

**NEW YORK CITY
BOARD OF CORRECTION**

June 18, 2009

MEMBERS PRESENT

Hildy J. Simmons, Chair
Michael Regan, Vice-Chair
Robert L. Cohen, M.D.
Catherine M. Abate, Esq.
Stanley Kreitman
Rosemary Maldonado, Esq.
Alexander Rovt
Milton L. Williams, Jr., Esq.

An excused absence was noted for Member Pamela S. Brier.

DEPARTMENT OF CORRECTION

Ronald Greenberg, Director of Inspections, Office of Policy and Compliance (OPC)
Naresh Goyal, Associate Staff Analyst, OPC

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Louise Cohen, MPH, Deputy Commissioner, Health Care Access and Improvement
Suzette Gordon, Counsel, Correctional Health Services

OTHERS IN ATTENDANCE

Harold Appel, M.D., Doctors' Council, SEIU
John Boston, Esq., Project Director, Prisoners' Rights Project (PRP), Legal Aid Society
Lisa Freeman, Esq., PRP
William Hongach, Government Affairs Division, City Council
Martha Kashickey, Coalition to Raise the Minimum Standards at NYC Jails
Christian Salazar, Associated Press
Milton Zelermyer, Esq., PRP

Chair Hildy Simmons called the meeting to order at 9:00 a.m. A motion to approve minutes of the May 14, 2009 Board meeting was approved without opposition.

Chair Simmons reported that Executive Director Richard Wolf injured his leg and was undergoing surgery that morning. She asked Members to join with her in wishing him a speedy and complete recovery.

Chair Simmons requested that Members decide upon a date for the Board's July inspection tour on Rikers Island. She noted that the second Thursday, July 9th, falls during the Independence Day holiday week, and suggested that Members might prefer Thursday, July 16th. Chair Simmons asked Members to notify Deputy Executive Director Cathy Potler about their date preference as well as about issues to address during the tour. She reported that she and Mr. Wolf spoke with Department of Health and Mental Hygiene (DOHMH) Deputy Commissioner Louise Cohen about inspecting some health-related sites, but that no itinerary had been set, and Members' specific interests will be accommodated. Noting that the inmate visit process remains a Board concern, and some Members were unable to participate in recent inspections of the visit process, Chair Simmons suggested that the central visit building be the last stop on the July tour. She expressed hope that all Members will participate or, if unavailable for the July inspection, will arrange with BOC staff to conduct an inspection on another date so as to fulfill the goal of Members becoming more familiar with jail procedures during the months when no public Board meeting is scheduled. She reminded Members to finalize their participation with Ms. Potler in sufficient time for her to make transportation and security-clearance arrangements with the Department of Correction (DOC). Chair Simmons mentioned that Member Pamela Brier has requested the Board to change the weekday on which bi-monthly Board meetings are convened so that she would be better able to attend. Chair Simmons stated that we will see if we can accommodate that request.

Chair Simmons announced, relevant to the ongoing H1N1 epidemic, that DOC asked to renew a variance from the Classification Standard to commingle in one housing area in the Rose M. Singer Center (RMSC) all categories of uninfected pregnant female inmates: detention, sentenced, adolescent, adult, and civil. She explained that the original DOC request arose from a DOHMH recommendation of the "best practice" under such circumstances: to locate such inmates in one area where their medical condition could be monitored closely for H1N1 symptoms, testing and treatment, and where their movements could be controlled better to protect them from contagion elsewhere in the jail and from other inmates. Member Catherine Abate advised that the practice within her own out-patient medical organization is to segregate pregnant patients immediately from other waiting patients. Reminding Members that DOC has been providing daily information about managing H1N1, Chair Simmons said that no incidents or problems were reported from the affected variance house, Building 7. A motion to renew the variance until the September, 2009 Board meeting, was approved without opposition.

Chair Simmons cited the primary purpose of the meeting, a vote on variances requested by DOC from the recreation and visiting standards. She expressed her and all Members' appreciation for the time and effort devoted by representatives of organizations and members of the public to preparing thoughtful commentary and public testimony. She acknowledged that materials were designed both to reveal preparers' serious concerns, and to ensure that the Board has the best possible information with which to make an informed decision.

She announced that she would take the Chair's prerogative to open the variance discussion with her personal thoughts about the requests. She said that she listened attentively at the June 5th public hearing, and carefully reviewed all documents forwarded by Mr. Wolf and posted on the BOC web site. She noted that DOC made a good faith effort to present its case and to respond to BOC inquiries. She said that at the May meeting, DOC Commissioner Martin Horn made a cogent, strong presentation of DOC's rationale for seeking the variances, and his plans for implementing them.

Chair Simmons said that she was not persuaded that the Board should grant either variance. As to DOC's request to reduce the weekly visit schedule from five days to four, she noted that visiting Rikers Island already is very difficult and time-consuming despite DOC efforts to speed the process. She said that granting a variance to permit reduced visit access would be inappropriate because implementation would present undue hardship for visitors, and could negatively impact inmates' behavior and their ability to maintain ties to family and community. Regarding DOC's request to reduce the outdoor recreation schedule from seven days to five with recreation periods increased from one to one and one-half hours, Chair Simmons asserted that to reduce inmates' daily access to outdoor exercise, and to begin doing so during hot summer weather, would not be an enlightened step for the Board to take.

Noting that three Members were not on the Board when it reviewed all sixteen Standards and amended numerous provisions, Chair Simmons pointed out that Members voted in 2007 to leave intact the specific sections from which DOC now seeks variances. Explaining that Members assessed these two Standards very carefully at that time, she reported that the sense of the Board was that the existing sections on visiting and recreation were fine and sufficient, and should be retained. She asked Members to share their own thoughts about the variance requests before voting on them.

Member Dr. Robert Cohen thanked the many organizations and individuals who participated in the variance process by gathering and presenting information and opinions about the two requests. He explained that, although he was not a Member during the amendment process, he had closely followed deliberations and reviewed related documents at that time. He noted that the spirit and retained language of the Visiting and Recreation Standards make clear the Board's commitment to the stated levels of service. He opined that, since Members thoroughly evaluated those Standards recently, and rejected the idea of amending them, it was inappropriate for DOC to engage the Board, with its limited staff, in another vast and time-consuming review of the same two Standards. Dr. Cohen voiced support for the Chair's stated positions against the two variance requests. He said that his work for Montefiore Medical Center years ago on Rikers Island, and his more recent prison work, clarified for him the varied roles played for inmates by visiting and outdoor recreation, and underscore his view that DOC's requested changes would have a terrible impact on City jails.

Announcing that she too supported the Chair's positions, Member Rosemary Maldonado applauded the serious deliberative approach that BOC applied to the variance requests. She added that she respectfully disagreed with Member Cohen about it being inappropriate for DOC to bring such requests to the Board. Noting that DOC is struggling with difficult economic times, she described her view of the Board's role: to consider the Department's situations as presented, and to determine a safe balance between DOC's stated needs and wants, and the Board's comprehensive evaluation of the overall situation.

Member Alexander Rovt reported that he did not support the variance requests because DOC did not provide viable explanations for how clear-cut economic benefits could result from reducing visit and recreation days. Member Stanley Kreitman expressed support for the Chair's positions against the variance requests, adding that it would be a mistake for Members to take any actions that could increase jail-based tension or violence. Vice Chair Michael Regan agreed with positions taken, noting that Members heard from many people about the potential for violence, and about safety and health concerns for uniformed and civilian staff as well as for inmates if the variances were implemented. Ms. Abate voiced agreement with the wisdom of prior statements about the variance requests, and commended the leadership shown and everyone's intense involvement in the review process. She said that she was gratified both by the serious manner with which BOC approached the requests, and by the fact that the process revealed the Board's role as independent of DOC and thereby designed to ensure that conditions are as safe as possible for everyone who enters jail doors: staff, inmates, visitors.

Chair Simmons called for a vote on the two variance requests. Motions to deny DOC's requests for variances from the recreation and visiting standards were made, seconded, and approved without opposition by all Members present.

Mr. Regan asserted that BOC must not cease its evaluation of the visiting process. Noting that DOC spoke about fast-tracking registration and instituting other improvements, he asked that DOC report on progress made. Explaining that the Board had heard troubling information about the treatment of visitors by DOC staff, he commended those persons who allowed themselves to suffer apparent indignities during visits, and then publicly shared their experiences so as to inform the Board's decision about DOC's variance request. Noting that he himself observed the visit process a couple of times, he said that did not witness the type of inappropriate, disrespectful behavior by DOC staff such as was reported during BOC's June 5th hearing. He asked that BOC staff pursue such matters because, if such ill-treatment of visitors actually occurs, it would be troubling and must be stopped. Chair Simmons responded that BOC staff already researched and prepared materials about visiting, and presented ideas about issues to pursue further. She said that staff should do so, and then share their findings at the September Board meeting along with the related experiences of BOC Field Representatives. Ms. Potler said that BOC participates with some DOC officials in a working Committee on visiting, and will keep Members apprised of issues addressed such as the recommendations made in Mr. Wolf's recent memo to Members about visiting. Stating that she expects the Mayor to appoint a new DOC Commissioner by September, Chair Simmons advised BOC to spend the Fall acquainting the new commissioner and the new team with the Board. She suggested that, in September, BOC share with DOC senior management the fact that visiting is a major concern for BOC, and report the bases for those concerns as well as recommendations for addressing them.

Ms. Abate noted that the lack of sufficient operable lockers for the projected number of visitors, and functioning toilets for visitors, contributes to delays and conflict. She suggested that DOC evaluate Visit House space for possible reconfiguration that could enable installation of more lockers, and in locations that could speed rather than impede visitor processing. She also advised DOC to implement or enforce procedures for upkeep and cleaning of visitor bathrooms. Dr. Cohen reported that, on his recent trip to the Central Visit Building, lockers had been repaired but agreed that, since past upkeep was lax, there is a risk that the number of operable lockers there will plummet again.

Chair Simmons announced that, at the request of Mr. Kreitman, the Board would go into brief executive session to discuss a personnel matter. The public meeting was adjourned at 9:17 a.m. The Board met in executive session from 9:20 a.m. until 9:35 a.m.