



**NEW YORK CITY
BOARD OF CORRECTION**

June 11, 2019 PUBLIC MEETING MINUTES

MEMBERS PRESENT

Jacqueline Sherman, Interim Chair
Stanley Richards, Vice-Chair
Robert L. Cohen, M.D.
Hon. Bryanne Hamill
Florentino Hernandez
Jennifer Jones Austin, Esq.
James Perrino
Steven M. Safyer, M.D.

Martha W. King, Executive Director

MEMBERS ABSENT

Michael J. Regan

DEPARTMENT OF CORRECTION (DOC)

Cynthia Brann, Commissioner
Brenda Cooke, Chief of Staff
Heidi Grossman, Deputy Commissioner for Legal Matters/General Counsel
Peter Thorne, Deputy Commissioner of Public Information
Angel Villalona, First Deputy Commissioner
William Barnes, Acting Assistant Chief
Fazal Yussuff, Assistant Commissioner for Health Affairs
Faye Yelardy, Assistant Commissioner for Sexual Abuse & Sexual Harassment Prevention
Dana Wax, Senior Policy Advisor
Kwame Patterson, Assistant Commissioner of Public Information
Diana Gutierrez, Executive Director
Nancy Li, Policy Analyst
Prechelle Shannon, Senior Correctional Administrator
Ada Pressley, Warden
Julia Szendro, Policy Analyst
Latima Johnson, Press Officer

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

Patsy Yang, DrPH, Senior Vice President
Ross MacDonald, MD, Chief Medical Officer, Assistant Vice President
Benjamin Farber, Chief of Staff
Carlos Castellanos, Chief Operations Officer/Deputy Executive Director
Jonathan Wang, Esq., Senior Director of Risk Mitigation and Management
Michele Martelle, Senior Director of Planning, Evaluation & Reentry Support Services
Zachary Rosner, MD, Chief of Service, Medicine

Elizabeth Ford, MD, Chief of Service, Psychiatry
Bipin Subedi, Medical Director
Colleen Vessell, MD, Site Medical Director
Omar Arnouk, Associate Counsel, Office of Legal Affairs
Jennine Ventura, Director of Communications and Public Affairs

OTHERS IN ATTENDANCE

Tim Roche, Administration for Children's Services (ACS)
Max Cantarero, ACS
Stephanie Gendell, ACS
Nora Daniel, ACS
Joan Tannenbaum, ACS
Zandra McGraham, ACS
Jennifer Clark, ACS
Nick Marinacci, NYC Department of Education
Lauren Davidson, Urban Justice Center
Victoria Phillips, UJC/Jails Action Coalition (JAC)
Shrija Shrestha, UJC
Kayla Simpson, Legal Aid Society Prisoners' Rights Project (LAS)
Mary Lynne Werlwas, LAS
Kelsey De Avila, Brooklyn Defender Services (BDS)
Simone Spirig, BDS
Daniele Gerard, Children's Rights
Justin Holiman, Children's Rights
Wendell Walters, Osborne Association
Kieshorne Dennie, NYC Council
Peter Butler, NYC Council
Alana Sivin, NYC Council
Kim Joyce, NYC Law Department
Robert James, Friends of Island Academy
Marlies Talay, New York Criminal Justice Agency
Jessica Lopez, Youth Represent
Linda Tigani, NYC Mayor's Office
Derek Norman, New York Times
Winston Nguyen, Independent
Blue Rose, Independent
Janice Tolbert, Independent

Announcements

BOC's Executive Director, Martha W. King ("ED King"), announced the Mayor's appointment of Jacqueline Sherman as the Board's Interim Chair. Ms. Sherman has served as a Board Member since July 2018. ED King thanked Ms. Sherman for her continued service and leadership and said Board members and staff are very pleased with her appointment.

Interim Chair Sherman welcomed new Board Member Florentino ("Tino") Hernandez, who previously served as President and Chief Executive Officer of Samaritan Daytop Village where he was responsible for the administration of one of the largest non-profit providers of community-based mental health and substance use treatment services in New York State. He also serves on the Governor's Behavioral Health Services Advisory Council and is the past President of the Coalition of Behavioral Health Agencies. Mr. Hernandez was nominated to the Board by the Presiding Justices of the Appellate Division of the Supreme Court, First and Second Judicial Departments, and appointed by the Mayor. He will serve the remainder of former Chair Cephas' term, to end on October 13, 2021.

ED King announced that she will be leaving the Board of Correction (“BOC” or “Board”) in mid-July 2019, after four years as its Executive Director. She expressed her commitment to ensuring a smooth and seamless transition for the Board, its staff, and the next Executive Director. She said the Board will be conducting a full search for a new leader to continue to grow this critical agency with a superb Board and a wonderful, committed, and creative staff.

Recent Deaths in Custody

► Notification

ED King announced two deaths that occurred in DOC’s custody this week. A 27-year-old transgender woman, Layleen Polanco, died at the Rose M. Singer Center (RMSC) on June 7, 2019 and a 54-year-old man died at the Bellevue Hospital Prison Ward on June 9, 2019. On behalf of the Board, ED King extended her deepest sympathies to the friends and families of these two individuals. She stated that any death in custody is a tragedy that requires a thorough, independent investigation and action to prevent future deaths. As the Board does for each death in custody, it is reviewing all available video and records, but it has not yet received the autopsy reports and medical records concerning these two individuals.

► Commissioner Brann’s Remarks

DOC Commissioner Cynthia Brann addressed the Board and the public regarding the individuals who died. She extended her deepest condolences to both of their families and loved ones during this difficult time. She affirmed that the Department takes such matters extremely seriously and investigations into both deaths are ongoing. She presented as follows.

DOC is committed to providing the Board updated information as additional facts emerge. Regarding Ms. Polanco, all parties are working quickly and diligently to investigate, analyze, and determine the manner of her death. Ms. Polanco’s family rightfully deserves answers and she hopes the family finds some comfort in the Chief Medical Examiner’s public statement that trauma did not contribute to her untimely death. DOC is still investigating this death but so far, there is no evidence of violence or foul play. The Department remains committed to housing individuals by gender identity and working with advocates and members of the community to ensure that its policies provide safe, fair, and respectful treatment of its transgender population. In the case of Ms. Polanco, she was initially admitted to RMSC and remained there with other females for the duration of her time in DOC’s custody. As the investigation continues, the Department is committed to treating her memory and her family with respect, and it will share more information with the Board, the public, and her family as the Department receives it.

► Board Discussion

Dr. Cohen said the Board will investigate these deaths with CHS and DOC. He expressed his distress that Ms. Polanco had been incarcerated for two misdemeanors with a \$501 bail while the man who died at Bellevue had been jailed for a parole violation. He urged all parties to remember the fundamental concern that the criminal justice system is broken and neither of these people should have been in jail in the first place.

Judge Hamill and Interim Chair Sherman extended their deepest condolences to the families and friends of these two individuals. Judge Hamill suggested the Board consider publicly reporting on the findings of its death investigations, specifically the information it can release in accordance with privacy/confidentiality policies. Interim Chair Sherman avowed the Board’s commitment to investigating deaths in custody and appreciated Judge Hamill’s suggestion to report out on its findings.

Approval of March 12, 2019 Minutes

The Interim Chair asked for a motion to approve the draft minutes of the Board’s May 14, 2019 meeting. Upon Acting Vice-Chair Richards moving the item and Judge Hamill seconding it, the

minutes were unanimously approved (Interim Chair Sherman, Vice-Chair Richards, and Members Cohen, Hamill, Hernandez, Jones Austin, Perrino, and Safyer).

Public Comment on Variances

The Interim Chair announced that the Board has four (4) variance votes scheduled for today relating to the operation of the Horizon adolescent facility. These variances were previously approved by the Board. Public comment was heard from Mary Lynne Werlwas (LAS) and Daniele Gerard (Children's Rights). The public comments are available here:

<https://youtu.be/2GdT2rsHEgU?t=1665>.

Dry Cell Variance Request

► Introduction

ED King invited DOC and ACS to provide an update on Raise-the-Age ("RTA") implementation and to present its variance requests, beginning with the request regarding single-occupancy dry cells.

► ACS Presentation

Tim Roche, Senior Policy Advisor at ACS' Division of Youth and Family Justice, provided an update on RTA implementation as follows.

As of June 10, 2019, there were 59 youth at Horizon, only three (3) of whom were part of the original 93 transferred from Rikers Island at the end of September 2018. Youth at Horizon attend school on site at the Department of Education's (DOE) Passages Academy, have access to vocational training and ACS' large array of contracted arts, recreation, and social enrichment programming, and receive on-site health and mental health services. This summer, youth will be able to participate in the Department of Youth and Community Development's (DYCD) Summer Youth Employment Program, where they can work up to 25 hours per week during the summer at either Horizon or in the community post-release. ACS case managers are working with youth to submit applications to this program and so far, 35 applications have been submitted for the 60 spots available. Youth also have the opportunity to go outside as a part of their daily schedule and access the interior courtyard and the patios in the housing units. In April, temporary outdoor basketball courts became available and by the end of this week, the permanent basketball court will be completed.

Providing youth an extensive array of programming to keep them engaged while in detention and to help them pursue interests when they leave is a critical component of Horizon. Recently, DYCD completed an RFP process for a contractor to administer and coordinate the programming activities at Horizon. While ACS greatly appreciated its partnership with Friends of Island Academy, the competitive RFP process resulted in the selection of a new provider, the Center for Community Alternatives ("CCA"), which will take over as the contractor for programming on July 1, 2019. ACS surveyed youth at Horizon to learn more about the most popular programming and shared this information with CCA. CCA sub-contracts with many of the same providers as Friends of Island Academy and has agreed to keep the most popular programs. CCA is also currently the contractor for programming at ACS' Crossroads Detention Facility and, therefore, ACS and CCA anticipate minimal disruption in programming at Horizon.

ACS has hired more than 425 youth development specialists ("specialists") and continues recruiting to meet its hiring goal of approximately 700 specialists. The agency remains on track to assume operational control of Horizon by January of 2020. ACS has worked with DOC, the unions, and other partners to develop a phased plan to reintroduce specialists to Horizon over a 6-month period. Yesterday, nearly 50 specialists began training at Horizon and will soon work alongside DOC staff in the orientation, mental health, and female units. During the initial phases, specialists will shadow DOC staff on all three shifts to familiarize themselves with unit

practices and become acquainted with the young people in the unit. After the initial phasing in, DOC staffing will be reduced and ACS staff will begin assuming operational control of the unit. This phase process will roll out in three housing units at a time, over a period of approximately six months, until ACS' staff is in primary operational control of all housing units.

► **DOC Presentation**

DOC's Acting Assistant Chief, William Barnes ("Chief Barnes"), requested a six-month variance renewal from Minimum Standard § 1-04(b)(2), which requires each single occupant cell to contain a flush toilet and a wash basin with drinking water. He presented DOC's request as follows.

For over 20 years, the juvenile justice system across the country has moved toward creating smaller and more home-like settings for youth in custody. Horizon's rooms have a bed, a desk, and shelves to place clothing. Youth are encouraged to decorate their rooms to make them more personalized and familiar. Adding toilets and sinks in the rooms is inconsistent with best practices nationwide. Additionally, the residents of dry cells are afforded more privacy than those in cells with a sink and a toilet. As per the existing variance, residents will be escorted to the unoccupied housing area bathroom to access both drinking water and the toilet within five minutes of their request, absent extenuating circumstances.

DOC's recent self-audits revealed that 96% of residents were granted access to the bathroom and drinking water within five minutes of requesting it via the light above their room. Only 2% of residents received access a few minutes after the five-minute threshold. DOC attributes this delay to its policy that only allows one resident to be out at a given time for safety reasons, which causes residents to wait in their rooms if another resident is out. If the light used to request access is malfunctioning, a work order is immediately placed and the light is either fixed or the room is taken "offline" — two lights were recently malfunctioning. The Warden and management team also allow residents to keep 1-2 cups of water in their rooms overnight.

► **Board Discussion**

Dr. Cohen appreciated that DOC now allows youth to keep water in their rooms at night. He urged DOC to let youth freely use the restroom at night or at least allow two youth at a time to use the restroom when there are two staff on the unit at night. Chief Barnes said the propensity for an incident to occur increases when two or more people are out during an overnight shift, when fewer staff are on duty. Dr. Cohen stated that he would not vote in favor of this variance and expressed concern that there is no bathroom in Horizon's West Education Wing, which results in decreased school attendance. He explained that if someone needs to use the restroom during school, they are taken to the housing area and seldom return to school.

Vice-Chair Richards said the Board's audit report revealed that when youth in room confinement requested to use the bathroom, it was not documented in the logbook. Chief Barnes clarified that any time a resident needs access to the bathroom, he or she activates the light to indicate this need — this process is the same for people in their rooms during the overnight period and those in room confinement. Chief Barnes further clarified that DOC's internal audits involve comparing logbook entries to Genetec video footage to determine if staff are compliant with the bathroom policy. In the January-April reporting period, DOC was out of compliance only 2% of the time resulting in residents waiting between 6-9 minutes to use the bathroom. Vice-Chair Richards asked about the total number of youth in a hall as well as staffing ratios. Chief Barnes said the number of youth in a hall varies but the staffing ratio is five (5) youth to one (1) officer, with two (2) officers required in each hall. The Vice-Chair urged DOC and ACS to further create a home-like environment at Horizon by allowing youth to freely access the restroom without requesting permission.

Judge Hamill asked how quickly a resident is moved out of a cell when the restroom request light is not working. Horizon's Warden, Ada Pressley ("Warden Pressley"), said youth are moved out of a cell immediately when the light stops functioning. Judge Hamill said she recently toured Horizon and was very impressed by the culture of respect, the lack of tension and violence, and the direct engagement between officers and youth.

Member Perrino praised DOC and ACS for their leadership and collaboration in successfully operating Horizon. Dr. Cohen asked what DOC's plan is when ACS takes over Horizon in December. DOC First Deputy Commissioner Angel Villalona ("First Deputy") said DOC's staff at Horizon will gradually be reduced and DOC will leave Horizon by the end of 2019.

► **Board Vote**

ED King read out loud the five existing variance conditions. After the Interim Chair called a roll call vote, the Board unanimously approved the existing conditions by a vote of 8-0 (Interim Chair Sherman, Vice-Chair Richards, and Members Cohen, Hamill, Hernandez, Jones Austin, Perrino, and Safyer).

The Interim Chair called for a motion to vote on the variance with the existing conditions. After Judge Hamill moved the item and Member Jones Austin seconded it, the Board approved the variance with conditions, with seven (7) votes in favor (Interim Chair Sherman, Vice-Chair Richards, and Members Hamill, Hernandez, Jones Austin, Perrino, and Safyer) and one (1) vote in opposition (Member Cohen).¹

Law Library Variance Request

► **ACS Presentation**

Mr. Roche presented as follows.

The on-site legal coordinator at Horizon is available to residents five (5) days per week, for a total of 20 hours weekly. The legal coordinator is in the cafeteria from 11:00AM to 1:00PM, where youth can approach her without an appointment and make an appointment with her between 3:00PM – 5:00PM during the week. Residents can also request to use a tablet between 3:00PM – 5:00PM on weekdays and through their program counselors on weekends.

ACS' recent audits revealed the need to create a back-up plan when the legal coordinator is absent or unavailable to meet with youth. This issue is being addressed by having a trained mitigation specialist provide backup to the legal coordinator. Beginning July 1, 2019, the legal coordinator's hours will change to a four-hour block, Monday through Friday, rather than the current two-hour block. Friends of Island Academy will continue to manage the legal coordinator contract until March 2020.

► **Board Vote**

ED King read out loud the five (5) existing conditions. After the Interim Chair called a roll call vote, the Board unanimously approved the existing conditions by a vote of 8-0 (Interim Chair Sherman, Vice-Chair Richards, and Members Cohen, Hamill, Hernandez, Jones Austin, Perrino, and Safyer).

Member Sherman called for a motion to vote on the variance with the existing conditions. After Judge Hamill moved the item and Dr. Cohen seconded it, the Board unanimously approved the

¹ The final record of variance is available at:
https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2019/June/FINAL%20Variance%20Action_Dry%20Cells.pdf

variance with conditions by a vote of 8-0 (Interim Chair Sherman, Vice-Chair Richards, and Members Cohen, Hamill, Hernandez, Jones Austin, Perrino, and Safyer).²

Correspondence Variance Request

► ACS Presentation

Mr. Roche presented as follows.

ACS and DOC have implemented BOC's condition requiring the installation of outgoing mailboxes in common areas and requiring staff to check the mailboxes every business day. There is a mailbox on the first floor near the cafeteria and three (3) mailboxes on the second floor near the main staircase. The mailboxes are clearly labeled, and ACS case managers check them on a daily basis. ACS also identifies a list of individuals with whom mail correspondence is prohibited or restricted based on the safety and security of the youth, the facility, and/or existing court orders. This practice is consistent with ACS' juvenile detention model and under this system: (1) there is no restriction on the amount of correspondence or language used; (2) correspondence is never read by facility staff unless the youth requests reading assistance; and (3) correspondence is always opened in front of the young person to inspect for inappropriate context contents such as paper clips, staples, or pornography.

► Board Discussion

Vice-Chair Richards asked if there is an existing policy that determines when correspondence is restricted based on safety concerns. Mr. Roche said there is an existing protocol that speaks to restricting correspondence based on court orders. He added that case managers remain aware of matters that pose a security risk, and restricting correspondence is discussed openly among youth, their case managers, and their families.

Dr. Cohen abstained from this vote because the restriction on correspondence violates many of his fundamental beliefs as well as the opinions of experts in the criminal/juvenile justice field.

► Board Vote

The Interim Chair called for a motion to vote on the variance. After the item was moved and seconded, the Board approved the variance, with seven (7) votes in favor (Interim Chair Sherman, Vice-Chair Richards, and Members Hamill, Hernandez, Jones Austin, Perrino, and Safyer) and one abstention (Member Cohen).³

Nursery Program Variance Request

► ACS Presentation

Mr. Roche presented as follows.

ACS and DOC developed a protocol to notify BOC within three (3) business days when a pregnant woman is admitted to Horizon. Based on ACS' and DOC's data, and its first nine (9) months of experience, it is extremely unlikely that a pregnant 16- or 17-year-old will remain detained through her pregnancy and after the delivery of her child. To date, there have only been two pregnant pre-RTA youth admitted to Horizon. Both were discharged before their due dates and referred to the nurse-family partnership. If in the future a late-term pregnant youth is

² The final record of variance is available at:

https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2019/June/FINAL%20Variance%20Action_Law-Library.pdf

³ The final record of variance is available at:

https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2019/June/FINAL%20Variance%20Action_Correspondence.pdf

admitted to Horizon, ACS will make an individualized assessment to determine the best interest of the baby once the child is born.

ACS is also in the final stages of the procurement process to secure a vendor to provide wraparound services to pregnant and parenting mothers and fathers at Horizon. This contract is scheduled to begin on July 1, 2019, and the services will provide an individualized, wraparound model of support that follows youth back into the community upon release. These services will include a nurse-family partnership, parent coaching, a fatherhood program, as well as teen-choice sexuality education and consultation.

► Board Discussion

Judge Hamill said in her experience as a family court judge, ACS made its best efforts to keep teen mothers and their children together. She suggested that judges may be more likely to seek alternative options to detention if there is not a nursery at Horizon. She noted that Horizon is predominately a male facility, and she understands why ACS does not want to take up needed space with a nursery.

Dr. Cohen expressed disappointment that there is no clear program in place in the event a young woman enters Horizon late in her pregnancy. Member Perrino agreed and said it is important to be prepared and find space for a nursery at Horizon. Dr. Safyer asked what ACS would do if a pregnant youth close to giving birth entered its custody tomorrow. Mr. Roche responded that ACS would likely work with its existing partners in the child welfare community to secure a residential program for the mother and her baby.

Member Hernandez said ACS has not articulated how it would house a mother and her child if the criminal charge resulting in her detention was so severe that she was mandated to remain in secure detention. He asked what ACS' role is with the courts in situations where it must appeal to the judge to change the outcome of a decision to place someone in secure detention. Mr. Roche responded that ACS would likely engage the Corporation Counsel on this issue. Vice-Chair Richards requested that ACS devise a strategic plan for how it will handle pregnant women entering its custody late in their pregnancy, including women mandated to remain in secure detention. Judge Hamill noted that for women with more serious charges, ACS is more likely to determine the baby is "at risk" and require the child's removal from the mother's care. She added that ACS must bring the case to court, and the court decides whether the child will be placed in foster care or upon order of custody or guardianship temporarily with a family member.

► Conditions and Board Vote

Dr. Safyer reiterated his request for more specific information regarding the provision of services for young mothers with their children. Member Jones Austin proposed a condition that ACS provide an update on its contracted providers at the July Board meeting and in the fall, report to the Board its specific plans for pregnant women who enter its custody late in their pregnancy.

ED King read out loud the two (2) existing conditions to the variance. After the Interim Chair called a roll call vote, the Board unanimously approved the two existing conditions and the one proposed condition by a vote of 8-0 (Interim Chair Sherman, Vice-Chair Richards, and Members Cohen, Hamill, Hernandez, Jones Austin, Perrino, and Safyer).

The Interim Chair called for a motion to vote on the variance with the conditions. After Vice-Chair Richards moved the item and Member Hernandez seconded it, the Board approved the variance with conditions, with seven (7) votes in favor (Interim Chair Sherman, Vice-Chair

Richards, and Members Cohen, Hamill, Hernandez, Jones Austin, and Safyer) and one (1) opposed (Member Perrino).⁴

Health Care Access

► Introduction

ED King presented on the Board's *Access to Health and Mental Health Care Report* ("Report") as follows.⁵

Ensuring that the delivery of correctional health and mental health services are in compliance with Minimum Standards is a critical part of the Board's mission. Access to health care is a fundamental policy and principle underlying the Standards and of all nationally recognized jail standards, and is based upon longstanding legal opinion. Access to health and mental health care has been discussed in nine (9) public Board meetings since January 2016, and is the subject of BOC's ongoing monitoring in the jails.

Since 2016, the Board has required CHS to produce a monthly access report monitoring each month's approximately 51,000 scheduled health and mental health visits, 10,000 sick call visits, 3,000 health intakes, and other health encounters at each of DOC's facilities and overall. With the goal of better identifying underlying barriers to access, the CHS monthly access reports represent the most comprehensive ongoing reporting on health and mental health care access in jails nationally.

Yesterday, BOC staff released a summary of the monthly access reports for calendar year 2018. ED King thanked Heather Burgess, Nashla Rivas Salas, and Emily Turner for their work to produce this critical report. The Board's summary reflects the following:

- In 2018, approximately 618,000 services were scheduled; 43% of those were mental health services.
- 77% of services scheduled during this year were "completed." This means that for 77% of scheduled appointments, the patient either saw a clinician or the patient refused and told a clinician he/she did not want the scheduled service.
- Overall service completion decreased from 79% in the July-December 2017 reporting period to 77% in the January 2018 reporting period.
- DOC's failure to produce patients to the clinic remained the main reason that patients miss appointments; however, non-production decreased from 67% to 64% of missed services.
- Completion rates varied by facility, ranging from a completion rate of 67% at Brooklyn Detention Center (BKDC) to a 93% completion rate at North Infirmity Command (NIC). Completion rates varied more when analyzed by facility and service category. For instance, Dental and Oral Surgery appointments, Mental Health appointments, and On-Island Specialty Clinic Services were the least likely to be completed — with non-completion rates of 31%, 31%, and 27%, respectively.
- The highest number of missed appointments occurred in mental health services. Over 79,000 mental health appointments were missed last year. This is approximately six (6) times as many missed appointments as the other categories with the highest number of missed appointments.

⁴ The final record of variance is available at: https://www1.nyc.gov/assets/boc/downloads/pdf/Jail-Regulations/Variations/final_variance_action_nursery_update_2019.07.02.pdf

⁵ The Board's *Access to Health and Mental Health Care (January-December 2018)* (June 2019) report is published at: https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/Health_Access/4b_Access%20Report%202018%20Review_Final_June%202019.pdf

The findings presented in the Report and the agencies' response to the Report's recommendations indicates CHS and DOC must do more to implement the recommendations from the Board's May 2018 healthcare access report.

BOC staff remains concerned about the high number and proportion of missed appointments, particularly the number and proportion of appointments that do not occur due to DOC not bringing the person to the appointment. The agencies' responses to the Board's 2018 recommendations document limited initiatives to improve access to care and suggest very little coordination between the agencies in identifying barriers to care or problem solving together. For example, the agencies have independent systems for tracking whether someone was brought to an appointment and if not, why not. This leads to the agencies producing conflicting reports and conflicting explanations as to why people do not get to the clinic which, in turn, makes it difficult to problem-solve.

For example, in March 2019, CHS reported 50,746 scheduled services and 10,423 completed sick call encounters while DOC reported 48,812 scheduled services and 7,136 completed sick call encounters — a difference in reporting of nearly 2,000 scheduled services and over 500 sick call encounters in one month alone.

Causing further concern, more than half of all complaints CHS receives and nearly half of all medical and mental health complaints DOC receives are related to access to care. While the Board recognizes the inherent benefits and challenges of two agencies working together to ensure access to quality health and mental health care, collective problem solving and collaboration is the only way that people in custody will receive the care that clinicians determine they need.

The Board is enhancing its capacity to monitor compliance with its Health Care and Mental Health Minimum Standards and now has a dedicated Research Director who will work closely with DOC and CHS to improve access to care. ED King invited CHS and DOC to present on their efforts in this regard.

► CHS Presentation

Benjamin Farber, CHS' Chief of Staff ("COS Farber"), said CHS' electronic health record remains the comprehensive and sole source of its data. CHS has consistently maintained its cohort housing for diabetic patients and geriatric patients at NIC and AMKC, which speaks to its commitment to patients and the delivery of services.

► DOC Presentation

Fazal Yussuff, DOC's Assistant Commissioner for Health Affairs ("AC Yussuff") presented as follows.

The Department is committed to ensuring accuracy in its data collection as well as timely production of patients for their health and mental health services. The Department continues to track production and non-production for scheduled medical appointments. It is committed to coming into compliance with the Minimum Standards and working toward affording sick call to all housing areas.

In the past year, DOC and CHS collaborated on the following initiatives: (1) the opening of a mini clinic at AMKC; prior to opening the clinic, approximately 50% of housing areas were afforded sick call, which increased to approximately 79% after the clinic opened; (2) ensuring that all budgeted posts in the mental health areas (escorts and area officers) were filled with steady officers; and (3) participating in "daily huddles" in the clinic, which includes officers, deputy wardens, DOC Health Affairs staff, and CHS clinical staff; and (4) renovation of the holding pens at Bellevue. The construction of additional holding pens will begin in August 2019

and be completed in the first quarter of 2020. DOC has also been reinforcing the use of its Inmate Tracking System so it can track and monitor patients that are produced to the clinic.

► Board Discussion

Vice-Chair Richards expressed concern that non-production for off-island specialty clinics increased from 60% to 67%. He said these appointments are critical as individuals are trying to access services unavailable on Rikers Island. He asked what DOC is doing to remediate this issue. AC Yussuff responded that DOC only has two (2) holding pens at Bellevue and is creating more to hold all individuals that need to be seen, but also need to be separated based on their classification levels.

Member Perrino reflected on his experience as a captain and said there used to be a sense of urgency in responding to the housing area when a person refuses to attend his or her clinic appointment. He asked if there are particular facilities that are better at producing people to their appointments and if these facilities can serve as models for other facilities in need of improvement. Vice-Chair Richards noted that at VCBC, the completion rate increased from 67% to approximately 80%. In response, AC Yussuff said DOC has introduced a new process at VCBC to eliminate “down time,” requiring officers to produce people to appointments before their shifts change. DOC is implementing this process in several other facilities.

Dr. Cohen made the following remarks: He challenged the notion that the problem at Bellevue is an insufficient number of pens to hold people waiting to be seen. He queried: “What’s been happening in the past 25 years?” The problem is more than that — it has to do with who’s being brought to Bellevue, who’s not being brought there, and whether people with higher classifications are not being permitted to wait in pens together with people with lower classifications. It’s DOC’s modification of its own procedures in this regard which is inhibiting access. Additionally, the clinics at Bellevue are used to treat people in custody only have the time as opposed to using them for two sessions five days a week. Thus, lack of capacity at Bellevue where people can await their appointments is not what’s preventing access to care.

Dr. Cohen also challenged the notion that the agencies’ computer systems are capturing all the necessary data concerning access to care. CHS’s system does not capture requests for sick call, and based on BOC’s and DOC’s reporting, many people are not getting to the clinic. As CHS develops its new electronic health care record system, Dr. Cohen hopes that the agency will change its intransience on this issue and capture not only those who are seen in the clinic but those who request to be seen but are not. Right now, CHS is unable to answer this most fundamental question in correctional healthcare.

Dr. Cohen stated his understanding that CHS is transitioning to a new electronic health record system and during this transition, the agency will not be providing BOC with monthly access reports. Patsy Yang, Senior Vice President for CHS (“SVP Yang”), responded that the agency is in the process of crafting, migrating and refining its new electronic system. This is a very complicated process during which CHS does not want to interrupt patient care. Thus, there will be a delay in reporting because the agency cannot successfully implement the transition and accomplish the reporting at the same time. Safely migrating from one system to another is the first priority and thereafter, reporting the data is the second.

Vice-Chair Richards sought to confirm whether the 9,500 sick call visits reflected how many people signed up for sick call but not how many were actually seen in the clinic. SVP Yang responded that’s correct. Additionally, AC Yussuff stated that DOC does not keep a list of how many individuals request sick call but of the housing areas that offered sick call on a daily basis.

In response to questions posed by Member Hernandez, COS Farber confirmed that CHS does not have a way of capturing whether people who request healthcare services actually receive it;

rather CHS maintains an electronic health record for each person in custody that documents when the person was seen and what services were provided.

ED King stated that sick call has been the subject of ongoing discussion among the agencies, and that they have not reached any type of acceptable resolution. She said she finds it completely unacceptable that we cannot know who is requesting to see a doctor in the clinic and who is not getting down to the clinic to access services.

First Deputy Villalona clarified the following: (1) DOC generates a sick call list, which is paper-based, and submits a copy to CHS; (2) no one is denied access to sick call because he or she is not on the list; (3) if someone who signed up for sick call later declines to go to the clinic, DOC does not force the person to go; (4) while CHS tracks patient care through its electronic health record system, DOC employs a movement tracking system and leverages it to track when people in custody enter and exit the clinic so that DOC can obtain a better understanding of who is getting down to the clinic.

Dr. Cohen remarked that DOC and CHS are not working toward a common system that would track both who requests healthcare services and who actually receives them. He expressed his significant disappointment that the agencies do not have such a unified system. In response, First Deputy Villalona reiterated the agencies' ongoing commitment to ensure that every person who seeks care receives it.

Interim Chair Sherman concluded the discussion by stating that the Board would continue to follow up on this issue and looks forward to hearing more about the agencies' collaborative efforts — and if such collaboration is not through a single system, then through another mechanism for documenting that DOC and CHS are working together to improve access to care.

Public Comment

The Board heard public comment from Kayla Simpson (LAS), Kelsey De Avila (BDS), Victoria Phillips (UJC/JAC), Blue Rose (Independent), and Winston Nguyen (Independent). The public comments are available here: <https://youtu.be/2GdT2rsHEgU?t=8895>.

Executive Session and Adjournment

The Interim Chair announced that the Board would go into Executive Session to discuss appointments to acting positions pending the hiring of a new Executive Director. After Member Hernandez moved the item and Vice-Chair Richards seconded, the Board unanimously voted to enter the executive session by a vote of 8-0 (Interim Chair Sherman, Vice-Chair Richards, and Members Cohen, Hamill, Hernandez, Jones Austin, Perrino, and Safyer).

Following the executive session, Interim Chair Sherman adjourned the meeting.