

MINUTES OF THE MEETING OF THE BOARD OF CORRECTION

November 27, 1973

A regular meeting of the Board of Correction was held on Tuesday, November 27, 1973 in room 406, New York University School of Law, 40 Washington Square South, New York, New York.

Present at the meeting were Messrs. McKay, Dribben, Becker, Kirby, Schulte and Mrs. Singer. Also present by invitation of the Board were John M. Brickman, Executive Director of the Board; Mary D. Pickman, Director, Legal Advocate Program; Greg Harris, Director, Clergy Volunteer Program; Kenneth G. Nochimson, Co-Director, Legal Advocate Program; and William Arnone, of the Board of Correction staff.

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

The meeting was called to order at 2:40 P.M.

Mr. Becker asked that his references in the minutes of the meeting of November 5, 1973 to the issue of rules and regulations concerning dress at the New York City Correctional Institution for Women be changed to reflect his concern for rules relating to homosexuality and not, as the minutes had reported, dealing with the prevention of homosexuality.

Upon motion duly made and seconded, the minutes of the meeting of November 5, 1973 were approved as amended.

The Chairman reported on his meeting with Messrs. Dribben and Brickman and representatives of the correction line organizations. He stated that all agreed that more frequent consultation between Board members and the officers was necessary. He also noted that the officers asked for Board support on the site for a new Correctional Academy and on the institution of broader officer training programs. Mr. Dribben noted that the Board has a mandate to examine correction officers' training and parallel training of other law enforcement agencies within the City. The Chairman noted that the officers were unhappy over a rumor that a woman would be appointed as the director of the academy and he reported that the officers had asked for the Board's support in opposing the appointment of a woman as the director of the academy. Mr. Becker moved that the Board support the Commissioner's choice of a director of the academy if qualified on the merits, regardless of sex. Upon motion duly made and seconded, it was so resolved.

It was then agreed generally that the resolution would not be released unless needed and that this decision would be at the discretion of the Chairman.

The Chairman reported that the City Prison Mortality Review Board met with the State Correction Medical Review Board last week. He stated that the State Board was impressed with the work done by the City. The Chairman noted that the Chairman of the State Correction Medical Review Board, Albert Berkowitz, would probably become Chairman of the State Commission of Correction in January 1974. Mrs. Singer suggested that the Board request a meeting with Mr. Berkowitz when he takes office.

The Chairman reported that the Hispanic Task Force had been created by executive order of the Mayor on November 14, 1973. He informed the Board that he, as Chairman, and Robert Wallace, Director of the Mayor's Criminal Justice Coordinating Council, would be ex-officio members of the Task Force. He further informed the Board that the Task Force was not under the Board's control but that the Board would assist the members of the Task Force.

Mr. Dribben reported on the City Council hearing on the Commissary Bill at which he testified. He noted that he and Jack Birnbaum were the only witnesses at the hearing, and that there were no adverse witnesses. Mr. Brickman reported that the bill was passed by the full Council.

Ms. Pickman informed the Board that the Fordham Law School Urban Law Journal was considering the publication of the Legal Advocate Program's study of pre-sentence reports. She stated that the report would be circulated among the Board members before Monday, December 3, 1973. Ms. Pickman also noted that the Kings County Court observation was completed, that the data were being compiled and that a report would be forthcoming. She also noted that Justice Vincent Damiani of Criminal Term, Kings County Supreme Court, cooperated fully with the project. She stated that the late delivery of prisoners to court and delays on the part of defense counsel would be noted in the report.

The Chairman raised the issue of transportation of inmates to court and of the approach which the Board should take on this issue. Ms. Pickman noted that the Council of New York Law Associates was excited about the suggestion by Commissioner Malcolm that the Board utilize the Council to monitor the entire issue of the delivery of inmates to court. Mr. Brickman suggested that the Chairman and Commissioner Malcolm see Justice David Ross as soon as possible. The Chairman agreed, and declared that he would also communicate with Mr. Dontzin regarding the matter. Ms. Pickman will explore the possibility of discussing the project with Lester Goodchild, Director of Administration of the Criminal Court.

Mr. Kirby arrived at 3:10 P.M.

Ms. Pickman informed the Board that the Criminal Justice System record keeping report would be available in two to three weeks.

Ms. Pickman spoke about the conduct of members of the Board of Correction during sessions which the Board has with the Department of Correction. She stated that in her judgment, too often Board members showed disagreement among themselves when discussing a particular issue before the members of the Department of Correction. Mr. Brickman declared that he agreed with Ms. Pickman and called for a united front by the Board members after full and total discussion amongst themselves of controversial and critical issues.

Mr. Brickman declared that the Director of Legal Affairs, Ronald Zweibel, had noted the Board's disagreement in the course of discussions between Mr. Zweibel and the Board staff on disciplinary hearings. Mr. Becker pointed out that the Board is united in times of crisis and suggested that the opinion of Mr. Zweibel be given little attention on this matter.

Mr. Dribben pointed out that the Department is invited to Board of Correction meetings and that they should continue to be conducted as Board of Correction meetings.

Mr. Nochimson noted that it was valuable for the Board to focus on details of particular issues. Both he and Mr. Brickman offered staff preparation of precise areas to explore in advance of meetings so that concise questioning of Department members could be conducted. Mr. Brickman noted that this type of questioning was a valuable technique and referred to the last Board meeting as a good illustration of this. The Chairman noted the dangers of an adversary atmosphere when meeting with the Department and thought that the prior meeting had approached this adversary line. Mr. Dribben stated that too many people from the Department of Correction attended joint sessions. The Chairman stated that he preferred having many Department members present to answer questions so that the Department could not refer them to people who were absent.

Mr. Brickman reported on the Maternity Project. He stated that a report would be available before the next Board meeting scheduled for Monday, December 3, 1973.

Ms. Pickman stated that \$225,000 had been allocated in the new budget for court pen interview space in the Brooklyn, Manhattan and Bronx Criminal and Supreme Courts. Mr. Schulte noted however, that all plans would have to be approved by the State Commission of Correction.

Mr. Brickman reported on the Nick Bagley case. He stated that Tom Wicker of the New York Times, WNBC-TV and the Washington Post were interested in covering aspects of the story. He declared that

the Bagley case was by no means concluded.

Mr. Brickman reported that the issues of punitive segregation and inmate discipline at the New York City Correctional Institution for Women seemed to be resolved in the right direction from the Board's standpoint, but noted that no memorandum regarding dress policies had yet been received from the Department.

Mr. Brickman distributed a memorandum from the Warden of the Bronx House of Detention to the Department commending the activities of the Board at Inmate Liaison Committee meetings in the Bronx. He also distributed a memorandum from the Department of Correction to each head of an institution describing how the Department views the Board's role at Inmate Liaison Committee meetings.

Mr. Arnone reported that the 12th prison suicide of 1973 occurred on November 16, 1973, at the New York City House of Detention for Men on Rikers Island. He stated that the suicide of Gabriel Clavier illustrated the lack of communication between the State mental hospitals and the Department. He noted that the inmate had been in State mental hospitals for all but six months since his arrest in 1964. He also reported that several months ago, the Prison Mental Health Services unit of the Health Services Administration had prepared a proposal setting forth a team approach to suicide prevention with units to be established at each institution consisting of mental health workers, prison personnel, and inmates. He stated that shortly after the announcement of the latest suicide the Department indicated that it was prepared to implement the proposal and that the Board would be meeting with members of Prison Mental Health and the Department of Correction on this Friday, November 30, 1973 to discuss implementation. Mr. Arnone then reported on the issue raised at the previous meeting, whether inmates should be informed about their physical condition after medical examination. He distributed to the Board for its information a memorandum prepared by Frank Schneiger, Director of Prison Health, setting forth the policy of Prison Health on informing inmates.

Mr. Brickman reported that the Board's latest report on work release would be forthcoming in several weeks. The report would look into the problems of escape and security in the work release program. Mr. Brickman also noted that a preliminary report on the issue of correction officer training would also be forthcoming.

Mr. Nochimson reported on the Board's continued monitoring of the inmate disciplinary hearings at the Manhattan House of Detention. He stated that as a result of the monitoring in connection with Rhem v. Malcolm, good results had been achieved. He added that a summary of the entire monitoring by the Board would be made available by the end of December.

Mrs. Singer asked that letters be sent by the Board of Correction to inmate aides who rescue inmates in the act of suicide.

Mr. Kirby then raised the issue of promotion of correction officers. He stated that Assistant Deputy Warden Luciani of the Bronx House of Detention had again been passed over for promotion to Deputy Warden in favor of Assistant Deputy Warden Patrick Perry. Mr. Kirby questioned the political aspects of promotions, noting that Mr. Luciani at this time was passed over on the recommendation of a lower officer.

The issue of the Charter Revision recommendations was then discussed. After discussion, a general form of the proposal was agreed upon. The Board directed Mr. Brickman to revise the draft in accordance with its decisions and to send copies of the recommended revisions to the State Charter Revision Commission, Commissioner Malcolm and Mr. Dontzin.

Mr. McKay described the report on the Inspector General as admirable. Mr. Schulte declared that it was explosive and must be used. Mr. Schulte asked that language be used to reflect that no Board members interviewed particular individuals, but rather that the Board staff conducted interviews. Mr. Nochimson noted, however, that prior reports had always used the language "The Board interviewed" when in fact the Board staff had conducted interviews. It was agreed that this practice should continue. Mr. Kirby called for the use of this report to the fullest extent. Mr. Becker moved to approve the substance of the report. Mr. Brickman suggested that the report be distributed as is to public officials involved in the operation of the Inspector General's office. He suggested, however, that any public report be issued with names deleted or initials used to protect the rights and preserve the anonymity of those involved, as well as avoid compromising any ongoing activities of law enforcement agencies. Mr. Dribben suggested that the report be withheld from the public altogether. He stated that the recommendations should go to those public officials involved, so that the funding of the Inspector General's office would continue but the office would operate in a different manner. He stated that the concept was necessary and pointed to the military as an example.

Mr. Brickman described the goal of the Board of Correction as to have an Inspector General's office that worked and to have it working as soon as possible. He informed the Board that Leon Katz, the Inspector General, had resigned, effective December 15, 1973. He further informed the Board that Commissioner Malcolm had responded to the request of Robert Wallace, Director of CJCC, for information on open questions regarding the Investigations Unit's functioning and that CJCC would be reviewing his response. Mr. Brickman noted that the Board would also review the Department's response. Mr. Brickman stated that the Board had a responsibility to see that the Inspector General's office worked. Mr. Nochimson noted the lack of Board involvement in the office thus far, pointing out that the Board had never been consulted regarding either the establishment or the implementation of the Inspector General's office.

Ms. Pickman stated that the Board should emphasize the need for accountability in the Department's operation of any program. Mr. Becker suggested that the report be distributed now to those public officials involved and at some point to the press. He noted the need for the Board to make Commissioner Malcolm aware of his responsibility to correct programs that were not functioning well.

Mr. Brickman suggested the possibility of a public hearing on the matter; Mr. Becker noted that Commissioner Malcolm would be hurt politically by such hearings. Mr. Nochimson noted that the hearings might have as witnesses Mr. Katz, a representative of CJCC and members of the Department, particularly Commissioner Malcolm and Mr. Zweibel.

Mr. Schulte suggested that hearings be delayed until the Board received a response from the Department which could then be evaluated to ascertain the need for hearings.

Mr. Brickman suggested that the Board furnish copies of the report to Commissioner Malcolm, warning that the Board expects a response as soon as possible, that a hearing is being seriously considered, and that the Board reserves the right to release any part of the report to the press and the public at any time. Upon motion duly made and seconded it was agreed that copies of the report would be distributed to Commissioner Malcolm, Mr. Katz, Mr. Zweibel and Mr. Wallace, that the Department would be given a deadline in which to respond, and that the Board would plan hearings or some other public action in January 1974 if satisfactory evidence of progress was not received.

The Chairman asked that the staff prepare conclusions to be put in a cover letter to the report and that these conclusions be distributed to the Board members before the meeting of the Board on Monday, December 3, 1973.

Upon motion duly made and seconded, the meeting was adjourned at 4:50 P.M.