



NEW YORK CITY
BOARD OF CORRECTION

June 14, 2016 - Public Meeting Minutes¹

MEMBERS PRESENT

Stanley Brezenoff, Chair
Derrick D. Cephas, Esq., Vice Chair
Gerard W. Bryant, PhD
Robert L. Cohen, M.D.
Hon. Bryanne Hamill
Jennifer Jones Austin, Esq.
Michael J. Regan
Stanley Richards

Steven M. Safyer, M.D.: Absent

Martha W. King, Executive Director

DEPARTMENT OF CORRECTION

Joseph Ponte, Commissioner
Martin Murphy, Chief of Department
Dr. Nichole Adams, Deputy Commissioner
Cynthia Brann, Deputy Commissioner
Timothy Farrell, Deputy Commissioner
Winette Saunders-Halyard, Deputy Commissioner
Dina Simon, First Deputy Commissioner
Peter Thorne, Deputy Commissioner
Angela Tolosa, Assistant Commissioner
James Walsh, Deputy Commissioner
Heidi Grossman, Deputy Commissioner of Legal Matters/General Counsel
Gregory Kuczinski, Acting Deputy Commissioner
Danielle Leidner, Director for Intergovernmental Affairs
James Perrino, Director of Correctional Standards
Karen Collins, Assistant Chief, Division 1
Jeff Thamkittikasem, Chief of Staff
Marisa Alberti, Policy Analyst
Melissa Andre, Compliance Analyst

¹ At its July 12, 2016 meeting, the Board of Correction voted to approve these minutes.

America Canas, Senior Policy Advisor
Anna Marzullo, Senior Policy Advisor
Carleen McLaughlin, Director of Legislative Affairs and Special Projects
Faye Yelardy, Director of Special Projects
Eve Kessler, Director of Public Affairs
Shasha Barreto, PREA
Keyala Crawford, PREA
Ana Dutt, PREA
Nathaniel Bialek, Captain
Marsha Elbourne, Captain
David Lopez, Correction Officer
Dina Montes, Press Officer

NYC HEALTH + HOSPITALS-CORRECTIONAL HEALTH SERVICES

Homer Venters, M.D., Chief Medical Officer
Elizabeth Ward, Senior Director
Patrick Alberts, Agency Attorney, Division of Prevention and Primary Care
Levi Fishman, Associate Director of Public Affairs
Patsy Yang, DrPH, Executive Deputy Commissioner and Chief Operating Officer
Carlos Castellanos, Director of Operations
Lucia Caltagirone, Agency Attorney Intern
Nathaniel Dickey, Special Assistant
Abdul Madison, Operations

OTHERS IN ATTENDANCE

V. Anthony-North, Vera Institute of Justice
Matt Barnett, Law Department
Natalie Block-Levin, Jails Action Coalition (JAC)
Kaitlin Caruso, Law Department
Brittney Cavaliere, New York City Children's Center
Brian Crow, New York City Council
Kelsey De Avila, Brooklyn Defender Services
Margret Egan, CUNY
Nia Fung, Mental Hygiene Legal Service (MHLS)
Erin George, Just Leadership USA
James D. Giovanni, Law Department
Nina Hay, New York Civil Liberties Union
Deborah Hertz, Urban Justice Center
David Hafetz, Institute for State & Local Governance
Karen Imas, Doctors Council
Ezra Kaplan, Associated Press
Sara Kerr, Legal Aid Society (LAS)
Deandra Khan, New York Civil Liberties Union
Tanya Krupat, Osborne Association
Victoria Law, Independent
Jeff Mailman, NY City Council
Luca Marzorati, Law Department

Amanda Masters, NYC Public Advocate – Hon. Letitia James
Elizabeth Mayers, JAC
Kayla McCarroll, Osborne Association
Nicolas Montano, Vera Institute of Justice
Valentina Morales, Principal Attorney, Mental Health Legal Service
Barbara Morton, Mass BMC Consulting
Jennifer Parish, Urban Justice Center /JAC
Charlotte Pope, Children’s Defense Fund-NY
Grace Price, JAC
Jacqueline Prosky, Children’s Defense Fund
Kathleen Rubenstein, Law Department
Robert Sereski, LAS
Jordan Singer, Office of Operations
Jane Stanicki, JAC/Hour Children
Claire Stolemyer, Office of the Public Advocate
Sara Sullivan, Vera Institute of Justice
Lucy Rose Taylor, LAS
Bella Week, Sylvia Rivera Law Project (SRLP)
Rachel Weiner, Urban Justice Center
Keith Zobel, New York State Commission of Correction

May Board Meetings

Chair Brezenoff asked for a motion to approve the minutes of the May Board meetings (May 10, 2016 and May 26, 2016). Member Regan moved the item and Vice-Chair Cephas seconded. There were no amendments. Chair Brezenoff asked for a vote on approving the minutes and they were approved unanimously.

Proposed PREA Rule

► Presentation

Chair Brezenoff expressed thanks to the Public Advocate for initiating the PREA rule-making process a year ago and staying involved in ongoing dialogue and advocacy in support of this effort. The Board, via an *ad hoc* committee, worked internally and with outside expertise – interested parties, advocacy groups, the Department of Correction (Department or DOC) and the City — to develop a proposed Rule, which is modeled on the federal Prison Rape Elimination Act (PREA) and includes provisions that are specifically tailored to combatting sexual abuse and sexual harassment in New York City jails. Chair Brezenoff pointed out that the Board’s public release of the proposed Rule is a first step in the CAPA process, which sets the stage for further and continuing dialogue. It is therefore more than likely that this dialogue will result in additions and modifications to the proposed Rule.

Executive Director King presented a summary of the proposed Rule, which is [available](#) on the Board’s website.

► Public Comment

Kelsey De Avila (Brooklyn Defender Services/UJC), Lucy Rose Taylor (intern with the LAS Prisoners Rights Project) and Natalie Block Levin (JAC) addressed the Board. Their comments are available at <https://youtu.be/flg4Tlyr2cM?t=16m26s>.

► Board Discussion and Vote

Chair Brezenoff asked for a motion and second on the proposed Rule. Vice-Chair Cephas moved and Member Jones Austin seconded. Thereafter, the Chair opened the floor for discussion. Member Hamill said that development of the proposed Rule was an extremely complex effort and involved an enormous amount of time. She thanked the Public Advocate for initiating the rule-making process and the Chair, Executive Director King and Board staff for their efforts. Member Hamill said that as part of the CAPA process, the Board will review all comments to develop the best Rule it can.

Member Cohen complemented his fellow Board members and staff who were involved in developing the proposed Rule. He said that the investigation process is broken and welcomes comments on how to fix it. Member Richards said that it is critically important to include the voices of people most impacted by this Rule: officers who work in the facilities, inmates held there, and 24,000-25,000 visitors every month. Member Regan said he is proud to be a member of the Board today and congratulated all those involved. Member Bryant stated that during his work in the federal prison system, this was an issue near and dear to his heart and one that he takes very seriously. He said DOC also takes this seriously, the agency's staff has done an outstanding job, and there continues to be room for improvement.

Chair Brezenoff then called the question on the item. The Board voted unanimously to propose the Rule.

Monthly Progress Report on Correctional Health Services (CHS) Access

Member Cohen observed that, according to the CHS Access Report, in April 2016, less than 25% of persons scheduled for specialty clinic appointments at Bellevue Hospital were actually seen. By way of example, these are appointments for complex cardiology care, surgical care, testing or other services which cannot be provided on site at the jails. Dr. Cohen stated that while the Board is waiting for bus information from DOC, NYC Health + Hospitals (H+H) provided data showing that most of the buses transporting persons to Bellevue arrive late to the Hospital, resulting in missed appointments. He further noted that the May numbers are worse, with 21% of those scheduled actually seen.

Dr. Venters agreed that this situation is extremely concerning and said that H+H has taken a number of immediate measures. For example, some missed appointments are due to the fact that the patient has left the jail system. In those instances, CHS has worked directly with Bellevue to reschedule the patient's appointment. However, this accounts for a very small number of missed appointments. H+H is engaged in serious discussions with DOC about how to reduce the rate of missed Hospital appointments.

Executive Director King asked Dr. Venters to address the low number of patients at MDC and RNDC who were seen at Bellevue, whether H+H projects that the numbers for June will be better or worse than the past two months, and what the plans are to improve this situation. Dr. Venters responded that questions about the logistical challenges in transporting patients to their appointments are better addressed by DOC. However, he stated that jails such as MDC and AMKC are very busy

and in recent years, as the jail system has moved to escorted movement, it is more difficult to move inmates to CHS appointments within facilities and to hospital appointments. Additionally, MDC is a borough jail and may share a bus with BKDC. MDC patients are telling CHS staff that it is very tough for them to make it to their outside appointments.

Dr. Venters also expressed concern about the production of patients to Urgicare. H+H is seeing a drop off in production of these patients as well. Patients referred to Urgicare, like those referred to hospital specialty care, require services that cannot be provided in the jails. Dr. Venters said that what is needed is a concerted approach to ensure that patients get to where they need to go, whether that is Bellevue or Urgicare.

Dr. Adams said that tomorrow, DOC is meeting with DOC Transportation and H+H to discuss this problem, and all parties are committed to resolving it. DOC is looking at potential solutions, including adding an additional bus to the route. The Department also has asked H+H to consider scheduling hospital appointments later in the day. Dr. Adams noted that more data must be collected to determine the reasons for missed appointments so that DOC does not expend resources on action that may not improve the situation.

In response to Member Cohen's inquiry, Dr. Adams confirmed that currently, there is no direct bus to Bellevue — patients are transported with persons who are being produced for court. She reported that DOC Transportation believes the issue is that patients are not in intake ready to be bused to their appointments. Dr. Adams said this could be the result of many factors (e.g., the patient refused to go to the appointment or an incident happened in the jail). Member Cohen asked whether DOC believes this is the major reason for missed appointments, and Dr. Adams replied that this is what DOC Transportation has advised.

Member Hamill asked what DOC's protocol is for collecting information necessary to identify the best approach for ensuring that inmates are produced for scheduled clinic visits in the jails. Dr. Adams responded that DOC started tracking this issue in May. The Department reaches out daily at 9:00 a.m. to Health Service Administrators and Clinic Captains to ask if they have their sick call list and if they know who they *need* to see that day. If they do not have this requisite information, DOC escalates the issue to the Warden. Dr. Adams said that this seems to have improved the situation, but it remains a work in progress.

Chair Brezenoff raised what he termed the "consequence problem" — while all missed appointments are a bad thing, some are worse than others. He asked if progress had been made in this regard. Dr. Venters responded that there are quite a few appointments that get cancelled because of lockdowns. He reported that on the mental health side, the problem had gotten better because DOC is alerting CHS staff at the beginning of lockdowns so that CHS has more time to prioritize which patients need to be seen first and to re-schedule them accordingly. On the clinical side, Dr. Venters said that CHS staff requires more guidance on when to escalate a patient to priority status and to work with DOC staff to make sure they get seen.

Member Regan asked if the high number of missed appointments is attributable to the change from a private health care provider to H+H. In response, Dr. Venters responded that production of patients for scheduled appointments has been a longstanding issue, and the number of patients who receive care on Rikers Island or go to Bellevue has not changed. However, while it used to be that inmates

could move freely within facilities, this is no longer the case. As a result, H+H has to adjust to this process change.

Member Regan stated that intuitively, it seems that there needs to be a direct bus to Bellevue. Dr. Venters agreed — the bus trip can be a 7-8 hour ordeal with inmates handcuffed the entire time and, when they get to the Hospital, they find out they have missed their appointment. Member Regan said that, as a result, inmates may be choosing not to go to their appointments.

Member Richards asked H+H the reasons for missed appointments other than lockdowns. Dr. Venters said there are many reasons, which are specific to the specialty clinic, such as duplicate scheduling of appointments or cancellation of appointments because lab work necessary for the appointment has not yet been completed.

Member Regan asked DOC and H+H for an update on the busing issue at the next Board meeting.

Suicide Prevention

Dr. Venters reported that H+H is taking a hard look at how it collects information on suicide risk and how it acts on that information. He identified three areas of focus: (1) DOC is starting to alert CHS to lockdowns at the beginning of the lockdown. As a result, CHS can act on this information quickly and start prioritizing persons who need to be seen by mental health services and work with DOC to ensure that they are seen; (2) a project with DOC and the Vera Institute of Justice (Vera), one of the key findings of which is that self-harm and suicide are “sentinel events” in City jails and, therefore, an individual’s risk of self-harm should be integrated into the individual’s suicide risk assessment; and (3) revision of policies and procedures to ensure that inmates identified at intake as being at risk for suicide are immediately referred to mental health services (routine referrals are seen within 72 hours).

In answer to Member Regan’s question, Dr. Venters stated that an individual’s risk of self-harm is used to determine whether the person should be placed on suicide watch or referred to mental health services on site or at a hospital.

Dr. Adams stated that DOC is steady intake and clinic officers. Additionally, DOC is making sure this staff has mental health first-aid training so they can alert CHS to inmates who need to be referred to medical more quickly. In addition, DOC has created, on a pilot basis, clinical space at MKC intake areas.

Visiting Working Group

The Department’s Chief of Staff, Jeff Thamkittikasem (Chief of Staff), reported that the Visiting Working Group has focused on the physical construction and the flow of traffic into the visit houses. He said construction was done to minimize the number of people who needed to go through a search. People coming to pay bail or to drop off packages — not visit — will no longer have to go through the same search process as visitors.

The Chief of Staff reported that construction is being done to (1) install four new line scanners; (2) revisit the bubble information desk structure and create three information kiosks for accommodating

two newly hired civilian greeters and more officers; and (3) repaint walls and floors. His hope is that this construction will be completed by the middle or end of July.

Mr. Thamkittikasem stated that DOC is attempting to track the impact of these changes. The Mayor's Office of Operations is setting up a before and after survey to evaluate time and experience now as compared to a few months after construction has been completed.

Further improvements that DOC is working on include additional training for officers, space for family visits at certain facilities, and video visitation (which would be in addition to in-person visits for people who want to visit, but are unable to travel to Rikers Island due to transportation or time issues).

Punitive Segregation Report and Alternatives

Mr. Thamkittikasem reported that in the past, there had been about 600 inmates in punitive segregation; today, there are approximately 131. DOC has worked with H+H to exclude severely mentally ill persons from punitive segregation and to develop CAPS. The Department has consulted with correctional agencies in Connecticut and Maine regarding best practices for housing adolescents and has developed TRU and SCHU. DOC also created Enhanced Supervision Housing (ESH), where there has been a significant reduction in violent and non-violent infractions over the last five months. The Department's presentation on ESH is [available](#) on the Board's website.

The Chief of Staff stated that DOC is also working with outside groups to develop alternatives to punitive segregation. This includes partnering with Vera on a study, reaching out to NIJ as a potential funding source for another study and exploring the possibility of working with the National Network of Safe Communities on a deterrence program.

Member Cephas asked how long people tend to stay in ESH and what the experience has been of people who are transferred from ESH to General Population. Mr. Thamkittikasem said he did not have that information, but would get back to Member Cephas.

Sara Sullivan of Vera presented on the Institute's work with DOC over the past year. Vera is glad that despite all the progress the Department has made in reducing the punitive segregation population, DOC is still interested in working on alternatives to reduce the population even further.

Ms. Sullivan said that as part of the study, Vera conducted focus groups with staff and those in custody, and held all-day meetings with staff at different levels (over 70 staff). They tried to understand practices in the facilities that led an inmate to be placed in punitive segregation, what determines why individuals are placed there, how long they stay, and how successful they are when they are returned to a more general population-like setting. The last phase in this study is finalizing the administrative data analysis. Vera hopes to complete the study and report on it to the Department in July, and determine ways to communicate findings to the Board and other stakeholders.

Ms. Sullivan stated that study recommendations would focus on existing alternative models as well as new strategies. Not all recommendations will be quick fixes; some will require a huge cultural shift. In response to Member Hamill's inquiry, Ms. Sullivan stated that the study focused not only on reduction in the use of punitive segregation but also, reduction in the use of other forms of restrictive housing. Member Hamill asked what the value is of housing inmates in the least restrictive setting.

Ms. Sullivan responded that housing inmates 23 hours a day in punitive segregation can be harmful to both inmates and staff, and has not been successful in changing inmate behavior.

Request for a Limited Variance re 7-Day Release from Punitive Segregation

► Presentation

Chief Murphy presented the Department's request for renewal of a limited variance permitting DOC, in highly exceptional circumstances, to waive the requirement in Minimum Standard § 1-17(d)(2) that inmates be immediately released from punitive segregation for seven (7) days after they have been held there for 30 consecutive days. The variance was last granted in December 2015. Chief Murphy said the variance, if renewed, would continue to be narrowly applied. Since the Board approved the variance, 21 waiver requests were submitted to the Chief for his approval. He approved 16 requests and denied five (5).

Chair Brezenoff asked for a motion on the request for renewal of the variance. Vice-Chair Cephas moved and Member Cohen seconded. Chair Brezenoff then called for public comment on the request.

► Public Comment

Public comment was heard on the Department's request for this variance. Sarah Kerr (LAS Prisoners Rights Project), and Jennifer Parish (Urban Justice Center and JAC) addressed the Board. Their comments are available at <https://youtu.be/flg4Tlyr2cM?t=2h25m46s>.

► Board Discussion and Vote

Member Hamill asked the Department if they could agree to three conditions proposed by advocates; namely, to: (1) report on the consecutive length of stay of each inmate in punitive segregation who is subject to a waiver; Mr. Thamkittikasem agreed to this condition on behalf of DOC; (2) provide the reason why mental health services were provided to inmates, and the number of times inmates utilized these services, during the pendency of the waiver. Chief Murphy explained why DOC would not have access to this information. Dr. Venters said that providing reasons for mental health encounters could violate patient confidentiality; however, H+H could work with the Board in identifying types of encounters; and (3) include in the waiver request the reason why a less restrictive setting is not a safe option, and include in the Chief's decision approving the request, the reason for granting it. Mr. Thamkittikasem agreed to the provision of this information.

Member Cohen asked the Department why it could not house individuals in one of the enhanced restraint housing areas during the 7-day release period, particularly in NIC or West Facility. Chief Murphy said that not all of these people are on enhanced restraint status and their violent behavior occurred when they were with other inmates.

Member Jones Austin described her continued frustration that despite the Department's great strides, even the small number of inmates subject to waivers remains of great concern. She asked whether more could be done to comply with the Board's rule in less than another 18 months. (Later during the meeting, Mr. Thamkittikasem stated that 18 months to achieve compliance with the rule is required

as the Department continues to focus on other sub-populations, such as young adults). Member Cephas asked whether a minor infraction could result in a waiver of an inmate's release from punitive segregation. Mr. Thamkittikasem said no — only Grade 1 infractions would subject a person to waiver of the 7-day release period.

In response to Member Cohen's inquiry, Chief Murphy clarified that the number of inmates for whom waiver is approved is one or two people per month. Member Cohen commented that it did not seem impossible to develop an alternative program for such a small number. Chair Brezenoff said this is an issue of safety and security and, while the Board presses the Department to achieve compliance with the Board's rule expeditiously, the Board does not want to rush DOC into developing alternatives that may pose safety or security risks. Member Bryant stated that the Department cannot release people from punitive segregation who pose a serious risk to safety and security of staff and other inmates. Member Jones-Austin responded that she and Member Cohen were not suggesting that inmates who pose such risks be released, but only questioning why alternatives to waiver could not be implemented sooner. She clarified that all are concerned about safety and security and that the discussion is about whether they can accomplish shared goals more quickly.

Member Richards asked that over the next six months, the Department review this small population and, when renewing a request for a variance, propose ways to minimize the number of inmates who are subject to waiver.

Member Hamill then proposed as a condition to the variance that the Department, in its waiver request, specify why a less restrictive housing setting is not a safe option, and that the Chief, in his decision approving a waiver, specify the reason why he granted it. Member Bryant seconded the condition. The condition passed unanimously.

Chair Brezenoff then called for a vote on the variance with the condition. The variance passed with seven in favor (Chair Brezenoff, Vice-Chair Cephas, Members Jones Austin, Bryant, Hamill, Richards, and Regan) and one opposed (Member Cohen).

Ad Hoc Adolescent and Young Adult Committee Update

Member Hamill asked the Department to address the reasons for the increased use of OC spray in the school at RNDC and DOC's plans to reduce its use. Deputy Commissioner Saunders explained that, at the request of the Chancellor, the school day was increased from three to five and a half hours. This resulted in more inmates on the school floor and, in turn, more incidents. Those attending school are no longer separated as they were when the day was split into two school periods.

Assistant Chief Collins reported that they are piloting an MK4 gel in RNDC's clinic and school to replace the OC spray. Because the spray comes out in a conical shape, more people are affected; however, the gel is more directed to the individual target. She said the Department is reviewing how often the spray is utilized and its effects on teachers and inmates.

Member Hamill said that the Department is on track to meet the July 12 deadline for housing inmates under age 22 separately and apart from inmates ages 22 or older and to end punitive segregation for inmates under age 22 by June 30. She said that the Secure Unit is under construction and the Secure Unit Directive is being revised.

Deputy Commissioner Saunders stated that in response to concerns raised, DOC changed the directive to allow for additional family photos in individuals' cells. The Department also changed the time periods for phases two and three of the Secure Unit: Phase One will be at least 28 days, but an individual's length of stay in Phases Two and Three will be based upon evaluation of the individual's progress. There will also be weekly reviews with each inmate.

Mr. Thamkittikasem gave an update on the young adult plan. The Department's report is [available](#) on the Board's website.

Public Comment

The Board heard public comment from Correction Officer Jorge Marin and Kelly Grace Price (JAC), which is available at <https://youtu.be/flg4T1yr2cM?t=2h26m35s>.