistant Deputy Warden
Jeff Jacomowitz, Press Officer
Dina Montes, Press Officer
Elizabeth Seibold, Press Officer
Marsha Elliot, Captain
David Lopez, Correction Officer
Mackenzie Dancho, Intern

HEALTH AND HOSPITALS/CORRECTIONAL HEALTH SERVICES

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
Carlos Castellanos, Director of Operations
Levi Fishman, Associate Director of Public Affairs
Elizabeth Ward, Senior Director Correctional Health
Sarah Glowa-Kollisch, MPH, Director of Policy and Evaluation
George Axelrod, Chief Risk Officer
Patrick Alberts, Agency Attorney, Division of Prevention and Primary Care
Lucia Caltagirone, Agency Attorney Intern
Nathaniel Dickey, Special Assistant
Blain Lawson
Abdul Madison

OTHERS IN ATTENDANCE

Alex Abell, Urban Justice Center
Reuvan Blau, NY Daily News
Meredith Borner, Paul Weiss
Jonelle Casey, Office of the Public Advocate
Dahiana Castillo, Office of Management and Budget (OMB)
Angel Castro, Correction Officers' Benevolent Association (COBA)
Mark Cranston, Warden, Middlesex County Department of Correction and Youth Services
Brian Crow, New York City Council (NYCC)
Julia Davis, Children's Rights
Laurie Davidson, Doctors Council SEIU
Kelsey Deavila, Brooklyn Defenders Services (BDS)
Riley Doyle Evans, BDS
Ellen Eng, Financial Analyst, NYCC
Anna Friedberg, Nunez Deputy Monitor
Bonny Ghosh, Associated Press

Cassandra Golden, OMB
Courtney Gross, NY1
Candie Hailey, Jails Action Coalition (JAC)
Elissa Hyne, Children's Rights
Elias Husamudeen, COBA
Karen Imas, Doctor's Council
Sarah Kerr, Legal Aid Society (LAS)
Victoria Law, Independent
Camee Lee, Public
Natalie Block-Levin, JAC
Laura Limuli, BOC Director of Research, Emeritus
Jeff Mailman, NY City Council
Amanda Masters, NYC Public Advocate – Hon. Letitia James
Kathleen McKenna, Bronx Defender Services
Morgan Monaco, Office of the Mayor
Jennifer Parish, Urban Justice Center /JAC
Amanda Parsons, Montefiore
Gloria Pazmino, Politico
Jake Pearson, Associated Press
Kathryn Pliml, JAC
Charlotte Pope, Children's Defense Fund-NY
Celia Rhoads, Law Department
Steve Riestler, NYC Council, Finance Division
Rosemary Rogers, New York State Nurses Association
Kathleen Robenstein, Law Department
Michael Schwartz, New York Times
Emmitt Sparkman, Nunez Monitor's Staff
Molly Thomas-Jensen, Office of Public Advocate
Mary Lynn Werlwas, LAS
Michael Winerip, New York Times
Eric Wissman, US Attorney's Office Southern District NY
Michelle Zhang, Children's Rights

New Board Member

Chair Brezenoff introduced the Board's new member, Dr. Gerard Bryant.

The December 16, 2015 Meeting Minutes

The Chair asked for a motion on the December 16, 2015 Meeting minutes; Vice Chair Cephas moved; and Member Cohen seconded. Member Richards requested that the minutes be amended to reflect that he had voted in the affirmative for the variance on the Young Adult Plan. The Chair assumed a motion to approve the minutes as amended; and Vice Chair Cephas seconded. The motion to approve the minutes as amended passed unanimously.

Public Comment on Department's Variance Requests

Chair Brezenoff commenced the period for public comment about Department variance requests for the Board's consideration. Sarah Kerr (Legal Aid-Prisoners' Rights Project) and Riley Doyle Evans (Brooklyn Defender Services) gave comments, which can be viewed at: https://youtu.be/94_LHhWTZc0?t=136.

H+H's Request for Three Limited Variances

In response to the Chair's request for an HHC update, Dr. Venters stated that a formal update would be presented at the Board's next Meeting.

(1) Variance re Tuberculosis Screening

Dr. Venters turned to HHC's request for three (3) limited variances. The first variance "allows the Correctional Health Services to use either interferon gamma release assays (IGRA) or TST for tuberculosis screening, and to exempt from repeat screening those prisoners who have a documented negative test in the six months prior to their admission." Member Cohen moved to approve the variance; Vice Chair Cephas seconded; and the Chair called the question. All seven (7) Members then in attendance voted in favor (Members Bryant, Cohen, Hamill, Richards, Safyer, Chair Brezenoff and Vice Chair Cephas). Accordingly, [the limited variance was approved](#).

(2) Variance re Psychotropic Medication

The second limited variance "allows psychiatrists to see and evaluate stable adult patients on psychotropic medication in general population at least every 28 days, rather than every 14 days." Vice Chair Cephas moved; Member Richards seconded; and the Chair called the question. All eight (8) Members then in attendance (including Member Regan who had since arrived at the Meeting) voted in favor. Accordingly, [the variance was approved](#).

(3) Variance re Inmate Injury Reporting

The third limited variance "allows health care staff to provide the Department of Correction with specific diagnoses related only to injuries sustained by prisoners while in correctional custody; the reporting of diagnoses unrelated to an injury remains prohibited." Vice Chair Cephas moved;

and Member Regan seconded. In response to Member Cohen's questions, Dr. Venters stated that HHC prepares reports on injuries to inmates while incarcerated to determine in what facilities these injuries occur and the nature of the population who are injured. He agreed to provide the Board with reports for the past two years as well as all reports going forward. On behalf of the Department (DOC), Heidi Grossman said DOC is required to share these reports with the Federal Monitor of the *Nunez* Consent Decree ("Federal Monitor") for investigative purposes. The Chair called the question. All eight (8) Members voted in favor. Accordingly, [the variance was approved.](#)

Young Adult and Adolescent Committee Update

The Chair asked Member Hamill for an update on the Young Adult and Adolescent Committee. Member Hamill spoke about various issues, including alternatives to punitive segregation for inmates ages 18 through 21 (i.e., young adults). Thereafter, she invited Commissioner Ponte to give an update on the Young Adult Plan. The Commissioner affirmed his commitment to the Plan, but stated that the Department required more time to develop it. The Chair asked Commissioner Ponte what must be accomplished, aside from staff buy-in, before the Department can implement it. The Commissioner stated that the details of the Plan must be developed. In response to Member Cohen's question as to when young adults could be moved off of Rikers Island, the Commissioner replied that there have been preliminary discussions with City Hall about identification of alternative sites and relocation costs. Member Richards then cited the lower number of young adults in punitive segregation and commended the Department for reducing its use for this age group.

Department's Request for Variance re Young Adult Plan Implementation

The Chair turned to a discussion of the two limited variances requested by the Department, the first of which "allows the Department a six-month extension of time, commencing on January 12, 2016, to house inmates ages 18-21 separately and apart from inmates over the age of 21." The Chair asked for a motion to approve the variance; Member Regan moved; and Vice Chair Cephas seconded.

Member Hamill said she was in favor of approving the variance for four (4), but not six (6), months, and wished to propose conditions for granting it. The Chair stated that the Board would consider each proposed condition one at a time. He proceeded to treat Member Hamill's proposal for a four (4) month variance as a motion, which Vice Chair Cephas seconded.

In response to the Chair's request for the Department to comment, Mr. Thamkittikasem said DOC had built in extra time for Plan development and would appreciate the greater flexibility a 6-month extension would afford DOC. Vice-Chair Cephas asked whether, if the Department were granted a 6-month variance, what the likelihood was of DOC seeking yet another extension of time to implement the Plan. Mr. Thamkittikasem responded that he did not think the agency would require more than six months for implementation.

Following comments by the Department's Deputy Commissioner Saunders-Halyard and Ms. Grossman concerning the Federal Monitor's request to review the Plan before it is implemented, the Chair stated that, while the Board views the Monitor's efforts as helpful and collaborative, his role in monitoring the Consent Decree is not germane to the issues being discussed at this Meeting.

After several Board members voiced support for a six (6) month variance, Member Hamill withdrew her motion for an amendment for a shorter period, which Member Richards seconded.

(1) First Proposed Condition: RHU Descriptions

The Chair turned to the four (4) conditions to the variance proposed by Member Hamill and asked her to read them aloud. He said the Board would consider each condition one at a time, and assumed Member Hamill's presentation of the first condition as a motion. The first condition requires that the Department provide the Board, by February 12, 2016, with a detailed written description of each type of restrictive housing ("RHU") referenced in the Department's "Young Adult Plan Update 2016" and the level of restrictions for each housing type. Vice Chair Cephas seconded the motion.

Upon the Chair's request for comment, Mr. Thamkittikasem, voicing confidentiality concerns, asked about the Board's expectations as to the level of detail required. After Member Hamill pointed out that this condition did not call for public posting of restrictive housing descriptions, Chair Brezenoff called the question. Member Regan said that he would vote against the condition on the ground that in calling for such written descriptions, the Board was acting as a judicial body. The remaining seven (7) Members voted in favor. Accordingly, the condition passed.

(2) Second Proposed Condition re: RHU Policies

Chair Brezenoff turned to the second proposed condition, which requires that before young adults are transferred to restrictive housing units, the Department provide the Board with written policies concerning each RHU. The Chair assumed Member Hamill's proposal of this condition as a motion, which Vice Chair Cephas seconded. All eight (8) Members voted in favor of the motion; accordingly, the second condition was approved.

(3) Third Proposed Condition re Monthly Progress Reports

Chair Brezenoff said he would consider Member Hamill's proposal of a third condition as a motion, which Vice Chair seconded. This condition requires the Department to submit monthly progress reports to the Board and to post them on its (DOC's) website. The Commissioner objected to this condition as the Board's attempt to micromanage the Plan development process, notwithstanding the agency's transparency on this issue. The Chair responded that to the contrary, these reports allowed the Board to stay well informed about the Department's progress. Vice Chair Cephas asked Member Hamill if she would be amenable to moving the date by which the Department submits the progress reports to the Board from the first to the fifth of the month,

and she said yes. Thereafter, the Chair called the question on the proposed condition. Member Regan voted against the condition, while the other seven (7) Members voted in favor. Accordingly, the third condition was approved.

(4) Fourth Proposed Condition re Assessment of Young Adult Secure Unit

The Chair turned to a discussion of the fourth condition, which requires the Department to submit to the Board a written assessment of “the Secure Unit” referenced in the Department’s “Young Adult Plan Update 2016” *before* punitive segregation for young adults is eliminated. After Member Hamill said she would withdraw that part of the condition requiring the public posting of this assessment, the Chair called for a vote on this “amendment to the amendment.” Vice Chair Cephas seconded the amendment; and the Chair called for a vote on it. All eight (8) members voted in favor; accordingly, the amendment to the fourth condition was approved. The Chair then called to question the condition as amended. All eight (8) Members voted in favor. Accordingly, the fourth condition as amended – i.e., without the public posting requirement – was approved.

Approval of the Variance with Conditions

Chair Brezenoff then asked for a motion on the limited variance with the four (4) proposed conditions; Vice Chair Cephas moved; and Member Cohen seconded. All eight (8) Members voted in favor. Accordingly, [the limited variance, with the four conditions, was approved.](#)

Department’s Variance Request re Elimination of Punitive Segregation for Young Adults

Chair Brezenoff turned to consideration of the Department’s second request for a limited variance granting an extension of time – from February 29, 2016 to June 1, 2016 – to exclude young adults from punitive segregation. Vice Chair Cephas moved for a motion, and Member Hamill seconded. Member Hamill said the limited variance should state that young adults are to be excluded from Enhanced Supervision Housing as well as Punitive Segregation; consequently, she moved to amend the variance. Vice Chair Cephas seconded. All eight (8) members voted in favor of the amendment. Thereafter, the Chair called the question on the limited variance as amended. Vice Chair Cephas moved, and Member Richards seconded. All eight (8) Members voted in favor. [Accordingly, the variance as amended was approved.](#)

Motion for Rulemaking

Member Hamill stated that she would like to make a motion arising out of her discussions with Board staff and advocates about the placement of inmates in restrictive housing without due process. Thus, she moved that the Board’s staff draft a rule regulating the placement and access to services in restrictive housing for *all* inmates in the city’s jails – adolescents, young adults and adults. Member Cohen seconded the motion. Chair Brezenoff stated that rulemaking is a process that develops over time; what is initially proposed can be quite different from what is presented to the public for comment and ultimately to the Board for a vote. With that caveat, the Chair said he would support the motion as a starting point for discussions with the Department about

restrictive housing. The Chair then called the question. Eight (8) Members voted in favor. Accordingly, the motion passed.

Visits and Visit Restrictions

Chair Brezenoff asked Executive Director King to open the discussion of visits and visit restrictions. The Executive Director said that through the recent rulemaking process, the Board realized that the Department had not been providing the Board with visit restrictions that DOC had issued, as required by the Board's rules. Ms. King asked the Department to present on this issue. Mr. Thamkittikasem stated that the Department had conducted an audit of visit restrictions as a result of which it was taking steps to ensure its visitation restrictions are shared with the Board. Further discussion of this issue ensued among Department representatives, the Executive Director and the Board.

General Comments

Chair Brezenoff began the general public comment period. Angel Castro (COBA), Riley Doyle Evans (Brooklyn Defender Services), and Candie Hailey (Jail Action Coalition) gave comments, which can be viewed at: https://youtu.be/94_LHhWTZc0?t=7667.

At the completion of the general comment period, Chair Brezenoff announced the adjournment of the Meeting.