

MINUTES OF THE MEETING OF THE BOARD OF CORRECTION

June 4, 1973

A regular meeting of the Board of Correction was held on Monday, June 4, 1973, in the 14th floor conference room, 100 Centre Street, New York, New York.

Present at the meeting were Messrs. McKay, Dribben, Schulte, Becker and Kirby, Mrs. Singer, and Rev Wilson. Also present by invitation of the Board were John M. Brickman, Executive Director of the Board; Mary D. Pickman, Director of the Legal Advocate Program; Greg Harris, Director of the Clergy Volunteer Program; Joel Sperber, Director of the Literacy Program; and William Arnone, law interne.

Present from the Department of Correction were Benjamin Malcolm, Commissioner; Jack Birnbaum, Deputy Commissioner; George Camp, Assistant Commissioner; A.L. Castro, Director of Public Affairs; Joseph D'Elia, Director of Operations; Paul Dickstein, the Assistant Commissioner for Planning and Budget; and Arnett Gaston, Executive Assistant to the Commissioner.

Mr. McKay acted as Chairman and Ms. Pickman acted as Secretary of the meeting.

The meeting was called to order at 3:10 P.M. Upon motion duly made and seconded, the minutes of the meeting of May 8, 1973 were approved. Upon motion duly made and seconded, requests for excused absences from Messrs. Carrion and DeMonte were accepted.

It was agreed that because of the holiday in July and members' schedules, the next meeting of the Board would be held on Monday, July 9, 1973.

The Chairman reported that he and Mr. Brickman had met with Gordon Chase, Administrator of the Health Services Administration, and two of his deputies to discuss the matter of the responsibility for delivery of health care in prisons. Mr. Chase has agreed to attend the meeting of the Board which will be held at the New York City Correctional Institution for Women on June 18, 1973, to advise the Board of the status of Prison Health Services and of the ways in which the Board can be helpful to HSA. The Chairman reported that the Montefiore Hospital contract has been approved by the Board of Estimate and will become effective at the Correctional Institution for Women next month. Under the terms of the contract, Montefiore will eventually provide service to all inmates on Rikers Island. Mr. Chase intends to seek additional contracts, perhaps with Bellevue and New York Hospital, and then with other City hospitals. The Chairman reported that the

Bellevue staff has apparently agreed to the use of the 18th floor for treatment of inmates. The Chairman stated that Mr. Chase has agreed to reactivate the Prison Mortality Review Board and has ordered his staff to have the mental facility at Branch Queens operational in July.

The Chairman raised the issue of the New York City Housing Authority's prospective eviction from public housing of the Tyson family, which the Board had discussed with Simeon Golar at its May 18 meeting. The Chairman reported that he had read newspaper accounts of two eviction cases which indicated to him that the Housing Authority does, in fact, have a policy of evicting families upon the conviction and threatened return to the housing project of a family member. Mr. Brickman stated that he had spoken to the General Counsel of the Human Rights Commission, who had indicated to him that although the Commission does not have the staff available to prepare an amicus curiae brief in the Tyson case, it might be willing to co-sign a brief submitted by the Board. The Chairman stated that Norman Redlich, the City's Corporation Counsel, had suggested to him that the Board contact the newly appointed chairman of the Housing Authority to determine whether he would be willing to modify the Authority's eviction policy. The Chairman instructed Mr. Brickman to direct such an inquiry to Edward Norton, General Counsel to the Housing Authority. If the Authority refuses to modify its position, it was agreed that the Board should file an amicus curiae brief in the Tyson case.

Mr. Brickman stated that the Task Force on the Role of the Church and the Prison recommended that prison chaplains be appointed on recommendation of a Community Advisory Board, and that the Board of Correction had designated Father John Corn and former chairman vanden Heuvel as its representatives. It was suggested that it would now be appropriate to consider whether Mr. vanden Heuvel should continue to serve. Reverend Wilson stated his opinion that the Board should consider designating a Black representative to replace Mr. vanden Heuvel, in view of the racial make-up of the prisons. Thereupon, on motion duly made and seconded, Greg Harris was appointed to serve with Father Corn as a Board representative on the Community Advisory Board.

The Chairman raised the issue of the Board's representation at Inmate Liaison Committee meetings in the prisons. Mr. Brickman declared that only four out of nine Inmate Liaison Committees have been meeting regularly. The Chairman stated that the Board should raise this problem with the Commissioner to determine why the committees are not functioning.

Mrs. Singer expressed concern that prison personnel and the public are not adequately informed as to the powers, functions, and responsibilities of the Board of Correction. She suggested that the Board undertake a publicity campaign to inform the public of its activities. The Chairman stated that he will contact criminal justice reporters for the major City newspapers to encourage them to do background stories on the Board. Mr. Brickman stated that he would seek to arrange interviews for the Chairman with the City's neighborhood papers. Mr. Schulte asked whether individual Board members are authorized to speak publicly about the Board's work. The Chairman stated that the Board should speak as one voice on major public issues and therefore individual members should secure clearance before making statements on such issues. In general, however, he encouraged Board members to speak whenever the opportunity presented itself. Mr. Brickman stated that he would direct the Board staff to seek speaking engagements for Board members. Mr. Dribben suggested that the Board request that Commissioner Malcolm issue a directive to all correction personnel describing the Board's work, and that a description of the Board should be included in the printed prison rules and regulations which are issued to every inmate.

At the request of the Chairman, Mr. Arnone summarized for the Board the report on the suicide of John Wayne Wilson. The Chairman stated that before the report is issued publicly, Mr. Wilson's attorneys should have an opportunity to respond to the factual allegations made in the report concerning their conduct of the case. Mr. Brickman stated that a copy of the report would be sent to the attorneys immediately. The Chairman also suggested that the District Attorney's office be given an opportunity to respond to the report before publication. The Chairman directed Mr. Brickman to forward a copy of the relevant portions of the report to the District Attorney's office for their comments. It was agreed that the Board would decide at its next meeting when to release the report.

Mr. Brickman stated that he and the Chairman had been informed by Mr. Robert Kasanof, Acting Attorney-in-Chief of The Legal Aid Society Criminal Division, that Mr. Kasanof had written to Commissioner Malcolm protesting the lack of private interview facilities for attorneys in the court detention pen areas. Mr. Brickman read Mr. Kasanof's letter to the Board. The Chairman stated that The Legal Aid Society may bring a suit against both the Department of Correction and the Board to secure more private interview facilities, and that in his opinion, such a suit would have a good chance of success. A discussion of the matter ensued, after which

the Chairman directed Ms. Pickman and her staff to undertake a survey of existing interview facilities and to offer specific recommendations for increasing private interview space.

Mr. Brickman reported that at Mr. vanden Heuvel's suggestion, he and Kenneth Nochimson had met with IBM executives approximately ten weeks ago to request that they donate the services of a company executive to serve as management consultant in the prisons. Mr. Brickman stated that last week IBM had agreed to this suggestion and had tentatively designated an individual to serve for a period of six months to a year. The volunteer would be paid by IBM during this period. Mr. Brickman suggested that the IBM volunteer work as an executive assistant to a warden, suggesting management techniques and procedures for improving the administration of a prison.

At 4:25 P.M. Commissioner Malcolm and his staff arrived.

Commissioner Malcolm introduced Paul Dickstein, the Department's newly appointed Assistant Commissioner for Planning and Budget. Mr. Dickstein is a graduate of New York University Law School and has most recently been employed as a planner in the Bureau of the Budget.

Commissioner Malcolm described the problems which might be encountered by the Department in administering sentences of intermittent imprisonment. He stated his concern that when this type of sentence is made available to judges, offenders may be sentenced to terms of intermittent imprisonment who would otherwise have been released on probation or discharged. The result would be increased crowding in the prisons. The Commissioner stated that judges must be instructed to use sentences of intermittent imprisonment only for those offenders who otherwise would be sentenced to prison. Commissioner Malcolm reported that at the end of the recent legislative session, the Legislature voted to repeal, effective September 1, 1973, Sections 85.00 (d) and 85.20 of the Penal Law, which give judges authority to impose terms of intermittent imprisonment after correction officials have certified certain institutions as prepared to receive such prisoners. The Commissioner stated that he intends to announce at the end of June plans for accepting prisoners with intermittent sentences beginning on August 1, 1973. These prisoners will be assigned to a dormitory on Rikers Island. A study will be conducted over the first 60 days of the operation to determine whether offenders are receiving sentences of intermittent imprisonment who would otherwise be released on probation. Commissioner Malcolm suggested that the Board prepare a list of proposed guidelines for sentencing judges regarding the use of intermittent sentencing, to be submitted to the Presiding Justices. The Chairman directed Mr. Brickman to have such a list prepared.

At 4:40 P.M. Mr. Kirby arrived.

Commissioner Birnbaum reported that the new Adolescent Reception and Detention Center on Rikers Island will begin operation on June 18, and went on to describe the orientation, testing, and assignment procedures that will be employed. The Department will activate one building at a time and will keep the population of each building to 80 percent of capacity. The staff will be undergoing in-service training as the institution is activated; 80 percent of the correction officers will be newly appointed and will be trained by a core of specially selected officers.

Commissioner Malcolm reported that the Department plans to set up a Firearms Review Board which will investigate incidents in which correction officers discharge firearms, and cases in which questions are raised as to the qualifications of officers to carry weapons.

The Chairman requested that Commissioner Malcolm issue a directive to all correction officers and supervisory personnel setting forth the Board's authority and responsibilities and identifying the members of the Board. Commissioner Malcolm instructed Mr. D'Elia to issue such a directive.

The Chairman stated that the Inmate Liaison Committees have not been meeting in several institutions and that meetings have been cancelled without notice to the Board. Commissioner Malcolm stated that Mr. Gaston has prepared a schedule of Committee Meetings, a copy of which will be furnished to the Board. Commissioner Malcolm also stated that he has ordered the wardens to notify the Department when meetings are cancelled and that this information will be forwarded to the Board. A discussion ensued as to the problems of the Inmate Liaison Committee in Brooklyn. The Chairman stated that the role of the Board at Inmate Council Meetings is to support and assist the Department as needed in the processing of inmate grievances and expressed his desire that the staffs of the Board and Department work together to see that the meetings are held.

The Chairman summarized for the Department representatives the contents of Mr. Kasanof's letter concerning the lack of private interview facilities for attorneys in the court detention pens. The Chairman offered the services of Ms. Pickman and her staff to review existing facilities and to make specific recommendations for simple structural changes to provide more private interview space. Mr. D'Elia will review the suggestions submitted by Ms. Pickman.

Mr. Dribben left the meeting at 5:20 P.M.

The Chairman raised a question as to the status of the proposed adolescent facility at McGuire Air Force Base in

New Jersey. Commissioner Malcolm stated that he had been advised by the Department's counsel that the Department could not legally send work-release inmates outside the state. The Commissioner also stated that in his opinion a sufficient number of possible work-release centers exist in New York City. The Commissioner added that the Department now transports approximately 440,000 inmates per year and that it would be difficult to arrange transportation for inmates out of state. Mr. Kirby stated that transportation problems should not stand in the way of implementing a potentially good plan for rehabilitating youth. The Chairman offered to assist the Department in securing work-release space in New York City and also stated that the Board of Correction staff would review the legalities of the McGuire proposal. Commissioner Malcolm agreed to reconsider the proposal after the Board of Correction staff has demonstrated its legal feasibility.

Upon motion duly made and seconded, the meeting was adjourned at 5:40 P.M.