



**NEW YORK CITY  
BOARD OF CORRECTION**

**January 9, 2018 Public Meeting Minutes**

**MEMBERS PRESENT**

Derrick D. Cephias, Esq., Acting Chair  
Stanley Richards, Acting Vice-Chair  
Gerard W. Bryant, Ph.D.  
Robert L. Cohen, M.D.  
Jennifer Jones Austin, Esq.  
James Perrino  
Michael J. Regan  
Steven M. Safyer, M.D.

Martha W. King, Executive Director

**MEMBERS ABSENT**

Honorable Bryanne Hamill

**DEPARTMENT OF CORRECTION (DOC)**

Cynthia Brann, Commissioner  
Angel Villalona, Acting First Deputy Commissioner  
Hazel Jennings, Chief of Department  
Jeff Thamkittikasem, Chief of Staff  
Peter Thorne, Deputy Commissioner of Public Information  
Winette Saunders, Deputy Commissioner of Youthful Offender and  
Young Adult Programming  
Faye Yelardy, Assistant Commissioner for Sexual Abuse and  
Sexual Harassment Prevention  
Timothy Farrell, Deputy Commissioner, Classification and  
Population Management  
Management  
Anna Marzullo, Senior Policy Advisor  
America Canas, Senior Policy Advisor  
Steven Kaiser, Policy Analyst  
Alex Foard, Lead Performance Analyst  
Michael Tausek, Acting Deputy Commissioner of Adult Programs  
Danielle Leidner, Executive Director of Intergovernmental Affairs  
Kwame Patterson, Assistant Commissioner  
Brian Sullivan, Bureau Chief of Security  
Brenda Cooke, Deputy Chief of Staff  
Jason Kersten, Press Secretary

Michael Tausek, Director of Correctional Standard Review  
Carleen McLaughlin, Director of Legislative Affairs and Special Projects

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

Ross MacDonald, M.D., Chief Medical Officer, Assistant Vice President, CHS  
Patrick Alberts, Esq., Senior Director of Policy and Planning, CHS  
Levi Fishman, Director of Public Affairs, CHS  
Ashley Smith, Assistant Director of Policy & Planning, CHS  
Elizabeth Ford, M.D., Senior Director of Operations, CHS  
Lily Hoffman, Deputy Director of Adolescent/Young Adult Services, H+H  
Peggy Sue Batterton, MPH, Research Scientist, CHS  
Lisa Caldes, MPH, MSW, Research Scientist, CHS  
George Axelrod, Esq., Chief Risk Officer, H+H

**OTHERS IN ATTENDANCE**

Alex Abell, Urban Justice Center-Mental Health Project (UJC)  
Jennifer Parish (UJC)  
Vivian Velasquez (UJC)  
Laura Fettig (UJC)  
Umar Ali (UJC)  
Victoria Phillips, Jails Action Coalition (JAC)  
Candy Haley Johnson, JAC  
Kelly Grace Price, JAC  
Elizabeth Wolozin, Legal Aid Society Prisoners' Rights Project (LAS)  
Dori Lewis (LAS)  
Sarah Kerr (LAS)  
Elias Husamudeen, Correction Officers' Benevolent Association (COBA)  
Otica Rutledge (COBA)  
Albert Craig (COBA)  
Mark Steier (COBA)  
Tony Herbert (Independent)  
Charlotte Pope, Children's Defense Fund – NY (CDF-NY)  
Maya Brown, Children's Rights  
Kelsey De Avila, Brooklyn Defender Services (BDS)  
Miguel Medrano (BDS)  
Simone Spirig (BDS)  
Chelsey Davis, Office of the Mayor  
Ashley Iodice, New York City Law Department (Law)  
Keith Zobel, New York State Commission of Correction (SCOC)  
Allen Riley (SCOC)  
Simone Lee, *Nunez* Monitoring Team  
Jin Lee, NYC Council  
Brian Crow, NYC Council  
Tanya Krupat, Osborne Association  
Ruth Lowenkron, New York Lawyers for the Public Interest (NYLPI)  
Inhwan Chi (NYLPI)  
Megan Hadley, The Crime Report  
Jennifer Agius, NSW Ombudsman  
Gregg McQueen, Manhattan Times  
David Carrillo, BATRES Creative Solutions  
Noah M., Patch

Daniel Lewis, WNYC  
Jeff Johnson, (Independent)

### **Approval of November 2017 Minutes**

Acting Chair Cephas asked for a motion to approve the November 14, 2017 meeting minutes. Member Bryant moved the item and Acting Vice-Chair Richards seconded it. The minutes were unanimously approved by all members present (Acting Chair Cephas, Acting Vice-Chair Richards, and Members Bryant, Cohen, Jones Austin, Perrino and Regan).

### **Introductory Remarks, Announcements, and Updates**

Acting Chair Cephas noted that Member Hamill is currently in California awaiting the birth of her grandchildren and is following today's meeting via live stream.

Acting Vice-Chair Richards announced that the Jails Action Coalition had recently released an informative report on the jail visitation process, which assesses the process and documents the experiences of family and friends visiting individuals incarcerated on Rikers Island. The report makes recommendations to the Board and the Department on how both agencies can continue improving the visitation experience. Acting Vice-Chair Richards said DOC had previously coordinated a work group on visits and he expressed interest in reconvening this group.

### **Public Comment on Variance Requests**

Acting Chair Cephas said the Board would be voting on three variance requests from CHS regarding psychotropic medication, the tuberculosis screening process, and inmate injury information. The Board would also vote on the Department's two variance requests regarding punitive segregation seven-day waivers, and the comingling of young adults with adults. He invited public comment on the variances. The Board heard public comment from Jennifer Parish (UJC), Ruth Lowenkron (NYLPI), Elias Husamudeen (COBA), Albert Craig (COBA), and Tony Herbert (Independent).

The public comments are available at: <https://www.youtube.com/watch?v=Nv3ZizQWTHc>.

### **CHS Variance Requests**

Acting Chair Cephas stated that the Board has renewed the three CHS variance requests every six months for many years. In 2017, the Board voted unanimously to begin integrating these variances into the Minimum Standards.

#### **► Psychotropic Medication**

Acting Chair Cephas stated that CHS is requesting a six-month variance from Minimum Standard § 2-05(b)(2)(i-ii) to allow psychiatrists to see and evaluate stable adult patients on psychotropic medication in general population at least every 28 days, rather than every 14 days. This variance was first granted by the Board in 2005 and has been repeatedly renewed.

Member Cohen commented that he would vote in favor of this variance because an initial reevaluation after 14 days followed by evaluation every 30 days is safe and would not put this population's health at risk. He added that 28 days is "a normal period" of time between these evaluations for civilians in the community.

The Acting Chair called for a motion to vote on the variance request. After Member Cohen moved and Acting Vice-Chair Richards seconded, the variance was unanimously approved,

8-0 (Acting Chair Cephas, Acting Vice-Chair Richards, and Members Bryant, Cohen, Jones Austin, Perrino, Regan, and Safyer).<sup>1</sup>

### ► Tuberculosis Screening

Acting Chair Cephas stated that CHS is requesting a six-month variance from Minimum Standard § 3-04(b)(2)(v)(a) to use either Interferon Gamma Release Assays (IGRA) or a tuberculin skin test for tuberculosis screening, and to exempt from repeat screening people who have had a documented negative test in the six months prior to their admission. CHS reported that they have had many years of experience using IGRA and it is a valuable and effective tool in controlling tuberculosis in the jails. Acting Chair Cephas noted that this variance was first granted by the Board in 2013 and has been repeatedly renewed.

Member Cohen addressed the safety concerns NYLPI had raised in its public comments by stating that the exemption from repeat screening is safe and consistent with public health recommendations on screening for tuberculosis in jails.

The Acting Chair called for a motion to vote on the variance request. After Acting Vice-Chair Richards moved and Member Reagan seconded the item, the variance was unanimously approved, 8-0 (Acting Chair Cephas, Acting Vice-Chair Richards, and Members Bryant, Cohen, Jones Austin, Perrino, Regan, and Safyer).<sup>2</sup>

### ► Injury Information

Acting Chair Cephas stated that CHS is requesting a six-month variance from Minimum Standard § 3-08(c)(3) to permit CHS to provide DOC with specific diagnoses related to injuries sustained by people while in DOC custody. The reporting of diagnoses unrelated to an injury in jail remains prohibited. He noted that injury information has served as an essential component of DOC investigations into violent incidents. This variance has been repeatedly granted by the Board since 2013.

The Acting Chair called for a motion to vote on the variance request. After Acting Vice-Chair Richards moved and Member Cohen seconded the item, the variance was unanimously approved, 8-0 (Acting Chair Cephas, Acting Vice-Chair Richards, and Members Bryant, Cohen, Jones Austin, Perrino, Regan, and Safyer).<sup>3</sup>

---

<sup>1</sup> The final Record of Variance Request is available at:  
[http://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2018/January-9-2018/2018.01.09%20-%20Record%20of%20Variance%20Action%20-%202-05\(b\)\(2\)\(i\)ii%20post%20psychotropic%20medication%20post.pdf](http://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2018/January-9-2018/2018.01.09%20-%20Record%20of%20Variance%20Action%20-%202-05(b)(2)(i)ii%20post%20psychotropic%20medication%20post.pdf)

<sup>2</sup> The final Record of Variance Request is available at:  
[http://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2018/January-9-2018/2018.01.09%20-%20Record%20of%20Variance%20Action%20-%203-04\(b\)\(2\)\(v\)\(a\)%20POST.pdf](http://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2018/January-9-2018/2018.01.09%20-%20Record%20of%20Variance%20Action%20-%203-04(b)(2)(v)(a)%20POST.pdf)

<sup>3</sup> The final Record of Variance Request is available at:  
[http://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2018/January-9-2018/2018.01.09%20-%20Record%20of%20Variance%20Action%20-%203-08\(c\)\(3\)%20POST.pdf](http://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2018/January-9-2018/2018.01.09%20-%20Record%20of%20Variance%20Action%20-%203-08(c)(3)%20POST.pdf)

## **DOC Variance Requests**

### **► Seven-Day Waiver**

Acting Chair Cephas stated that the Department is requesting a six-month variance from Minimum Standard § 1-17(d)(2) to permit DOC under highly exceptional circumstances presenting safety concerns, to waive the requirement that people in custody be immediately released from punitive segregation (PSEG) for seven days after they have been in PSEG for 30 consecutive days (“waiver”). He noted that the Board first granted this variance in September 2015, and it has been renewed multiple times on condition that the Chief of Department approve each waiver and state why placement in a less restrictive setting is not a safe option.

#### **(i) BOC Monitoring and Reporting**

ED King stated that the Board has published periodic reports monitoring and analyzing DOC’s use of the waiver since the variance was first granted. She thanked BOC’s monitoring team, especially Alexa Herzog, for closely monitoring this issue and producing these valuable reports, which are available on the Board’s website.

ED King reported that DOC has granted a total of 27 waiver requests and denied nine (9) such requests since the variance was first approved in September 2015. Of the 27 waivers granted, half were for slashings. The others were for assaults on staff, weapons contraband, and one for destroying DOC property. In the last six months, the Chief of Department approved four (4) waivers, two of which were for slashings, one for participation in a gang assault resulting in serious injury, and one for brandishing a weapon and refusing a search. ED King said this data suggests that the Department is complying with the Board’s requirements regarding under what circumstances waivers are permitted.

ED King indicated that in general, individuals who received waivers had long lengths of stay in DOC custody and had spent extensive time in PSEG. On average, the individuals had spent 202 days in PSEG during their current incarceration, and had been incarcerated for 517 days when the waiver was imposed.

ED King said the Chief of Department had approved each waiver request and DOC had timely provided this documentation to the Board. She added that the Board is working with DOC to improve its compliance with the variance condition that the Chief state why placement in a less restrictive setting is not a safe option. She said the recent report of the Vera Institute of Justice on DOC’s restrictive housing practices recommends that DOC “determine if less-restrictive housing may be appropriate” prior to approving a waiver. The report also recommends that DOC “explain what other housing options were considered and the reasons placement into less-restrictive housing units were not appropriate.”

Acting Chair Cephas invited the Department to comment on the variance request and the issues presented today.

#### **(ii) DOC’s Presentation**

Brian Sullivan, DOC’s Bureau Chief of Security, stated that DOC has used the waiver sparingly in response to critical security concerns. He said the Department has been working closely with the Board in ensuring that each waiver approval specifies the reasons why an alternative housing option was not available.

### **(iii) Board Discussion**

Member Perrino stressed the importance of the waiver as a tool to maintain safety and security when an individual has committed a violent act in PSEG. He noted that the waiver has been utilized infrequently. Acting Vice-Chair Richards agreed with Member Perrino and reiterated that only 27 waivers had been granted in the last two years. This demonstrates DOC's willingness to seek alternatives to PSEG and should be celebrated just as the Board celebrated the reduced use of restraint desks in Secure.

Member Cohen commented that while the waiver has been used sparingly, it has resulted in some people spending hundreds of days in PSEG. He noted that these people have already experienced a lot of harm, having spent a significant amount of time on Rikers Island and in PSEG. He believes that DOC has alternatives to using the waiver, such as placement in North Infirmity Command (NIC), where people can be housed for a 7-day period. This would comply with the Board's Minimum Standard that people receive a one-week break between stays in PSEG. Member Cohen said he is voting against the variance today, but will vote in favor of it when DOC demonstrates that it is looking for alternatives to using the waiver.

### **(iv) Vote on Proposed Condition**

ED King read the existing condition with a slight modification: "During the pendency of this Variance, the Chief of Department shall approve all waivers in writing. Her approval must specify her reason for granting or denying the request, what other housing options were considered, and why each was not a safe option. Immediately after the Chief renders her decision on a request, the Department shall send to the Board the request and the Chief's decision."

Jeff Thamkittikasem, DOC's Chief of Staff, said that it may take the Department up to 24 hours to send this documentation to the Board, and he requested that "immediately" be changed to "24 hours." Acting Vice-Chair Richards stated that 24 hours is an acceptable amount of time under the current language to send the documentation to the Board. After the Board members agreed that the Department may send this documentation to the Board within 24 hours, ED King concluded that the condition stands as written but will be interpreted to mean within 24 hours.

Acting Chair Cephas conducted a roll call vote of all members present, and the Board voted unanimously to approve the condition, 8-0 (Acting Chair Cephas, Acting Vice-Chair Richards, and Members Bryant, Cohen, Jones Austin, Perrino, Regan, and Safyer).

### **► Vote on Variance with Condition**

Acting Chair Cephas conducted a roll call vote of all members present, and the Board voted 7-1 approving the variance (Member Cohen voted against the variance, while Acting Chair Cephas, Acting Vice-Chair Richards, and Members Bryant, Jones Austin, Perrino, Regan, and Safyer voted in favor).<sup>4</sup>

---

<sup>4</sup> The final Record of Variance Request is available at:  
<http://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2018/January-9-2018/2018.01.09%20-%20Record%20of%20Variance%20Action%20-%207%20day%20waiver%20POST.pdf>

► **Commingling 19-to-21-Year-Olds with Adults**

Acting Chair Cephas stated that the Department is requesting a six-month variance from Minimum Standard § 1-02(c)(1) to allow DOC to house young adults, ages 19 to 21, with adults ages 22 and older.

The Acting Chair explained that in 2015, the Board created a unique category of people in custody — young adults ages 18 through 21 — who were to be housed separately and apart from the rest of the jail population. The Board also required DOC to provide young adults with age-appropriate programming. This amendment was intended to reduce violence by segregating developmentally-distinct age groups, providing age-appropriate rehabilitative opportunities, and conforming the Board’s Minimum Standards to the requirements of New York State law and PREA.

Acting Chair Cephas stated that as of July 2016, 18-year-olds can be housed only with 19 to 21-year-olds. However, since September 2015, the Board has approved variances permitting DOC to house (i.e., commingle) 19 to 21-year-olds with adults. The Board last renewed this variance in July 2017, and it is set to expire on January 13, 2018. The Department has requested a six-month renewal of this variance and has requested that BOC consider amending the Minimum Standards to incorporate this variance permanently.

Acting Chair Cephas said there are approximately 875 young adult men and 49 young adult women currently in DOC custody. Around half of the young adult men, including almost all 18-year-olds, are housed at GMDC, and the other half are housed in jails throughout the system. Acting Chair Cephas added that the Department has recently announced its plan to close GMDC by this summer. The Board applauds this step toward reform but is concerned about how GMDC’s closure will affect young adults and DOC’s young adult plan. The Board seeks to ensure that young adults have access to quality education and programming and that staff working with them receive training tailored to the needs of this population.

Acting Chair Cephas invited the Department to present its variance request and update the Board on its young adult plan.

**(i) DOC’s Presentation**

Commissioner Brann stated that the Department remains committed to its young adult plan. She reiterated that DOC had ended punitive segregation for 18 to 21-year-olds, and introduced a broad range of programming, including age-specific programming, to ensure that five hours of daily programming is offered to every young adult in custody. The Department increased its adolescent and young adult programming budget from several hundred thousand dollars a year to over \$17 million annually. Additionally, DOC provided training to officers working with young adults in safe crisis management and other youth-specific curricula. The Commissioner also highlighted the Department’s and the Board’s shared goals of reducing the jail population over the next 10 years, closing facilities on Rikers Island, and building modern community-based facilities.

Commissioner Brann clarified that when GMDC closes later this year, most young adults will stay in young-adult-only units and DOC will continue to make custody-management decisions for those who would more appropriately be housed in comingled units. The number of young adults in Department custody decreased from 1,140 in January 2016 to 851 in December 2017 — currently represents only 9.8% of the total jail population. She noted that GMDC has been at less than 50% capacity due to necessary repairs. DOC anticipates that with Raise-the-Age and the movement of adolescents off Rikers, space in RNDC will be freed up for

young adults. The Department's preliminary plan is to move 18-year-olds into RNDC because it has the infrastructure and the program space, and the facility has an established culture of working with young people since 2014. Meanwhile, 19 to 21-year-olds will move into EMTC with the goal of creating young-adult specific housing units there. The Department said that eventually, all young adults will be housed in RNDC.

Commissioner Brann said DOC's goal is to maintain programming levels for young adult units in RNDC and EMTC. Many young adults will continue to receive age-specific programming as program providers and counselors will continue to engage with this population. She commended GMDC's staff for taking a targeted approach to addressing multi-faceted young adult custody management issues. She added that the health and mental health staff, as well as the education staff, have collaborated with DOC to create a successful young adult housing approach that will continue through the upcoming changes.

### **(ii) Board Discussion**

Member Perrino said that comingling allows the Department to separate young adults safely. Having served as a commanding officer in both RNDC and EMTC, he is concerned that neither facility has the programming space that GMDC does. He would like to review DOC's plans for developing programming space in RNDC and EMTC to ensure that it can serve young adults as well as GMDC. Commissioner Brann responded that RNDC has more programming space than GMDC, and when the adolescents leave Rikers in October 2018, more space will be available for young adults.

Acting Vice-Chair Richards expressed concern about the overall facility space at RNDC and EMTC. Commissioner Brann responded that the Sustainability Unit, the Offices of Policy Compliance, Facility Management, and Maintenance are working together to ensure that the facilities are prepared to house young adults from GMDC.

Member Cohen asked if the Department has projected capital costs for this project. Commissioner Brann said the capital costs are built into the facility maintenance priority plans each year in the budget, and they are currently aware of and working to resolve the deficiencies.

### **(iii) Proposed Condition**

ED King read the existing condition: "During the pendency of this variance, the Department shall provide the Board with a monthly census showing in which housing units and jails 18-to-21 year-olds are housed, and the Department shall continue to (a) provide the Board with a monthly progress report on its implementation of the Young Adult Plan and implementation of alternatives to punitive segregation (i.e., Second Chance, TRU and Secure Units); and (b) provide its progress report for each month on the tenth business day of the following month."

### **(iv) Board Vote on Six-Month Variance with Condition**

Acting Chair Cephas conducted a roll call vote of all members present, and the Board voted unanimously to approve the variance with the existing condition, 8-0 (Acting Chair Cephas, Acting Vice-Chair Richards, and Members Bryant, Cohen, Jones Austin, Perrino, Regan, and Safyer).<sup>5</sup>

---

<sup>5</sup> The final Record of Variance Request is available at:  
<http://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2018/January-9-2018/2018.01.09%20-%20Record%20of%20Variance%20Action%20-%20YA%20Co-mingling%20POST.pdf>



## **BOC Lockdown Report**

ED King announced that the Board's Research Team had recently released a report on lockdowns in the City's jails, which is available on the Board's website. DOC policy permits staff to lock down housing areas and facilities to investigate violence, avoid violence, conduct searches, or restore order. During a lockdown, people in custody must be in their cell and all movement, services, and programming cease. This impedes the ability of DOC and CHS to meet the Minimum Standards. Since lockdowns impact many people and services, they contribute to perceptions of unfair and excessive punishment and increase tension in the facilities. ED King further stated that lockdowns have been a priority concern for the Board. BOC's Monitoring Team frequently receives complaints from incarcerated people and advocates regarding suspension of Minimum Standards and increased facility tensions caused by frequent lockdowns.

As discussed in the Board's lockdown report, while the jail population has decreased by 32% since 2008, lockdowns have increased by 88% during this same period. ED King further noted that from 2016 to 2017, there was a 32% increase in lockdowns facility-wide, and in four jails — RNDC, West Facility, OBCC, and BKDC — the number of lockdowns more than doubled. Uses of force (36%), inmate tension (21%), and inmate-on-inmate fights (18%) were the top three reasons for lockdowns in 2017. ED King said BOC's report details the average number of out-of-cell hours that are lost per day compared to the out-of-cell time people in custody are entitled to under the Minimum Standards.

ED King said BOC's Research Team — in particular, Fortuna Hau, Nashla Rivas Salas, and Jim Bennett — under Emily Turner's leadership, should be commended for shedding extraordinary light on a topic that is often discussed in this forum with limited data. ED King noted that the Board's report is the first of its kind in the country that analyzes the magnitude and use of lockdowns in correctional facilities. The Board anticipates a productive conversation with DOC about evaluating the impact of lockdowns. This report, including a BOC audit of lockdown reporting forms, will be discussed along with DOC's response at the February or March meeting.

## **PREA Screening for Risk and Victimization**

ED King discussed the Minimum Standards on the elimination of sexual abuse and sexual harassment in correctional facilities. She invited CHS to present an update on its implementation of its new rape crisis counseling program. ED King recapped that this program was initially suggested by the Public Advocate, many interested parties advocated for it, and the Board incorporated it into the Standards.

### **► CHS Presentation**

Ross MacDonald, CHS's Chief Medical Officer and Assistant Vice President, reported that CHS's sexual abuse advocacy program is now operational. This program is separate from CHS's clinical services and is tailored toward the requirements laid out in the Board's Minimum Standards. The sexual abuse advocacy program staff have been specifically trained to support victims of sexual abuse. CHS also has policies and procedures in place as well as workflows and standards within the electronic health record system that will allow staff to see all patients who report sexual victimization in the jails.

ED King asked how many people CHS has served in this program to date. Dr. MacDonald responded that the program became operational this week, so he does not have the exact number of people served. Acting Chair Cephas requested that within the next few months, CHS present this information and report on the overall progress of the program.

Acting Vice-Chair Richards asked how CHS educates people on how to access this resource. Dr. MacDonald said that program staff have collaborated with PREA program coordinators in the facilities, and they will continue spreading the word. CHS has robust reporting mechanisms for its staff and cross-reporting between DOC and CHS, which triggers DOC and CHS outreach to patients.

Faye Yelardy, DOC's Assistant Commissioner for Sexual Abuse and Sexual Harassment Prevention, announced that DOC has scheduled a meeting with CHS to discuss how this program will operate. She said information about Safe Horizon is included in brochures and the Inmate Handbook provided to people upon their admission to jail, and that the information is also displayed on posters throughout the facilities. DOC will continue to work with CHS to ensure that people in custody and staff are knowledgeable about this program.

### ► ED King Presentation

ED King stated that at the October 2017 meeting, the Board unanimously passed a resolution declaring the Department in violation of Minimum Standards §§ 5-17 and 5-18 that require DOC to assess a person's risk of being sexually assaulted while in custody or of being sexually abusive towards others. The Board required remedial actions, and ED King reported that the Department has largely complied with the requirements of the resolution. Specifically, DOC has:

- Submitted a corrective action plan on October 24, 2017.
- Submitted monthly progress reports on its implementation of the screening tool.
- Cited progress in its December 2017 report; namely, that enhancements to its electronic database system (IIS) enabling it to track individuals for potential sexual victimization and abusiveness were completed in November.
- Trained over 400 of 475 essential staff members that are assigned to intake, classification, movement, and general office.
- Began weekly inmate council meetings in the Transgender Housing Unit.
- Submitted reports every two weeks listing each housing placement of a transgender or intersex person during the reporting period and the reasons for such placement. The Board had required DOC to provide the information it considered in making each determination; however, as of this update, DOC has not provided all the information it considered or any supporting documentation.

ED King said the Board also required DOC to provide information on the training for THU officers, the number of THU-assigned officers who received the training, and the number of steady THU officers. On October 24, 2017, the Department reported that an advocacy group had provided the training, but DOC does not have the training materials that were used; none of the current THU staff received the training; and four of the THU officers were steady. ED King reported that DOC has not set up a database of all transgender, gender non-conforming, and intersex people to enable the tracking of their path through intake to housing, their housing changes, and relevant incidents in which they were involved.

ED King invited the Department to provide an update on its progress toward becoming compliant with Minimum Standards §§ 5-17 and 5-18.

### ► DOC Presentation

Assistant Commissioner ("AC") Yelardy stated that the PREA team, on behalf of facility staff, has been uploading information from the paper-based screening tool into the electronic system. Training commenced on November 6, 2017, and every facility will be using the electronic screening tool within the next few weeks, well before the April 2018 target date.

Housing areas in every facility have been designated as “SA” for potential sexual abuser and “SV” for potential sexual abuse victim. DOC will use the electronic screening tool to improve how people are assigned and separated by these designations in all housing units, except for specialized housing. AC Yelardy said that the Inmate Information System (IIS) now tracks and prohibits SA or SV individuals from being assigned to the same housing unit within general population. Additionally, IIS permits PREA staff to monitor the housing locations of all people designated as SA or SV, so that people in specialized housing units will also be separated. AC Yelardy further stated that DOC is complying with the Board’s resolution, and submitted a corrective action plan on October 24, 2017, along with information on THU staffing and training. Inmate council meetings have been conducted on a weekly basis and bi-weekly notifications on each transgender and intersex person entering custody has been sent to the Board detailing the placement and information considered in determining placement. AC Yelardy concluded that DOC is committed to PREA compliance and ensuring that all facilities are safe.

Member Cohen asked if the Department will allow transgender persons to be housed in a facility based upon their gender identity. Ms. Yelardy responded that DOC is currently complying with State Law when it comes to determining gender for purposes of housing placement. Timothy Farrell, DOC’s Deputy Commissioner of Office of Classification and Population Management, clarified that DOC does not have a plan in place to house transgender individuals based upon their identity and choice.

### **West Facility and NIC**

ED King stated that, according to the Department, the current use of West Facility is primarily to house people who pose a significant threat to the safety of others, or people in protective custody who are at high risk of being attacked and therefore must be separated from others.

In September 2016, the Board issued a Notice of Violation to DOC concerning its operation of West Facility (“West”) in violation of Minimum Standards regarding lockout, religious services, library, housing of people with serious mental illness, and due process in making security classifications. At the March 2017 meeting, the Department reported that people would be moved out of West and into NIC in June 2017. More recently, DOC reported that it would complete the transfer of this population to NIC by November 21, 2017. However, West continues to house 37 people for non-medical reasons. ED King noted that the Board continued concerns about the lack of due process afforded to people with respect to their placement in West or NIC and the restrictive nature of these facilities for people in protective custody.

ED King invited DOC to provide an update on its plan to close the restrictive housing at West and on its operations at NIC.

### **► DOC Presentation**

DOC’s Bureau Chief of Security, Brian Sullivan, said that the Department’s current operation of West seeks to reduce the incidence of violence, but does not represent a permanent solution to the challenges posed by this distinct group of incarcerated individuals. One of the tiers at NIC is operational and currently houses approximately six people. DOC intends to move people, in phases, from West to NIC’s restrictive tiers (5 tiers containing 55 cells). However, DOC is waiting for SCOC approval on its plan to address fire safety issues related to some cells on the second and third floor. SCOC is scheduled to review the plan at its January 17, 2018 meeting. Once DOC receives SCOC approval, it expects to move people into NIC at a pace of one tier per week, or every 10 days.

Member Reagan said West was originally constructed as temporary housing for people with tuberculosis — it is now “falling apart,” with its crumbling infrastructure a source of material for making weapons. Member Cohen stated that some time ago, half of the men in West were in protective custody. He understands that NIC will not have the capacity to provide protective custody, and asked where these individuals would be housed and what type of programs would be available to them. Chief Sullivan confirmed that this small group of people will not be housed at NIC; nor will they be housed in regular protective custody because they are also assaultive and influential gang members. DOC will explore other housing options for them.

Michael Tausek, Acting Deputy Commissioner of Adult Programs, reported that tablet programming was afforded to people at West some of whom destroyed the devices. In preparation for the movement of people from West to NIC, the Department added a permanent social services counselor at NIC to provide more “one-on-one time” to the population. Once the transfer of people out of West is completed, DOC plans to introduce more structured programming at NIC.

### **Recent Death in Custody**

ED King stated that the Board had restarted its practice of publicly reporting each death in custody. She reported that Mr. Joseph Foster, age 51, died in DOC custody on January 4, 2018, and BOC’s Death Review Board is investigating his death.

### **Public Comment**

The Board heard public comment from Laura Fettig (UJC), Umar Ali (UJC), Alex Abel (UJC), Al Craig (COBA), Mark Steier (COBA), Candy Haley Johnson (JAC), Kelly Grace Price (JAC), and Miguel Medrano, (BDS). The public comments are available at:  
<https://www.youtube.com/watch?v=Nv3ZizQWTHc&t=2382s>.

Following public comment, Acting Chair Cephas adjourned the meeting.