

NYC Board of Correction

Presentation

by

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Good Morning, all. We'll now begin today's meeting.

Before we turn to items on the agenda, I think it appropriate for me to address what we perceive to be certain misconceptions with respect to the roles and responsibilities of the Board of Correction. I will first address the Board of Correction as an institution (why does it exist and what role does it serve) and will address, in addition, this particular Board and how we view our mission.

First and foremost, I want to remind everyone that the Board of Correction is an independent oversight agency. Our role is to regulate, monitor and inspect the City's jails in support of safer, fairer, smaller and more humane jails. The Board (i) monitors conditions of confinement and compliance with our Minimum Standards, (ii) documents systemic issues of a problematic nature and (iii) informs policy decisions and policy improvement with respect to the City's jails. The Board does not have the power or mandate to manage the operations and services within jails. That is the sole responsibility of the Department of Correction and the Correctional Health System.

Incarceration is a part of the work of government today and we understand and appreciate that fact but when government uses its power to deprive people of liberty and isolate them from their communities, incarceration must also include ongoing transparency and accountability measures. That is why the Board of Correction was created in the first instance.

In the early 1950's, Mayor Wagner, then DoC Commissioner Anna Kross and a taskforce of other City leaders, including future Mayor Abe Beame, created the Board of Correction to monitor the New York City jail system on behalf of the public, to provide planning assistance to the

Department and to solicit and consider diverse viewpoints regarding the issues facing the City's jails. Since its earliest public reports, the Board has had full access to DoC records and facilities and has focused on data-driven oversight and data-informed policy decisions. In its early years, the Board pushed for critical, longstanding reforms such as ending the use of bread and water diets as punishment, requiring mattresses and running water in segregation cells, developing a methadone treatment program, creating the suicide prevention aide initiative, instituting prenatal services at the women's jails and adding telephones to each housing area.

In 1975, New York City voters revised the City Charter to create an independent Board of Correction with a staff and budget, subpoena power and the mandate to write local regulations to be known as Minimum Standards. Board accomplishments in the years after the 1975 Charter revision included the creation of a formal grievance system for people in custody and the development of the first jail mental health standards in the US. Over the years, Board of Correction membership has consisted of leaders from various sectors of New York City life, including physicians, lawyers, government and corrections officials, judges and DAs, clergy, journalists, academics and juvenile justice practitioners, among others.

We know that DoC and Correctional Health take seriously their responsibilities for safe, fair and humane care and custody that minimizes the adverse impacts of incarceration on inmates specifically and on our communities generally. Civilian oversight, like that of the Board of Correction, is a tool to facilitate the transparency and accountability needed to support and evaluate these core responsibilities. Indeed, more cities and states as part of their justice reforms are creating bodies similar to the one New York City has had for over sixty years. Unlike many of our peer agencies, the Board has regulatory authority: the power to write, amend and grant variances from the Minimum Standards.

In 1978, the Board adopted a set of sixteen Minimum Standards to provide what it considered to be the basic elements necessary to ensure the safe and humane incarceration of people in custody. The Minimum Standards, which comprise Chapter 1 of our rules, reflect the general principle of least restrictive confinement and have been refined by multiple court orders mandating policies relating to non-discriminatory treatment, classification, lock-out time, religion, access to courts, visitation, telephone calls, correspondence, packages, publications and media access. Our Standards also reflect state and federal constitutional rights, standards from other jurisdictions including the New York State Commission of Correction and best practices in correctional facilities around the US and throughout the world. And remember, they are called “Minimum Standards” for a reason. Compliance is required with respect to our Minimum Standards; compliance is not optional.

The Minimum Standards have governed critical areas of life inside the New York City jails for almost 40 years. Within these parameters, the Department has wide latitude to implement policy in ways that it believes to be safe, fair and efficient. For example, our Standard on recreation requires the Department to provide daily one-hour of outdoor recreation. It does not, however, prescribe anything further as to how the Department should carry out this requirement. Moreover, this and other Chapter 1 Standards expressly permit the DoC to impose restrictions on individual access to mandated services based upon safety and security reasons.

If the Department cannot comply with a Minimum Standard, it can apply for a variance. The Board always has, and will continue to, work collaboratively with the Department in responding to variance requests. As evidence, in 2016 and 2017, the Board approved 32 of the Department’s 34 variance requests.

This collaborative approach also holds true in the Department's violence prevention and safety efforts. Let me be clear – the health and safety of people in custody and the people who work in the jails is a primary concern of the Board, as it is with the Department. We, as well as the Department, make all of our decisions with this concern at the forefront.

Any suggestion, as was made at last month's Board meeting, that the Board as an institution engages in "confirmation bias" is simply misguided and wrong. The City charter mandates that the Board perform independent oversight of the City's jails. Each of us takes this responsibility very seriously and is committed to utilizing our best, unbiased and considered judgment in carrying out our legal mandate. The constituencies that we serve – the Mayor, the City Council, all those who work in the City jails, all those who are incarcerated in them and the general public – deserve nothing less. This Board's independent oversight should not be mistaken for "confirmation bias." To the contrary, all the rules we enact, all the variances that we approve and the conditions upon which we grant them and all of the reports that we render, are the product of data-driven analysis, quantitative observations and significant input from the DoC, other City agencies, advocates and experts.

In 2015, the Board - with support from the Mayor and other elected officials, the Department, Correctional Health and many advocacy groups – amended the Minimum Standards to create limits on the use of punitive segregation. The 2015 punitive segregation amendments established safeguards on who could be placed in segregation, for how long, and for what reasons. Before the amendments, close to 20% of adolescents in custody were in 23-hour lock in and the number of people in isolation had grown 225% in the previous 10 years. New York City had one of the highest rates of punitive segregation in the nation and was overusing punitive segregation as a behavior management tool in the jails.

When the Board, in collaboration with the DoC, created limits on punitive segregation, it based its decisions on numerous evidence-based studies showing that misused and overused segregation is not an effective behavioral management tool and does not deter violence. A vast majority of correctional experts agree that isolation of an individual for extended periods of time results in a distinct set of emotional, cognitive, social and physical pathologies. Segregation is particularly damaging to young people, people with serious mental illness and the physically disabled. The City's punitive segregation units were also places with higher rates of assaults on staff, suicide, self-harm and splashings. New York City leads the country in reducing its reliance on punitive segregation. DoC, in collaboration with the Board, eliminated punitive segregation for adolescents and young adults. We are the only jurisdiction in the country that has eliminated punitive segregation for 18-21 year olds.

As the approach to law enforcement evolves around the country, correctional systems are joining New York City and reforming their use of punitive segregation. This includes jails and prisons in Cook County, Texas, Washington State, Colorado, the Federal Bureau of Prisons, and many more. Today, the segregation population in the New York City jails is one-fifth of what it was during the year before the 2015 reforms and 10% of what it was in 2012 at the peak of punitive segregation.

As the Department planned to limit the use of punitive segregation in 2014 and 2015, it developed alternative responses to violence and misconduct. At that time, the Department petitioned the Board to enact a rule to permit the use of Enhanced Supervision Housing or ESH as an alternative to the long-term use of punitive segregation. The Board ultimately wrote ESH into the Minimum Standards. The Department created other alternative housing for adolescents and young adults, such as Young Adult ESH, Secure, TRU and Second Chance, and the Board approved and renewed multiple variances – 19 in just the past two years – enabling DoC to create more housing options

for promoting safety and holding accountable those who commit violence and other misconduct in the City's jails.

There are currently 47 different restrictive housing units in the city jail system, spread across 16 types of restrictive housing. There are just over 450 people housed in these units. Inmates in these units are subject to restrictions on out of cell time, commissary, recreation, packages, mail, law library, showers, television programming, co-mingling, visits and personal property.

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In closing, I note that recently, the City Administration and the City Council have invested in the Board of Correction as never before, adding much needed new resources to expand and enrich our oversight efforts. This new investment in the Board of Correction is in recognition of the critical role that we play in providing objective and trusted reporting, accountability and regulation. This was the vision that the founders of the Board of Correction had sixty years ago and this is our mandate today. I know that I speak on behalf of the full Board when I say that we look forward to continued collaboration with all of you. Thank you.