NEW YORK STATE OF OPPORTUNITY.
Justice Center for the Protection of People with Special Needs

KATHY HOCHUL
Governor

DENISE M. MIRANDA
Executive Director

NYS Justice Center for the Protection of People with Special Needs
Advisory Council Meeting Summary
April 7, 2022

Advisory Council Members Present: William Gettman (Chair), Norwig Debye-Saxinger, Jason Hershberger, Walt Joseph, Jeremy Klemanski, Ronald Lehrer, Tom McAlvanah, Megan O'Connor, Kathy O'Keefe, Judith O'Rourke, Jeff Savoy, and Euphemia Strauchn

Advisory Council Members Not Present: Denise Figueroa, Glenn Liebman, Joe Macbeth, Delores McFadden, Clint Perrin, Harvey Rosenthal, Mary St. Mark

Medical Review Board Members Present: Charles Schwartz, MD (Chair), John Allan, MD, Michael Baden, MD, Georgia Gaveras, DO, Richard McCarthy, MD

Psychiatric Correctional Advisory Committee Members Present: Jack Beck, Jayette Lansbury

Justice Center Staff Present: Christine Buttigieg, Director of Communications, Laura Darman, Executive Deputy Director, Sara Delmarter, Acting Director, Mortality Review, , Denise Miranda, Executive Director, Nikki O'Meara, Director of Operations, Forensic Unit, Deborah Perry, Investigations, Davin Robinson, Deputy Director Outreach, Prevention and Support, Tony Ryan, Chief, Office of Investigations, Salvatore Salerno, Deputy Chief, Office of Investigations Jody Signoracci, Assistant Director, Outreach, Prevention and Support

I. Justice Center Advisory Groups

The Justice Center benefits from the advice and guidance of three advisory bodies:

1. Justice Center Advisory Council.
2. Medical Review Board
3. Psychiatric Correctional Advisory Committee

These groups had a joint meeting on April 7, 2022 to discuss their priorities and goals for 2022. The meeting was held via Webex.

II. Justice Center Advisory Council

The Advisory Council has 19 members with expertise in all service systems under the Justice Center's jurisdiction. Over half of the members are parents or individuals who have received services. Members are appointed by the Governor and approved by Senate. The Advisory Council provides guidance to the agency in the development of policies, programs, and regulations and may consider any matter related to improving the quality of life of people with disabilities.

There are currently four subcommittees:

1. Abuse Prevention
2. Investigator and Law Enforcement Training
3. Legislation and Regulations
4. Workforce Issues

The Abuse Prevention committee makes recommendations to the full Advisory Council regarding policies and practices to prevent abuse and neglect, and support trauma-informed responses to victims of abuse and neglect.

The Investigator and Law Enforcement Training committee makes recommendations to the full Advisory Council regarding the training curriculum for investigators who will be assigned to investigate reportable incidents involving people who receive services under the jurisdiction of the Justice Center; and law enforcement on the response to situations and confrontations involving individuals with special needs. This committee also monitors investigative case cycle time and make recommendations as appropriate.

The Legislation and Regulations committee makes recommendations to the full Advisory Council regarding policies, proposed regulations, and statutory changes concerning Justice Center functions, powers and duties and any matter related to improving the quality of life of citizens of the state who have disabilities.

The Workforce Issues committee makes recommendations to the full Advisory Council regarding workforce competencies, development, retention, and the development of courses of study for persons engaged in public and private programs for people with special needs and disabilities. This committee also reviews nominations for the Justice Center's annual Code of Conduct recognition award.

Examples of recommendations made by the Advisory Council to the Justice Center include:

2021:

- Requested that the Governor provide additional resources to the Justice Center to support HALT implementation and include a 5.4% COLA for human services workforce in the budget.

2019

- Recommendations to improve workforce recruitment and retention, including a COLA, loan forgiveness and a credentialling program

Advisory Council meeting summaries and recommendations are available on the Justice Center website.

III. Medical Review Board

The Justice Center Medical Review Board (MRB) advises on cases as needed or warranted. The Board consists of nine physicians with expertise in forensic pathology, psychiatry, internal medicine, and addiction medicine. The MRB is called upon for full death reviews and advises on medical issues pertaining to the death of an individual and also on those pertaining to possible abuse or neglect. The MRB can also consult or perform a full review for abuse and neglect cases with a death involved as needed.

The MRB meets ten to twelve times a year and considers select cases involving the death of a person receiving services. These cases include abuse and neglect cases with a death involved. The MRB also

reviews the death of people who were discharged from an inpatient psychiatric or detoxification program, and deaths of people under the age of 21. Abuse and neglect investigations involving injuries of unknown origin as well as those involving allegations of medical neglect may also be referred to the MRB.

The MRB is actively seeking new members and requested that if any of the advisory groups had recommendations to let the Justice Center know.

IV. Psychiatric Correctional Advisory Committee

The Psychiatric Correctional Advisory Committee (PCAC) was authorized by the SHU Exclusion Law to advise the Justice Center on its oversight responsibilities and make recommendations to improve mental health care provided in NYS correctional facilities. The PCAC began meeting in 2012 and has provided the Justice Center with invaluable assistance in meeting its legislative mandate to monitor the quality of mental health care in NYS correctional facilities.

Mental Health Services in NYS Correctional Facilities

While the total number of incarcerated individuals has decreased by almost 60% since 1999, the percentage of incarcerated individuals in NYS correctional facilities receiving mental health services has increased from 15% in 2012 to 27% in 2021. In the overall prison population 48% of those incarcerated are Black, 25% are White and 24% are Latinix. In the mental health caseload, 41% are Black, 35% are White and 20% are Latinx. Only 16 of 50 DOCCS prisons have residential mental health programs and full-time mental health staff. Patients are generally seen monthly by mental health staff or in a group counselling session.

Solitary Confinement

Solitary confinement typically means a person is kept in their cell alone or with another person for 22-24 hours per day. DOCCS places persons in solitary confinement for multiple reasons: discipline for violating prison rules; administrative segregation for persons they believe are a security risk; protective custody for persons who are vulnerable; and medical or mental health isolation. In 2018, nearly 28,000 persons in DOCCS were subject to discipline and 20,468 persons spent time in solitary confinement that year, many of whom were there multiple times.

Solitary confinement causes significant harm even if the person is only in it for a few days, but most DOCCS residents are there months and often years. The SHU Exclusion Law required the creation of residential mental health treatment units for persons with SMI who are sentenced to solitary confinement.

PCAC Concerns

1. It is difficult to provide meaningful, effective mental health services in a correctional facility. There is an inherent conflict between security goals and treatment goals.
2. Treatment vs. punishment for disruptive individuals. People with mental health needs receive an excessive number of disciplinary sanctions and are sanctioned to isolation at higher rates. Before the SHU Exclusion Law was enacted, the percentage of persons receiving mental health services in solitary confinement was significantly higher than those who did not have mental health needs.

3. Mental health resources and the competency of mental health staff. Responses to a mental health crisis fail to address issues leading to the crisis, return people to the same environment that created the problem and adequate treatment is often not provided.
4. Solitary confinement results in greater self-harm and suicide and deterioration of physical and mental health. Evidence shows that out-of-cell pro-social programming and engagement is more effective in improving safety.

How the Justice Center and the PCAC can improve the quality of mental health care

The PCAC would like the Justice Center to enhance its evaluation of both security and systemic treatment problems. The PCAC can assist the Justice Center in developing and implementing procedures to assess mental health care more effectively and in developing recommendations to address systemic deficiencies in mental health services and improve the coordination between DOCCS and OMH to reduce the harm of excessive isolation of the DOCCS population. The Justice Center now has mental health experts reviewing medical and mental health records to identify problematic care.

The PCAC would also like to see the Justice Center make more information readily available to the public. It was noted that the Justice Center has begun posting its findings and the responses received from OMH and DOCCs on its website. The PCAC also recommends that the Justice Center continue its practice of regularly meeting with advocates, formerly incarcerated individuals and their families and other concerned members of the community.

Next Meeting
June 23, 2022