



NEW YORK CITY BOARD OF CORRECTION

June 13, 2017 Public Meeting Minutes

MEMBERS PRESENT

Derrick D. Cephas, Esq., Acting Chair
Stanley Richards, Acting Vice-Chair
Honorable Bryanne Hamill
Robert L. Cohen, M.D.
Jennifer Jones Austin, Esq.
James Perrino
Steven M. Safyer, M.D.

MEMBERS ABSENT

Michael Regan
Gerard W. Bryant, Ph.D.

Martha W. King, Executive Director

DEPARTMENT OF CORRECTION (DOC)

Joseph Ponte, Commissioner
Cynthia Brann, Acting First Deputy Commissioner
Hazel Jennings, Acting Chief of Department
Martin Murphy, Chief of Department
Jeff Thamkittikasem, Chief of Staff
Winette Saunders, Dep. Commissioner of
Youthful Offender & Young Adult Programming
Antonio Cruz, Acting Deputy Commissioner of the
Investigation Division & Correction Intelligence Bureau
Peter Thorne, Deputy Commissioner of Public Information
Fazal Yussuff, Assistant Commissioner
Raleem Moses, Acting Assistant Chief of Criminal Justice Bureau
James Walsh, Deputy Commissioner of Adult Programming & Community Partnerships
Mitchell Abramson, Admin. Public Information Specialist
Kwame Patterson, Assistant Commissioner of Public Information
Heidi Grossman, Deputy Commissioner for Legal Matters/General Counsel
Shirvahna Gobin, Assistant Commissioner for Strategic Planning
Brenda Cooke, Deputy General Counsel
Danielle Leidner, Director for Intergovernmental Affairs
Yolanda Canty, Bureau Chief
Janet Amaro, Director of Project Management
Marisa Alberti, Policy Analyst

James Boyd, Director of Constituent Services
Yanique Calvert, Operations Administrator
Alex Foard, Legal Performance Analyst
Steven Kaiser, Policy Analyst
Meekaelle Copeland, Admin. Director of Social Services
Carleen McLaughlin, Director of Legislative Affairs and Special Projects
Dina Montes, Press Officer
Damien Brown, Correction Officer
Michael Lugo, Intern
Sean Cussen, Deputy Director of Investigations

NYC HEALTH + HOSPITALS (H+H)-CORRECTIONAL HEALTH SERVICES (CHS)

Elizabeth Ford, M.D., Chief of Psychiatry, CHS
Elizabeth Ward, Senior Director of Operations, CHS
Dr. Ross MacDonald, Chief of Services, Medicine, CHS
Patsy Yang, DrPH, Senior Vice President, CHS
Benjamin Farber, Director of Planning and Analysis, CHS
Patrick Alberts, Esq., Senior Director of Policy and Planning, CHS
Levi Fishman, Director of Public Affairs, CHS
Salvatore J. Russo, Senior Vice President & General Counsel
Ashley Smith, Assistant Director of Policy & Planning, CHS
Lucia Caltagirone, Associate Counsel, H+H

OTHERS IN ATTENDANCE

Alex Abell, Urban Justice Center (UJC)
Hannah Ahn, Brooklyn Defenders Services (BDS)
Roxanne Bailey, Legal Aid Society (LAS)
Reuven Blau, NY Daily News
Robert C., State Commission of Correction (SCOC)
Brian Crow, City Council
Chelsea Davis, Office of the Mayor
Catherine Frizell, Children's Rights
Kendra Ganley, Just Leadership USA
Dennis Gonzales, Monitorship
Courtney Gross, NY1
Samuel Hamilton, BDS
Wyatt Huppert, Disability Rights New York (DRNY)
Elissa Hyne, Children's Rights
Susannah Iles, DRNY
Vilma Ilic, Children's Rights
Kim Joyce, Law Department
Viveka Kymal, OPS
Victoria Law, Independent
Jin Lee, NY City Council
Amanda Masters, Office of the Public Advocate
Elizabeth Mayers, JAC
Heather McCarthy, LAS
Charlotte Pope, Children's Defense Fund –NY (CDF-NY)
Aaron Ross, Public
James Royall, BDS
Marc Steier, COBA

Bailey Strelow, LAS
Keith Zobel, SCOC

Introductory Remarks, Announcements, and Updates

Acting Chair Cephas presided over the meeting. He began the meeting by asking Executive Director (ED) Martha King to update the Board on several Board items. ED King announced that at the next public meeting in July, the Board expects to consider a request from DOC to renew the variances related to Young Adult ESH (YA-ESH); Board staff will publish an assessment of YA-ESH prior to the July meeting to provide context and data to the public and the Board leading up to the vote. ED King also announced that the Independent Commission on New York City Criminal Justice and Incarceration Reform has been invited to address the Board at the September meeting, providing an opportunity to further discuss the Board's role in the efforts to close Rikers. Finally, ED King updated the Board on the status of the Transgender Housing Unit, noting that DOC has convened a working group of DOC staff, BOC staff, and representatives from the advocacy community to develop a safe way forward. She reported that the Unit is open, and that DOC has said it will remain open pending the results of the working group. The Board has committed to reviewing the THU and issuing a report in September, following the August 1st due date of DOC's first semi-annual report, as required by the Board's new Standards on Sexual Abuse and Sexual Harassment. The Board and DOC would also address DOC's implementation and compliance with these Standards at the September meeting.

Acting Chair Cephas thanked Commissioner Ponte on behalf of the Board, noting that this was the Commissioner's last Board meeting. The Acting Chair commended the Commissioner for making New York City a national leader in punitive segregation reform and the treatment of young people, while also staying focused on safety. Member Hamill thanked Commissioner Ponte for his significant accomplishments, including helping to eliminate punitive segregation for adolescents and young adults, and supporting more humane treatment of people with mental illness. Member Jones Austin thanked Commissioner Ponte for his efforts on behalf of correction officers and people in custody.

Approval of May 2017 Minutes

The Acting Chair asked for a motion to approve the May 9, 2017 minutes. Upon the item being moved and seconded, the minutes were approved without opposition (Acting Chair Cephas, Acting Vice-Chair Richards, and Members Cohen, Hamill, Jones Austin, Perrino and Safyer).

DOC's Evaluation of Young Adult Plan and Co-Mingling

►Introduction

Acting Chair Cephas stated that in January 2015, the Board approved amendments to the Minimum Standards requiring that DOC house 18 to 21 year-olds separately and apart from people ages 22 and over. This revision was intended to reduce violence by housing developmentally distinct age groups separately and providing more age-appropriate programming. The Acting Chair noted that although this new rule was to take effect in fall 2015, the Board has since granted variances from this requirement. The Board last granted a variance in January 2017 and, as a condition, the Board required that DOC make a presentation at today's meeting evaluating the overall young adult plan and the benefits of co-mingling, particularly within restrictive housing units such as the blended ESH units. The Board expects to receive a variance renewal request at least two (2) weeks prior to the July

public meeting, and intends to consider DOC's presentation as it makes its decision about that request.

► DOC Presentation

Deputy Commissioner ("DC") Winette Saunders and Chief of Staff Jeff Thamkittikasem presented a PowerPoint on the Young Adult Plan. DC Saunders referenced DOC's 14-point anti-violence reform agenda, and highlighted the following three (3) items as being critical to the development of DOC's young adult strategy: (i) designing effective inmate education opportunities and services; (ii) improving custody management processes; and (3) designing a recruitment, hiring, and staff selection plan. She reported that the elimination of punitive segregation for 16-21 year-olds, as well as a dramatic decrease in the reliance on punitive segregation for adults, have resulted in an overall reduction in the use of punitive segregation from 6.7% in 2014 to 1% today, below the national average of 4%. She reported that 93% of young adults are currently in general population, protective custody and mental observation housing units, while 7% are housed in alternatives to punitive segregation units, such as Secure, TRU, SCHU, and ESH (with 14 of 31 young people in ESH Level 1). DC Saunders also reported that DOC has expanded age-appropriate programming for young adults at GMDC, including positive/incentivizing behavior management systems and educational opportunities. She said the overall participation rate for young people is 60% (out of an average daily population (ADP) at GMDC of 409). DOC also houses young adults with adults at other facilities in co-mingling pilots. In response to Member Cohen's inquiry, DC Saunders reported that adolescents are not placed in restraint desks because there is not a security risk that would warrant such use at this time.

Chief of Staff Jeff Thamkittikasem said that originally, DOC set out to centralize the young adult population at GMDC; however, once 70-75% of the young adult population was moved to GMDC, the Department experienced a higher rate of violence, which overwhelmed the staff. DOC has been working to develop alternatives, such as the co-mingling pilots, to reduce violence and give staff more time to adjust to the new programming. The Department is being more careful about selecting young adults for placement in GMDC, and now GMDC houses around 50% of the young adult population. The Chief of Staff reported that DOC's preliminary analysis showed that co-mingled housing had a meaningful impact on the reduction of in-unit violence involving young adults, and that use of force with serious injury, use of force with minor injury, and assaults on staff were all down between fiscal years 2015 and 2016.

Member Hamill noted that the goal had been to house a majority of young adults at GMDC because of its youth-centric culture, recreation, and programming opportunities, and wondered if the young adults in co-mingled units at other facilities — many of whom are low-risk — were being disadvantaged. Mr. Thamkittikasem responded that a significant factor currently motivating the co-mingling strategy is logistics, as fire-safety construction and sewer projects have resulted in the loss of almost 400 beds at GMDC. The Department will start increasing the young adult population at GMDC in the fall upon completion of these projects, with the goal of including at GMDC young adults with low-risk and middle-risk classifications, as well as those who indicate a desire to participate in programming opportunities.

Member Hamill asked what measures the Department has in place to ensure that young adults in co-mingled facilities, who initially resist programming but then change their mind, can still avail themselves of such opportunities. In response, DC Saunders said that DOC

has increased the number of program counselors who provide services to young people, and they always remind young people in co-mingled units about available programming. Member Richards asked what, if any formula, the Department is using to implement co-mingling. Mr. Thamkittikasem said he would report back to the Board with the answer to this question.

DC Saunders reported that in GMDC, the Department currently offers programming in 34 units, 3 hours a day, 5 days a week, with plans underway to expand to 5 hours a day. DOC employs a collaborative programming model with H+H, the Department of Education, and contracted providers. The model is focused on responding to the criminogenic needs of young adults by supporting behavior modification, and reentry into the community. DOC has conducted research with the Department of Labor to identify vocational areas for their workforce programs and certification opportunities. Since fully launching the model in September 2016, there have been 1,499 completions of industry recognized training (IRT) programs, 1,335 IRT certifications, 164 IRT digital literacy and barista certificates, 440 completions of vocational training programs, and 440 trading futures certificates.

DC Saunders updated the Board on reentry services for young people in various facilities, including the first-ever launch of reentry services for 16 and 17 year-olds on November 1, 2016. The Department is focusing on reentry planning starting at admissions, and between November 1, 2016 and May 30, 2017, 50% of 16-21 year-olds at RMSC (the women's jail), 75% of young adults at EMTC, and 79% of young adults at GMDC have remained engaged with the service provider after discharge. The reentry program is a demonstration project and, at its conclusion, DOC will have more data and analysis to evaluate its impact. DC Saunders pointed out that under the leadership of Mayor de Blasio and Commissioner Ponte, funding for youth-centered programming has grown from \$250,000 in January 2014 to \$19 million in January 2017. In 2014, DOC worked with two other youth-centered service providers, and in 2017, DOC works with 32 (that number rises to 50 when services for adolescents are included). DC Saunders concluded her presentation by noting that all young people, regardless of status, now have the opportunity to receive educational services out of their cells, and that the staff to young adult ratio has declined from 1:50 in 2014 to 1:30/1:25.

► Discussion between the Board and DOC

Member Hamill commended Commissioner Ponte's successes in developing and implementing young adult programming. However, she expressed her and other Board members' concerns about the use of leg restraints in school, which is not covered in any Department directives governing young adult units. It has come to Member Hamill's attention that restraint desks with leg shackles are a condition for attending school for every young adult in the Secure Unit and YA-ESH, including young adults in blended ESH units who attend school in the morning in the ESH Entry unit. Member Hamill asked about the legal and factual basis for this practice. In response, DC Saunders said all young adults in YA-ESH are placed in the Entry unit because they have recently committed a slashing or committed an act of violence causing serious injury. Because both sessions of school are mixed and include young adults from different levels and security risk groups (SRGs), DOC decided to use restraint desks for everyone in order to ensure a safe environment.

Member Hamill asked what due process is afforded to young adults in ESH levels 2, 3, and 4 when they are placed in leg restraints for school; General Counsel Heidi Grossman replied that many individuals placed in ESH levels 2, 3, and 4 have been adjudicated for

enhanced restraint or Red ID status, and that due process for those statuses may include adjudication for restraint desks in school, although DOC would have to verify that. Member Hamill said that only about 20% of young adults in the Secure Unit choose to attend school, and asked whether DOC had considered that this low enrollment might be attributable to the fact that young adults do not want to be restrained. DC Saunders stated her belief that school attendance in Secure was higher than that, and she had not encountered young adults who chose not to attend school because of restraint desks.

Member Richards inquired whether the Department's practice of co-mingling in both school sessions was due to limited DOE resources. DC Saunders responded that DOE has committed to providing additional resources if DOC asks for them. Member Richards asked whether getting additional resources from DOE might permit DOC to offer school to YA-ESH levels 2, 3, and 4 without restraint desks. DC Saunders said the Department would not commit to that approach without studying the issue further.

Member Hamill raised the issue of whether DOC was violating the Minimum Standards with respect to lock-out time for young adults in the ESH Entry unit. On a recent visit to Rikers, young adults and correction officers told her and Member Cohen that while lock-out was from 1 PM to 8 PM, if young adults chose not to attend school offered from 1 PM to 4 PM, they would be locked-in during those three hours, resulting in only 4 hours of daily lock-out time. DC Saunders disputed this, saying that young adults also have lock-out from 5 AM to 8 AM.

Member Hamill stated that officers in the Secure unit had indicated that they often could not lock-out between 5 AM and 7 AM because they did not have enough staff, and BOC monitors had confirmed this across many of the facilities. She asked the Department to confirm the staffing issue so the Board could address it. Acting Chief Jennings responded that DOC was developing tracking mechanisms on Genetec to ensure that staff are locking inmates out from 5-7 AM in Secure and ESH.

Member Hamill asked when the Department would provide the Board with a written policy on YA-ESH. General Counsel Grossman responded that a draft ESH directive, which includes sections on YA-ESH and was provided to the Board, would be finalized shortly.

Members Cohen and Jones Austin asked for data to support DOC's contention that the use of restraint desks had increased school participation rates. Member Cohen noted his previous requests for this information. DC Saunders responded that she would provide the Board with enrollment and attendance data.

DOC Request for Renewal of Variance re Secure Unit

►Introduction

Acting Chair Cephas stated that on May 10, 2016, the Board first granted variances from Minimum Standards 1-05(b) and 1-08(f) to allow DOC to provide young adults in the Secure Unit with a minimum lock-out time of 10 hours and access to law library services by means of a law library kiosk and typewriter. The Board renewed this variance on November 15, 2016, to expire on May 15, 2017. At the May meeting, the Board provided the Department with an additional month to operate the Unit, on the condition that DOC must use restraints in the same manner as used in ESH and that DOC would develop a plan for complying with and reporting on Minimum Standards, including lock out and law library. Acting Chair

Cephas noted that the Department has asked the Board to consider a six-month renewal of the variance because Secure and ESH have become DOC's primary housing options for the management of young adults who have acted violently. The Acting Chair opened the floor for public comment prior to DOC's presentation of its request for renewal.

►Public Comment

The Board heard public comment from Charlotte Pope (CDF), Alex Abell (UJC), and Catherine Frizell (Children's Rights). The public comments are available at: <https://www.youtube.com/watch?v=PZ9UDSUCRYs&feature=youtu.be>.

Meeting Recess

During the public comment period, upon being advised of a potential building evacuation, Acting Chair Cephas called a recess and people attending the meeting evacuated the building. Not knowing if or when people would be allowed back in, the Acting Chair reconvened the meeting outside the building. Acting Chair Cephas called for a motion on whether to vote on renewal of the Secure Unit variance with conditions, currently set to expire on June 15, 2017. Member Cohen moved the item and Member Jones Austin seconded it. All members present moved to vote on the item (Acting Chair Cephas, Acting Vice-Chair Richards and Members Cohen, Jones Austin, and Safyer). The Acting Chair then called for a motion to vote on extending the variance with conditions. Member Safyer moved the item and Member Jones Austin seconded it. All members present unanimously voted to extend the variance with conditions until the next Board meeting on July 11, 2017 (Acting Chair Cephas, Acting Vice-Chair Richards and Members Cohen, Jones Austin, and Safyer).

Thereafter, Acting Chair Cephas called for a motion to adjourn the meeting. Member Safyer moved the item and Member Jones Austin seconded it. All members present unanimously voted to adjourn the meeting (Acting Chair Cephas, Vice-Chair Richards, and Members Cohen, Jones Austin, and Safyer).