

Department of Correction Response to the Board of Correction's Audit on Serious Injury Reporting in NYC Jails

In November 2018, the New York City Board of Correction (BOC / The Board) circulated a draft copy of its upcoming Audit of Serious Injury Reporting in NYC Jails which compares serious injury data collected by Correctional Health Services' (CHS) to data collected by Department of Correction (DOC / The Department). This document contains the Department's response to the Board's audit.

DOC and CHS capture serious injury data for separate purposes. DOC officers and staff are not medical professionals and the Department appreciates CHS' partnership tracking individual's information.

The Department agrees with the Board's assessment of the spirit and intention of the variance allowing data sharing between the two agencies, as described on page 2 of BOC's audit. Clear and timely communication from health practitioners is critical to protecting and preserving health and safety across DOC facilities. Information gathered from these reports is often critical to officers' investigations and to inmate safety. In recent weeks, for example, officers were able to safely remove an inmate who had been the target of violence but had not reported it. The inmate reported to officers that his injuries were the result of a fall, but CHS' injury report made clear that his injuries could not have been sustained in that manner. DOC would welcome regular, standardized information sharing and look forward to working with CHS on this.

Claim: DOC is underreporting serious injuries

Response:

DOC has two directives that inform serious injury reporting: 5000R-A, which outlines Department procedures related to serious injuries, and 5006R-D, which outlines Department procedures for serious injuries that relate to uses of force. The definition between these directives are similar, but the scope of serious injury is narrower in 5006R-D. Because Use of Force Class A, as described in 5006R-D is dictated by the Nunez Consent Judgement, it cannot be changed without an agreement from all parties, and approval by both the Monitor and the Court. DOC will investigate its ability to reconcile definitions within these directives in an effort to eliminate potential confusion.

The Department will work closely with CHS to improve communication and information sharing between the two agencies to ensure that all injuries considered serious by CHS medical professionals are reported.

Claim: The Department consistently did not report injuries such as metacarpal (hand) and metatarsal (foot) fractures, lacerations requiring suture repair (stitches), dislocations requiring clinical reduction (surgery or clinical manipulation) and head and internal organ trauma.

Response:

Inmate fractures of the hands and feet comprised less than 10% of the total annual fractures recorded in DOC systems in 2017. The frequently fractured areas of the nose, eye, and jaw comprised nearly half of total fractures recorded on inmates, and the Department acknowledges that hand and foot fractures, as well as suture repair and trauma, may be under reported. DOC believes this can be corrected, in part, by a revision to the directives as mentioned above. DOC will take steps to evaluate and improve reporting in these areas.

DOC directives do not classify dislocations to be serious injuries. For a dislocation, or any injury outside of those listed in DOC's directives to be considered serious by DOC officers, CHS would need to indicate it on the form. The Department will work with CHS to revise the form and

serious injury indicator to better capture all injuries.

Claim: DOC's investigation process for injuries is plagued by delays, poor accountability, and incomplete reviews.

Response:

DOC acknowledges that there is certainly room for improvement in this area. DOC will improve procedures and oversight into practice to ensure better compliance. The Department will also explore creating a centralized tracking system.

In an effort to improve rate of completion and rates of review, DOC and CHS will work together to improve communication pathways around this form.

Recommendation Responses:

1. *DOC and CHS should immediately begin jointly publishing monthly data on the number, type, cause, and location of injuries to people in custody (serious and non-serious), as these indicators are critical to prevention efforts.*

DOC and CHS will reconcile data on a monthly basis and provide relevant metrics to BOC, per the Board's recommendation.

2. *Within the next three months, DOC should come into compliance with their existing policy for reporting serious injuries. DOC should report all serious injuries to people in custody determined to be serious by correctional health staff.*

Within the next three months, DOC and CHS will work together to develop improved methods of information sharing that will improve serious injury reporting and investigation.

- 3. Within the next nine months, DOC and CHS should establish new protocols and take steps to increase accountability including: assessment of which supervisory reviews are needed and whether changes to the Injury to Inmate Report form are needed; development of an electronic injury-tracking system; and training to ensure that injury reports are complete and include accurate, final diagnoses and dispositions.*

DOC agrees. Within the next nine months, DOC will work with CHS to establish new protocols and take steps to increase accountability including: assessment of which supervisory reviews are needed and whether changes to the Injury to Inmate Report form are needed; development of an electronic injury-tracking system; and training to ensure that injury reports are complete and include accurate, final diagnoses and dispositions.

- 4. DOC and CHS should immediately begin providing the Board with monthly access to all DOC Injury Reports that CHS designates as associated with a serious injury. This will support DOC's and CHS's efforts to improve their process and increase accountability*

To the extent legally permissible, DOC will share serious injury reports that CHS designates as associated with serious injury, beginning on February, 1 2019.

- 5. Within the next three months, DOC should review the conditions leading to the high number and rate of serious injuries at AMKC and implement a plan to reduce injuries there. DOC should use video review to inform this injury analysis, so that the locations and causes of serious injuries are better documented.*

AMKC currently houses the largest number of inmates and it should not be surprising that it also has the highest number of serious injuries. DOC is continually engaged in analyzing incidents at all facilities to determine how they can be prevented in the future. DOC is in the final phase of installing ionizing body scanner technology that should significantly reduce the number of weapons within the facilities. The Department anticipates body scanners will reduce the overall number of slashings and foster a safer environment within the jails. AMKC will be among the first facilities receiving a scanner this spring.

- 6. DOC should contract an independent auditor to assess reporting of*

serious injuries to staff. The audit's goals would include understanding who is getting injured (civilian v. uniform, DOC v. DOE v. CHS v. contractors v. volunteers, etc.); how (assault v. construction-related v. slip and fall, etc.); when and where injuries are occurring; and what types of injuries are sustained. Ultimately, these audits must inform injury prevention planning and public reporting

Injuries to staff falls out of the scope of this audit and it is unclear why DOC would need to contract an independent auditor at this time. Injuries to staff are currently being tracked and analyzed on an ongoing basis by several well established mechanisms. Injuries to staff that occur as a result of uses of force are tracked by the Nunez Monitor and DOC's legal division tracks and analyzes work related injuries that result in worker compensation claims.