



**NEW YORK CITY
BOARD OF CORRECTION**

September 14, 2020 PUBLIC MEETING¹ MINUTES

ATTENDEES

MEMBERS PRESENT

Jennifer Jones Austin, Esq., Chair
Stanley Richards, Vice-Chair
Robert L. Cohen, M.D., Member
Felipe Franco, Member
James Perrino, Member
Michael J. Regan, Member
Steven M. Safyer, M.D., Member
Jacqueline Sherman, Esq., Member

Margaret Egan, Executive Director

DEPARTMENT OF CORRECTION

Cynthia Brann, Commissioner
Hazel Jennings, Chief of Department
Brenda Cooke, Chief of Staff
Dana Wax, Deputy Chief of Staff
Timothy Farrell, Senior Deputy Commissioner
Heidi Grossman, Deputy Commissioner for Legal Matters/General Counsel
Patricia Feeney, Deputy Commissioner for Quality Assurance and Integrity
Judy Beale, Deputy Commissioner of Programs and Community Partnerships
Francis Torres, Assistant Commissioner of Education and Youth Advocacy
Steven Kaiser, Executive Director of Policy and Intergovernmental Affairs
James Boyd, Assistant Commissioner of Internal Communications
Peter Thorne, Deputy Commissioner of Public Information
Maura McNamara, Senior Policy Advisor
Nancy Li, Policy Analyst
Julia Szendro, Policy Analyst
Jason Kersten, Press Officer
Danielle De Souza, Press Officer
Yanique Calvert, Operations Administrator
Shayla Mulzac, Press Officer

¹ Due to the coronavirus/COVID-19 pandemic, this meeting was conducted virtually.

NYC HEALTH + HOSPITALS - CORRECTIONAL HEALTH SERVICES

Patsy Yang, DrPH, Senior Vice President

Ross MacDonald, MD, Chief Medical Officer, Sr. Assistant Vice President

Carlos Castellanos, Chief Operations Officer/Deputy Executive Director

Dr. Rachel Bedard, Director of Geriatrics and Complex Care Service

OTHERS IN ATTENDANCE

Ashaki Antoine, Correction Officers' Benevolent Association (COBA)

Joseph Ferramosca, NYC Correction Captains' Association, Inc.

Xamayla Rose, NYC Office of the Public Advocate

Kieshore Dennie, NYC Council

Emily Balkan, NYC Council

Chelsea Davis, NY City Hall

Joseph Thomas, NY City Hall

Nora Daniel, NY City Hall

Rachel Baker, NY City Hall

Zachary Katznelson, Independent Commission on New York City Criminal Justice and Incarceration Reform

Renee Kinsella, Manhattan Community Board Five

Jennifer Parish, Urban Justice Center (UJC)

Lara Russo, UJC

Victoria Phillips, Jails Action Coalition (JAC)

Natasha White, JAC

Sarita Daftary-Steel, Just Leadership USA

Tobin Kassa, Children's Rights

Daniele Gerard, Children's Rights

Kayla Simpson, Legal Aid Society Prisoners' Rights Project (LAS)

Veronica Vela, LAS

Anthony Posada, LAS

Michelle McGrath, LAS

Dori Lewis, LAS

Simone Spirig, Brooklyn Defender Services (BDS)

Irene Cedano, BDS

Kelsey De Avila, BDS

Julia Solomons, Bronx Defenders

Tahanee Dunn, Bronx Defenders

Kelly Grace Price, Close Rosie's

Tanya Krupat, Osborne Association

Jordyn Rosenthal, Women's Community Justice Association

Michele Garcia, NY County Defender Services

Julia Kerbs, NY County Defender Services

Gwynne Hogan, WNYC - NY Public Radio

Rosa Goldensohn, THE CITY

Allan Smiths, Independent

Trent Taylor, Independent

Kerry Keith, Independent

Harmony Seaburg, Independent

Approval of July 14, 2020 Minutes

Chair Jones Austin asked for a motion to approve the draft minutes of the Board's July 14, 2020 meeting. Upon Member Regan moving the item and Member Franco seconding it, the minutes were unanimously approved by all members present, 6-0 (Chair Jones Austin, Vice-Chair Richards, and Members Cohen, Franco, Perrino, and Regan).

Announcements/Updates

► Restrictive Housing Rulemaking

Chair Jones Austin recounted that in June, she and the Mayor called for the end to punitive segregation. They since formed a Working Group, led by Board Vice-Chair Stanley Richards, including Commissioner Brann, new COBA President Benny Boscio, and Just Leadership USA President and CEO DeAnna Hoskins. Vice-Chair Richards has been meeting regularly with the Working Group to develop an alternative disciplinary model that prioritizes safety, accountability, transparency, and support for people in custody and staff. The group's work is important to the Board's goal of passing a rule that ends punitive segregation in a way that is both progressive and practical. The Board expects the Working Group to issue recommendations to the Board's Ad Hoc Rulemaking Committee in the coming weeks. Once the Board's Rulemaking Committee receives the recommendations, Board staff will draft amended restrictive housing rules for presentation to the Board. At that point, the Board will request certification of the rule from the Law Department, and once the Law Department certifies the rule, the Board will publish the certified rule on its website prior to a public meeting where the Board will vote on whether to approve the rule. Should five members of the Board vote in favor of the final rule, the rules would go into effect 30 days after publication in the City Record. Chair Jones Austin said the Board is moving as quickly as it can to have a rule for consideration and a vote in October 2020.

► Working Group to End Solitary Confinement

Vice-Chair Richards announced the Working Group to end solitary confinement has been working over the summer to come up with a model that incorporates the following principles: 1) safety for all (detained people, officers and visitors); 2) transparency and clarity about who is in the system; and 3) a fair process that holds people accountable when they hurt someone. Vice-Chair Richards said the group is putting the finishing touches on a draft model and it is developing a transition plan from the model we currently have to the group's recommended model. The group will be working on these tasks over the next few weeks to present to the Board for consideration. Vice-Chair Richards thanked Commissioner Brann, DeAnna Hoskins, and Benny Boscio for their insight and participation in this process. He said the group worked very hard to take into account years of feedback from advocates and officers and the group is confident that it will present something to the Board that the Board will be proud of. He added that this has not been a process of full agreement, but the group has agreed that it needs to make sure the jails in NYC are safe and that people are held accountable when they violate that safety.

► NYC Fiscal Crisis

Chair Jones Austin provided an update on the current fiscal crisis facing the City and BOC as follows:

At the beginning of this administration, the Mayor and the City Council invested in the Board as a key partner in the strategy to transform the jail system and the broader criminal justice system. From 2014 to 2019, the Board grew from a staff of 16 to a budgeted staff of 38. Over the past six years, the Board has leveraged its small but mighty staff to provide high quality and essential oversight putting out countless reports; passing new regulations on restrictive housing, sexual violence prevention, and reporting of serious injuries; closely monitoring the jails on the ground;

holding near-monthly public meetings, increasing public engagement; and so much more. Chair Jones Austin said that the Board is committed to being a strong and independent, critical partner in implementing the City's vision for closing the jails on Rikers and creating a network of modern and humane borough-based jails, which are smaller, safer, and fairer. The Board recognizes that the City faces a deep and very real fiscal crisis. The Board is experiencing, like other city-funded organizations and agencies, a cut to its staff and overall budget. The Board believes with these cuts, it will be a significant challenge to meet its Charter Mandate, Council legislated requirements, and public expectations. The Board thinks it will struggle to perform the effective oversight that will be necessary for the City's new borough-based jails to meet the goals that we all share. The Board understands that all City agencies and city-funded organizations are being required to make cuts, given the COVID-19 induced economic downturn and the near \$10 billion deficit the City is facing. Nonetheless, the Board thinks it is important that it makes its concerns known about what the impact of cuts to BOC will be on its oversight efforts to ensure safety and humanity in the jails. The Board will do its best with the resources it has and will continue to press for the resources that are needed.

Dr. Cohen's Remarks Re Remedial Order Filed in Nunez Litigation

Dr. Cohen said there has been substantial court activity around the *Nunez* agreement and this represents a profound failure on the part of the Department to decrease the excessive level of force that occurs on Rikers Island and in other facilities. He said contrary to logic, reason, and decency, as the population has gone down the amount of violence has gone up. He said everyone understands that if you reduce the population and you remove from the population persons with charges that are less severe, the chances of having people with more severe charges will increase; however, he said, that would not begin to explain why the increased absolute number of episodes of violence are occurring. Dr. Cohen said he looks forward to a full discussion with the Commissioner and other parties at the Board's next meeting (if possible) to understand how the Department plans to respond swiftly and certainly to episodes of unnecessary violence by staff.

Public Comment on Variance Request

Chair Jones Austin said today's variance is a DOC request regarding Young Adult ("YA") Co-Mingling. This variance would allow the Department to house young adults 19- 21-year-olds with adults over the age of 21. The Board has repeatedly renewed this variance since September 2015. The Minimum Standard has never been fully in effect for 19- 21-year-olds. The Board currently has a condition in place that only allows comingling 1) in ESH; 2) if the young adult has engaged in violent behavior towards another person; or 3) if the young adult has engaged in actions that threaten the safety and security of the facility, such as cell door manipulation. Additionally, young adults can be comingled in specialized mental health or medical housing.

The Board heard public comment on these variance requests from Victoria Phillips (JAC), Danielle Gerard (Children's Rights), Natasha White (JAC), Jennifer Parish (UJC), and Mary Lynne Werlwas (LAS). The public comments are available here: <https://youtu.be/izTMQoJ9wps?t=1772>.

DOC Variance Request re YA Co-Mingling

► Introduction

Chair Jones Austin said the Department is requesting a six-month renewal of the variance to allow co-mingling of 19- 21-year-olds with adults over the age of 21. The Board has repeatedly renewed this variance since September 2015. She clarified that the Minimum Standard has never been fully in effect for 19- 21-year-olds, and 18-year-olds will continue to be housed only with 18- 21-year-olds.

► BOC Findings Re YA Co-mingling

ED Egan presented the following information on YA co-mingling:

Board staff identified trends in the Department's co-mingling practice between January and June 2020 using housing data and the co-mingling documentation submitted to the Board during that period. Board staff found that co-mingling increased following the onset of the COVID-19 emergency. At the same time, the Department submitted less co-mingling paperwork to the Board. These trends are concerning but not unexpected given the COVID-19 emergency in the jails and the operational changes that followed.

Board Staff's findings include:

- The proportion of young adults housed in young adult housing areas or in medical or specialized mental health housing areas fell by 11% between January 1 and August 1, 2020, from 71% to 60%.
- Three hundred sixty-one (361) young adults were placed in co-mingled housing between January and June 2020. The Department's Comingling Determination reports included documentation for 94 young adults co-mingled during this period. Most co-mingling requests submitted to the Board cited violence as the reason for the request.
- The proportion of young adults housed in RNDC—DOC's young adult jail—increased in early 2020 and then fell sharply during the onset of the COVID-19 emergency in the jails. As of August 1st, 57% of young adults were housed in RNDC.

Between January and July 2020:

- The average daily population of young adults in DOC custody fell by 26%,
- The average daily population of co-mingled young adults increased by 10%, and
- The average daily population of young adults in restrictive housing units fell by 35% between January and July 2020.
- Between January 1st and April 10th, 18 programs were available to young adults housed across DOC's jails. Between May 1 and July 7, only six in-person programs were available to young adults in DOC custody. Two of these in-person programs are workforce development programs which are only offered in GRVC, RMSC, and RNDC.

► DOC Presentation

Timothy Farrell, DOC's Senior Deputy Commissioner requested a six-month limited variance renewal from Minimum Standard § 1-02(c)(1), to allow co-mingling of 19- 21-year-olds with adults over the age of 21.

► Board Discussion²

Dr. Cohen endorsed the positions taken by various speakers during the public comment period on this variance. He said more than 40% of young people in the YA program are spread across seven different facilities right now, and the Department barely has the capacity to run programming at RNDC (he said it did not run programming at RNDC for almost one year). He said the Department now claims it can run the YA program in seven different facilities, but this is not possible. Dr. Cohen said DOC argues in favor of co-mingling on the basis that young adults are violent, but the purpose of the YA program is to recognize the violence that is part of being a young adult raised in NYC in 2020, and to address that. Dr. Cohen said the Department uses the

² See the full Board discussion on the YA Co-mingling Variance here:
<https://youtu.be/izTMQoJ9wps?t=3087>

co-mingling variance to substantially dismantle the YA program and any variance the Board continues to grant should be extremely limited and not encourage or allow the Department to be as broad in its use of co-mingling. He also said DOC should leverage its 10,000-11,000 staff and place more than one officer in YA units, to ensure there is sufficient security to respond to potential violent incidents. Dr. Cohen asked the Department several questions, including how DOC's response to COVID-19 has affected its YA Plan.

Francis Torres, DOC's Assistant Commissioner of Education and Youth Advocacy ("AC Torres") said conducting programming during the COVID-19 pandemic has been challenging, but DOC has not wavered in its commitment to providing youth centered services. In March and April, DOC purchased a series of age-appropriate books and materials and distributed these materials to all housing areas for YAs, including co-mingled housing areas. At this time, DOC also mapped out a plan of action to continue the provision of services that included the distribution of tablets (after an interruption of about eight months). DOC began distributing these age-appropriate tablets at RNDC, then RMSC, GRVC and the other facilities housing YAs. DOC also distributed individual learning packets prepared by the Department of Education to YAs to support the continuation of education. DOC is also currently working with the Department of Education to enact remote learning. Dr. Cohen asked for a breakdown of which facilities have the tablets and AC Torres said the tablets are currently at RNDC, RMSC, NIC, GRVC, specific areas at AMKC, MDC, and VCBC. Dr. Cohen said these tablets were purchased in 2016 and it is disappointing they are being rebooted and are so widely unavailable.

Vice-Chair Richards asked for DOC's vision on moving away from requesting this variance and DOC's need to have this variance. AC Torres said her Division recently rolled out Unit Management at RNDC and over the weekend, its counseling staff began conducting Case Management by completing case plans for all YAs at RNDC. DOC is also going to integrate an individualized assessment that will concentration on the needs and risks of the YA population, which will allow DOC to develop a thorough case plan, that will eventually be rolled out to the adults as well. AC Torres said her Division's vision for YAs is to ensure the assessments target individual needs through programming and its goal is to ensure every YA has a case plan that follows the YA into the community (e.g., if the YA wants to obtain a high school diploma, DOC will ensure the case plan provides access to education services to meet this need).

Member Franco inquired about the more than 40% of YAs that are not in YA-specific units and asked how DOC provides programming to YAs who are co-mingled with adults and cannot participate in YA group formats. AC Torres said DOC transferred some program counselors into the co-mingled units to provide YA age-appropriate programming, such as Direct Treatment Protocol, interactive journaling, youth communication, young men's work, and anger management. YAs placed in co-mingled units immediately have an individualized support plan developed to capture their short- and long-term goals as well as individual strengths and weaknesses. This plan is then used to design programming for the YA.

Dr. Safyer echoed Dr. Cohen's remarks and said the Board should not be in this same position of reviewing another co-mingling variance renewal six months from today. He said the number of people in custody throughout DOC's facilities has decreased while DOC maintains the same number of correction officers.

Member Perrino said the incarcerated population has decreased so much and he is disappointed and concerned to see the number of YAs in YA specific housing decreasing. He noted that the YAs being removed from YA-specific housing are probably the ones who would benefit and need the YA specific programing and services the most. He echoed Dr. Cohen's remarks that more

staff should be placed in YA specific units to manage potentially violent incidents. Regarding the decrease in YAs at RNDC, Chief Jennings said due to COVID-19, DOC started processing all male new admissions at MDC. Currently, there are 34 YAs at MDC and as soon as they complete COVID-19 testing, they will be moved to RNDC (prior to COVID, all male YA new admissions were processed at RNDC). Additionally, DOC has been engaging co-mingled YAs to see if the issue for their placement still exists and if they successfully want to participate in schooling.

► **Board Vote on Variance**

ED Egan read the existing conditions to the variance.

Chair Jones Austin acknowledged the concerns expressed about this variance and proposed amending the variance length to three-months, instead of the requested six-month renewal. She called for a motion and conducted a roll call vote. The Board unanimously approved amending the variance to three-months, 8-0 (Chair Jones Austin, Vice-Chair Richards, and Members Cohen, Franco, Perrino, Regan, Safyer, and Sherman).

Chair Jones Austin then called for a motion and conducted a roll call vote on the existing conditions. The Board unanimously approved the existing conditions, 8-0 (Chair Jones Austin, Vice-Chair Richards, and Members Cohen, Franco, Perrino, Regan, Safyer, and Sherman).

Chair Jones Austin called for a motion to vote on the three-month variance. After the item was moved by Member Regan and seconded by Vice-Chair Richards, the Board approved the variance with seven (7) votes in favor (Chair Jones Austin, Vice-Chair Richards, and Members Franco, Perrino, Regan, Safyer, and Sherman) and one (1) vote in opposition (Member Cohen).³

COBA President Transition

► **Introduction**

Chair Jones Austin said on July 1, Benny Boscio took office as president of the Correction Officers Benevolent Association (COBA), alongside a new executive board elected by the membership. As the Chair has communicated to Mr. Boscio, the Board view the safety and support of the staff of the Department as just as important as the safety and support of the people in custody. The Board looks forward to working with Mr. Boscio and his team to ensure that the jail system is safer, fairer and more humane for all who walk through the doors of the jails. The Chair introduced First Citywide Trustee Ashoki Antoine, and said Officer Antoine is a sixteen-year DOC veteran and previously represented the Brooklyn Detention Center as a COBA delegate.

► **COBA Presentation⁴**

Ms. Antoine said that inmates are splashing correction officers with urine, feces, and a mixture of both at an alarming rate with no accountability for their actions. She said the lack of accountability has empowered repeat offenders to continue their assaultive behavior, and that for too long, the message relayed to the inmates is that it is okay to splash, kick, bite, punch, slash, grope and disrespect correction officers. She said over and over, inmates are not held accountable for the inmate rules in place to ensure structure, safety, and security in the jails. She asked whether the Board understood that every time a correctional officer is assaulted by an inmate it dehumanizes the officer, or whether the Board understood that every time an officer is splashed with feces and

³ The final record of variance is available at:

<https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2020/September/2020.09%20-%20Record%20of%20Variance%20Action%20-%20YA%20Co-mingling.pdf>

⁴ See Ms. Antoine's full presentation here: <https://youtu.be/izTMQoJ9wps?t=6360>

urine, that officer fears taking home an unknown disease to his or her family. She said that every day, officers fear becoming permanently disfigured. Ms. Antoine asked stakeholders to collectively meet in the middle and hold violators of inmate rules accountable, saying that the Department cannot set rules and disregard them to suit a specific group, narrative, or agenda. She urged stakeholders to focus on the well-being, safety, and security of everyone, especially correctional officers, who day in and day out patrol the toughest precincts in NYC.

Summer Heat Conditions⁵

► Introduction

ED Egan thanked Board staff for their diligent work monitoring heat conditions in the jail this summer, specifically, Christin Johnson, Nashla Rivas Salas, Verna Ezeji, Dilcio Acosta, Jemarley McFarlane, Emily Turner, and Bennett Stein. She presented the Board's heat report as follows:

On August 21, 2020, the Board released a report on NYC jail heat conditions. As it has for decades, BOC closely monitored heat-conditions in the city's jails this summer. This report summarizes the Board's initial summer 2020 findings, through June 30, 2020. It also outlines the Department's progress in implementing many of the recommendations made in the Board's September 2019 heat report, which documented conditions and jail operations during the July 2019 Heat Emergency.

At the beginning of the summer, the Department published a 2020 Summer Heat Plan which outlined significant changes to its policy and practice around high heat conditions in the jails. The Department has implemented a number of the Board's recommendations including: producing and distributing a daily list of heat-sensitive people throughout facilities, installing additional fans, ensuring additional ice deliveries throughout the summer, ensuring maintenance staff are available for remedial efforts, and decreasing the jail population which allows the Department to minimize the number of people held without air-conditioning.

For this report, Board staff analyzed all override and refusal paperwork on file; reviewed all records of summer uniform distribution at RNDC, AMKC, and RMSC; reviewed all DOC temperature reports from the high heat days in June; collected and analyzed all heat-related grievances filed this summer; and conducted on-site inspections that included collecting information regarding heat mitigation efforts.

From July 2019 through June 2020:

- The total population in DOC custody has decreased by 46%, from 7,342 to 3,944.
- In June 2020, there was an additional 137 beds in open, air-conditioned housing units compared to last summer.
- The total population held in non-air-conditioned housing has decreased by 64%, from 3,947 people in non-air-conditioned housing to 1,433.
- The total number of heat sensitive people in DOC custody has decreased by 47% from 1,929 heat sensitive people in custody to 1,013.
- The total number of heat sensitive individuals housed in non-air-conditioned units has decreased by 73%, from 804 to 219.

⁵ See the Board's, *Jail Heat Conditions and Operations – Mid-Summer 2020 Report* (August 2020) here: <https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/Mid-Summer-Heat-Report-2020-08-21.pdf>

According to DOC, some heat-sensitive people cannot be moved to air-conditioned housing for security reasons (a “heat-sensitive override”), while others voluntarily refuse to move (a “refusal”). Refusals must be made to a Correctional Health physician. Of the 219 heat-sensitive people not housed in air-conditioned housing units on June 30, 36 had a security override and 162 had a refusal. Twenty-two (22) heat-sensitive people who were not in air-conditioned housing did not have an override request or refusal paperwork; of these individuals 15 were housed in cell units and seven (7) in dorm units.

The Board’s report makes six recommendations that the Department should begin implementing this summer, including:

- increasing out of-cell-time during high heat days;
- moving heat sensitive people to air-conditioned housing unless they refuse to move;
- providing ice and water to DOC staff on post;
- collecting temperatures in non-air conditioned housing areas;
- standardize the documentation necessary for a security override; and
- begin planning to move all restrictive housing (including ESH) to air-conditioned housing by next summer.

► DOC Presentation

Patricia Feeney, DOC’s Deputy Commissioner for Quality Assurance and Integrity (“DC Feeney”) provided DOC’s responses to the Board’s recommendations. She said regarding the recommendation to increase out-of-cell time on high heat days, Chief Jennings already carefully monitors the temperatures, and on extreme high heat days and when necessary, DOC suspends the 3PM lock-in time. DOC will not remove the plexiglass covering on the cell windows, in part due to safety and security measures and also because there is ventilation in cells. Regarding the recommendation to immediately move every heat-sensitive person to air-conditioned housing unless they voluntarily refuse, she said all people in custody are aware that they may return to the clinic at any time to be put back into heat sensitive status, as long as their medical condition remains the same, if they previously refused. She said the Department will support the inclusion of any such notices on any revisions of CHS’s heat sensitive forms. Regarding the recommendation to regularly provide ice and water to all DOC staff especially those working in non-AC units, DOC allows staff to bring water bottles to fill inside their facility and staff can fill their water bottles on their post using ice and water that’s delivered to the housing areas. Regarding the recommendation that DOC collect temperatures in non-air-conditioned housing areas, she said temperatures are taken in ESH and non-air-conditioned mental health housing areas but she does not believe it is necessary to take additional temperatures inside non-air conditioned housing areas. If she and her staff think additional temperatures should be taken, they instruct the jails to do so. Regarding the recommendation to set specific protocols for accepting supporting documentation used for heat sensitive security overrides, DC Feeney said DOC’s Health Affairs Unit has direct access to all the supporting documentation they need and should Health Affairs require additional documentation, they can always request it from the facilities. However, she feels it would be an unnecessary burden to the facilities and Health Affairs and it would not necessarily impact any determinations made by Health Affairs. Regarding the recommendation to begin planning to move restrictive housing (including ESH) to air-conditioned housing by next summer, she said DOC tries to house as many individuals as possible in air-conditioned housing. Approximately 75% of the incarcerated population is in air-conditioned housing and DOC will continue to make these decisions on a case-by-case basis to best utilize available air-conditioned spaces. Regarding the recommendation that the city continue its efforts to decrease the jail population, she said DOC has supported all efforts to release people in custody who can safely receive services and treatments in community settings. The Department continues to support

these important efforts both locally and in practice by facilitating the timely release of people who do not pose a credible risk to public safety.

CHS and DOC Coronavirus 2019 (COVID-19) Update

► Introduction

ED Egan provided background information on COVID-19 in the jails as follows:

DOC's and CHS's collaboration and hard work in dangerous conditions at the height of the pandemic was heroic, and the work continues. The effort to identify, separate, monitor, and treat sick people, vulnerable people, and people who may have been exposed is and was effective at providing care and limiting spread. This work in the jails has happened alongside a sharp decrease in the jail population. CHS supported these efforts by identifying for the courts people at particular risk of death if they were infected. DOC supported these efforts by quickly and efficiently ramping up the discharge process. The jail population decreased 31% from March 16 – April 29, a decrease of 1,725 people from 5,557 people to a low of 3,832 people. At COVID's peak in the jails, 259 people were in COVID-confirmed and symptomatic housing. Tragically, three people in custody died from COVID-19. However, the outbreak and its human impact would have been much worse if not for the decrease in the jail population. The decreased population meant that many fewer vulnerable people were in jail and DOC and CHS were able to commit more resources to people who remained.

Unfortunately, and potentially dangerously, the jail population is currently increasing. On September 4, 2020, the population was 4,160 people, an increase of 328 people (9%) since April 29. September 4th's jail population includes 579 people who are 50 years or older, a population particularly vulnerable to COVID-19. This is an increase of 102 people (21%) since April 29 when there were 477 older people in jail. The Board continues to publish weekly COVID-19 data reports on its website. As of September 4, CHS reports there were no active COVID cases in the jails. There were also no asymptomatic and exposed housing areas. Additionally, as of September 3, there have been have a total of 207 CHS staff members and 1,428 DOC staff members diagnosed with COVID-19. In the two months previous, there were only 10 additional DOC staff cases and eight (8) additional CHS staff cases.

In addition to producing weekly data reports, Board staff continue to conduct targeted on-site inspections in the jails and have been closely monitoring the census in the Communicable Disease Units ("CDU") at West facility where confirmed and symptomatic patients are isolated and new admissions who refuse testing are quarantined. As of September 4, there were a total of 37 people in the CDU. Board staff have also been closely monitoring placements into and out of the two new admission units currently designated as Asymptomatic but Exposed ("AE") units (or quarantine units). Board staff identified several placements into and movements of individuals out of these units which did not appear to comply with policy. The Department reports that the facility is taking corrective action and will issue security memoranda that will be read at roll calls on each occasion that a housing unit receives a medical isolation designation. Through in-person observation and monitoring via Genetec surveillance cameras this summer, the Board has documented DOC staff and people in custody regularly not wearing masks in the jails. While DOC has printed and posted many flyers in the jails, it appears a new, creative approach is now necessary. As the Board has recommended since May, it calls on DOC and CHS to work with DOHMH on a new public health campaign to communicate health risks and why it's so important, particularly in a jail, to wear a mask. This campaign should employ and empower both peer educators and trusted health officials.

Finally, while the jails must continue to structure operations to mitigate the risk from COVID-19, the Board increasingly receives questions from people in custody, family, and advocates about the City's plan for a phased re-opening of the jails, which BOC understands must be done safely and smartly. This includes questions about how the Department will decide when to beginning some form of in-person family visiting, school for young adults, congregate religious services, law library, and more.

► Board Discussion⁶

Member Perrino asked when DOC will start providing congregate services and what plans have been made to enter this stage. He noted that Suffolk County opened its chapel services and asked if DOC has reached out to local jurisdictions to hear about what is working for them. DOC Chief of Staff Brenda Cooke ("COS Cooke") said DOC is focused on the safety and health of those who work and reside in its facilities and are developing plans to cautiously bring back in-person and congregate services with its partners CHS and DOHMH. DOC plans to reinstate barbershop services first, and it has been engaged with the labor unions to make sure the plan affords effective social distancing and necessary Personal Protective Equipment ("PPE"). DOC has re-imagined a delivery format that brings the barbershop service to the housing unit. DOC is also identifying ways to bring back congregate religious services and it is looking at limiting the number of individuals participating in the service at a given time. DOC will continue providing cell-side prayers with chaplains and access to the chaplaincy hotline. Law Library is currently being provided by people making requests for materials and DOC delivering them to their housing areas. DOC found this system to be successful and utilized in high volumes. DOC is also working closely with CHS and DOHMH to develop a plan for returning to in-person visits and DOC recognizes that having a large number of visitors coming into its facilities must be approached carefully, with the strict guidance of its healthcare partners and by engaging with its labor unions. DOC is considering utilizing a pre-registration process similar to what it is using for the tele-visiting program, so it can manage the flow of in-person visits and it would have to limit the number of individuals on a visit floor to allow for social distancing and cleaning protocols. DOC has delivered more than 17,000 tele-visits this far, and it plans to continue providing this successful service.

Vice-Chair Richards asked what the protocol is for staff and people in custody to request PPE. DC Feeney said staff receive their PPE in the control rooms and Chief Jennings ensures at least 40 masks are in every housing area and they are replaced twice per week, as necessary. Staff also audit a certain percentage of housing areas to check for the operability of sinks as well as the presence of hand soap, masks, and cleaning supplies.

Dr. Cohen said he visited AMKC over one month ago and observed a substantial number of staff and people in custody not wearing masks. Masks were available in the bubble but from his conversations with people in custody, they were not aware of how to obtain masks and there was no process to encourage people in custody to wear masks in the housing areas. He is concerned about a potential second wave of COVID-19 and the visible risk posed to people who live and work in the closed environment of the jails. He asked for DOC, CHS, and DOHMH's plan for testing staff and incarcerated people going forward to minimize the effect of a second wave. Commissioner Brann said there is a very low infection and spread rate in the jails and DOC has always had messaging regarding masks for staff and people in custody. When she tours, she also sees people not wearing masks and she encourages staff to wear them correctly. She has heard that some people in custody feel comfortable not wearing masks in the housing areas because they have been living with these same people for a while and trust that they are not infected. She also said people in custody can ask for masks and DOC does not leave them out in the housing

⁶ See the Board's full discussion about COVID-19 in the jails here: <https://youtu.be/izTMQoJ9wps?t=7780>

area because it wants to keep track of and maintain a steady supply of masks on hand. She said if there is a resurgence of COVID-19 in the facilities, DOC will take the same measures it previously did to curb the spread of the virus. Ross MacDonald, MD, CHS's Chief Medical Officer, said CHS has designed plans responsive to epidemiology in the jail population and it is testing universally for new admissions. DOC and CHS continue to screen all staff before they come on each shift.

Voter Registration and Absentee Ballots

► Introduction

Chair Jones Austin provided background on voting in the jails as follows:

The overwhelming majority of people in jail are eligible to vote, as most are pre-trial detainees or serving sentences for misdemeanor offenses. Important and time sensitive steps like completing voter registration forms or absentee ballot applications are especially challenging for people in custody, who are deprived of internet access and the ability to drop off forms in-person, and, therefore, must rely on the jail's mail system or DOC staff. The NYC Charter requires DOC to implement a program to assist individuals with voting. This year, the Department must offer absentee ballot applications to eligible individuals and a means to complete them between September 4 and October 20. After it receives absentee ballots from the NYC Board of Elections, DOC must distribute the ballots to people in custody and, upon request, provide assistance in completing them. DOC is also required to transmit completed applications and ballots to the Board of Election if requested by a person in custody.

► DOC Presentation

Steven Kaiser, DOC's Executive Director of Policy and Intergovernmental Affairs and CHS's Dr. Rachel Bedard, CHS's Director of Geriatrics and Complex Care Service, presented as follows:

Voting is an incredibly significant and critical form of civic engagement and in the context of corrections, voting is also an incredibly powerful manner for people to feel connected to their communities and to directly have a voice and to express their personal agencies. The Department has mobilized and led widespread voter registration and civic engagement efforts in the facilities not just this past year, but over the past many years. These efforts rely on widespread messaging campaigns as well as in-person engagement and assistance led by the DOC Programs Division. This enabled the Department to register over 1,000 eligible people in custody in 2019. Due to the challenges of COVID, DOC is utilizing a voter assistance package, which is currently being printed and will be distributed to all people in custody over the coming weeks. These packets will include information on voter eligibility tailored to people incarcerated in NY and information on upcoming election deadlines, voter registration forms with pre-paid postage, absentee ballot request forms from the Board of Election in both English and Spanish, as well as NYC Campaign Finance Board registration and absentee ballot request forms and instructions in both English and Spanish. These packets also encourage people to submit their election materials directly to the DOC Programs Division through the program delivery model that was discussed earlier this meeting, for hand delivery directly to the Board of Election offices. People can also submit their forms through the jail's mail system, if they choose to do so.

DOC also partnered with CHS on voting efforts in the jails this year and for the last week and a half, CHS staff have been approaching patients in housing areas about registering to vote. The majority of people CHS approaches would be first-time voters and need some significant engagement as there is often confusion about who can vote and whether they are allowed to vote. The Geriatrics and Complex Care Services the Young Adult Service Division have done extensive

staff trainings to prepare them to discuss voting in English and in Spanish and to help people in custody complete registration forms in-person. CHS has helped 120 people in custody complete their registration forms in the last 10 days and it is expanding this effort with a modified guide for all CHS staff who are interested in participating. This would allow CHS to offer this support wherever they encounter people in custody (e.g., in the housing areas, during clinical encounters, and discharge encounters). DOC is working closely with CHS to ensure the forms collected by CHS are provided to DOC and then hand delivered to the Board of Election offices.

Public Comment

The Board heard public comment from Simone Spirig (BDS), Victoria Phillips (JAC), Michele Garcia (NY County Defender Services), Lara Russo (UJC), Jordan Rosenthal (Women's Community Justice Association), Julia Solomons (Bronx Defenders), Kayla Simpson (LAS), Sarita Daftary-Steel (Just Leadership USA), Jennifer Parish (UJC), Kelly Grace Price (Close Rosie's), Zachary Katznelson (Independent Commission), Anthony Posada (LAS), and Trent Taylor (Independent). The public comments are available here: <https://youtu.be/izTMQoJ9wps?t=9907>.

Chair Jones Austin said the Board's next public meeting is scheduled for October 13, 2020 at 9:00 AM. This meeting will be held via WebEx and details are available on the Board's website. Following public comment, the Chair adjourned the meeting.