

MINUTES OF THE MEETING OF THE BOARD OF CORRECTION

September 10, 1973

A regular meeting of the Board of Correction was held on Monday, September 10, 1973 in the 14th floor conference room, 100 Centre Street, New York, New York.

Present at the meeting were Messrs. McKay, Dribben, Becker, Kirby, Schulte 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; and Lawrence Seigel of the Mayor's Criminal Justice Coordinating Council.

Present from the Department of Correction were Benjamin J. Malcolm, Commissioner; Jack Birnbaum, Deputy Commissioner; Alphonso K. Forde, Assistant Commissioner; Paul Dickstein, Assistant Commissioner; Joseph D'Elia, Director of Operations; and Arnett Gaston, Executive Assistant to the Commissioner.

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

The meeting was called to order at 2:50 p.m. Upon motion duly made and seconded, the minutes of the meeting of August 13, 1973 were approved. Upon motion duly made and seconded, requests for excused absences from Mr. Carrion and Mrs. Singer were accepted.

The Chairman reported with deep regret the death on August 21, 1973 of Mr. DeMonte. At the Chairman's request, Mr. Brickman distributed to the Board copies of a tribute to Mr. DeMonte by William J. vanden Heuvel. Upon motion duly made and seconded, it was

RESOLVED that copies of William J. vanden Heuvel's tribute to Joseph DeMonte be sent to the DeMonte family and to members of the City Council, where Mr. DeMonte served, and that the tribute be attached to and incorporated in the minutes of this meeting.

Mr. Schulte arrived at 2:55 p.m. and Mr. Becker arrived at 3:00 p.m.

At the Chairman's request, Mr. Brickman reported on a number of significant developments and ongoing projects. Regarding the Board's report on the suicide of John Wayne Wilson, Mr. Brickman stated that the Chairman had received a letter from the Executive Director of Bellevue Hospital noting the worth of the Board's recommendations and expressing a desire for better communication between Bellevue and the Tombs. Mr. Brickman stated that Bellevue was the only institution to respond to the Board's report.

Mr. Brickman reported that the General Counsel of the Housing Authority had informed him that the Authority has decided to defend the Tyson suit. At Mr. Brickman's suggestion, the Board agreed to file a brief amicus curiae in the case.

Regarding the extradition of Nick Bagley, Mr. Brickman stated that he had previously been informed by Maryland authorities that the State would drop its extradition request. However, he declared, the Maryland authorities have now changed their position and are insisting on bringing Mr. Bagley back to Maryland before taking any action on his case. Mr. Brickman reported that he would begin to work with Maryland officials in an effort to secure early parole consideration for Mr. Bagley.

Mr. Becker reported that he had spoken to Walt Frazier's business manager regarding arrangements for a visit by Mr. Frazier to the adolescent institutions on Rikers Island. He stated that he is still awaiting word on final arrangements.

Mr. Brickman reported that the staff had recently completed a study on the advisability of setting aside areas in the prisons where inmates could live with their children. He stated that the study with recommendations would be finalized within several weeks and distributed to the Board.

Mr. Brickman reported that a staff director had been selected for the Hispanic Task Force. He stated that the chairman-designate of the Task Force had requested that the staff director be paid at a rate of \$27,000 per annum, and that CJCC, which is funding the project, had agreed to this amount. Mr. Brickman stated his opinion that the staff director's salary is excessive, especially in relation to Ms. Pickman's salary, which is substantially less. After discussion, the Board instructed Mr. Brickman to prepare a letter to CJCC's Director noting that the salary was agreed to without approval or consideration by the Board.

Ms. Pickman reported that the staff of the Legal Advocate Program had completed a study of felony case processing in the Kings County Supreme Court. She stated that a report of the staff's findings was being prepared and would be made available to the Board.

Ms. Pickman reported that the Inspector General of the Department of Correction, Leon Katz, had recently contacted her regarding his investigations of two alleged assaults by correction officers on inmates at the Bronx House of Detention. Inspector General Katz stated that the results of his investigations had been forwarded to the Bronx County District Attorney and requested that the Board communicate with the District Attorney's office to inquire as to the status of the cases. After discussion, it was agreed that the Board should not contact the District Attorney directly. Mr. Brickman was instructed to call Ronald Zweibel, the Department's Director of Legal Affairs, to ask about the status of the investigations.

The Chairman reported that he and Mr. Brickman had met with the Mayor, Commissioner Malcolm, Deputy Commissioner Birnbaum and Michael Dontzin, Counsel to the Mayor, on August 21, 1973. The discussion concerned the recommendations of the Chaplaincy Task Force, as well as a broad review of the prison agenda for the balance of 1973. As to the chaplaincy issue, the Chairman reported that the Mayor had accepted the Task Force recommendations and that Mr. Brickman, the Commissioner, Mr. Dontzin and others are presently working toward their implementation. Mr. Harris stated that he would be meeting with Assistant Commissioner Forde shortly to institute the six-member chaplaincy appointment board.

The Chairman stated that the Board's support of legislation presently pending in the City Council was discussed at the meeting with the Mayor, particularly the warden's bill. At Mr. Becker's request, Mr. Brickman outlined in detail the provisions of the warden's bill. Mr. Becker pointed out that some members of the community might oppose the bill on grounds that it would circumvent the civil service system. After discussion, it was agreed that the Chairman should join Commissioner Malcolm in supporting the bill.

Mr. Seigel left the meeting at 3:45 p.m.

The Chairman reported that friction had recently developed between the Department and the Board over the Board's role at Inmate Liaison Committee meetings. Mr. Brickman distributed to members of the Board copies of a letter to him from Deputy Commissioner Birnbaum concerning the matter. The Chairman declared that on many occasions inmate representatives had received no response from Department personnel to grievances raised at the meetings. He stated that Sylvia Kronstadt of the Board staff had attended several meetings at the New York City House of Detention for Men at which the inmates had asked for information on telephone service at Rikers Island. When the administration of the institution repeatedly failed to provide the information, Ms. Kronstadt made inquiries of other Department personnel and forwarded the information to the inmates. The Chairman stated that certain information given to her was apparently erroneous. The Chairman reported that he and Mr. Brickman had then met with Commissioner Malcolm and Deputy Commissioner Birnbaum to discuss the matter. At that meeting, it was agreed that the Board staff would identify a number of topics commonly raised at Inmate Liaison Committee meetings, and the Department would designate staff members to provide the Board with authoritative information on each topic. Mr. Brickman distributed to the members of the Board a proposed list of topics. He noted that the Department does not presently have a procedure for noting inmate grievances and insuring that responses are forthcoming. He stated that in the future, Board representatives would prepare a written report on each Inmate Liaison Committee meeting and copies would be sent to Commissioner Malcolm.

Mr. Brickman reported that the City Charter Revision Commission had requested a formal statement of the Board's proposals for the new City Charter. He asked the Board's opinion as to

several possible recommendations for Charter revision. The first proposal was that the Charter provide for appointment of the Commissioner of Correction by the Mayor with the advice and consent of the Board. It was agreed that such a proposal was unwise. Second, a provision requiring the Mayor to fill Board vacancies within a stated period was proposed. The Board agreed to this proposal and in addition agreed to recommend that a provision be included giving the Board power to appoint new members should the Mayor fail to fill vacancies. The Board also agreed to recommend that the Mayor be required to appoint a chairman, and that failing such an appointment, the Board should be empowered to elect its own chairman. Third, it was agreed to recommend that the Charter provide for appropriation of funds for Board staff and other expenses. Fourth, the Board agreed to recommend that the Charter provide access to the prisons for the Board's staff as well as for its members. Fifth, Mr. Brickman asked whether the Board wished to propose that it have the power to close or limit the population of any City institution. He noted that the State Commission of Correction has broad power to close institutions. After discussion, it was the sense of the Board that it should not request power to close institutions. However, it was agreed that the staff should devise a proposal giving the Board power to set a limit on populations and authority to demand relief in the event that an institution became uninhabitable or extremely overcrowded. Mr. Brickman then proposed that the Board be given the power to subpoena documents and witnesses, and the Board agreed to this proposal. Next Mr. Brickman proposed that the new Charter provide that the Commissioner's broad policy decisions be made with the advice and consent of the Board. He noted that Connecticut law contains such a provision, the effect of which is to require the Commissioner to report publicly his major policy decisions and the reasons therefore. The Board agreed to this proposal.

Assistant Commissioner Forde arrived at 4:10 p.m.

Mr. Brickman then suggested that the Board be empowered to serve as ombudsman for the City prison system, and the Board agreed to the recommendation. Next, Mr. Brickman noted that the Board now has an obligation to report to the Commissioner of Correction and to the Mayor. He suggested that the Board also be required to report to the City Council, and the Board agreed to this recommendation. Mr. Brickman proposed that the new Charter provide for per diem compensation for Board members up to a maximum of 20 to 25 days per year. The Board agreed to recommend that it be provided the same compensation as is presently accorded to members of the State Commission of Correction.

Commissioner Malcolm, Deputy Commissioner Birnbaum, Assistant Commissioner Dickstein, and Mr. Gaston arrived at 4:20 p.m.

Rev. Wilson stated that on August 19, 1973, the National Medical Association, an organization of black physicians, met in New York. Rev. Wilson attended the meetings and participated in a panel on prison health care. He reported that the NMA had recommended that medical research on inmates cease. He stated

that the NMA's report on prison health care would be available soon and that he would provide copies to Board members. Rev. Wilson also reported that he had been in Illinois and Indiana during the recent prison riots there. He declared that the recently appointed Commissioner of Correction in Illinois had successfully negotiated an end to the uprising and had appointed an ex-inmate to be the state's prison ombudsman.

Commissioner Malcolm responded to Rev. Wilson's report. He said that he had secured elimination of a clause in the City's contract with Montefiore Hospital which would have permitted experimentation on inmates at Rikers Island.

Mr. D'Elia arrived at 4:45 p.m.

At the Chairman's request, Mr. Brickman reported on the current status of several Board projects. He stated that the mental retardation study recently completed at the Adolescent Remand Shelter showed that of the 70 - 90 inmates tested, none was retarded but almost all were functionally or marginally illiterate. He stated that the Kennedy Foundation might be willing to assist the City in planning and providing special education programs for adolescent inmates.

Commissioner Malcolm introduced Assistant Commissioner Forde to the members of the Board.

Mr. Brickman reported on the Association of American Publishers' project. He stated that all the books promised had now been delivered and almost all of them had been placed on shelves in the institutions. He commended Judith Ades of the Department staff for her excellent work in securing the books and making them accessible to inmates. He suggested that since Ms. Ades had left the Department, it would be helpful if someone were appointed to replace her. Commissioner Malcolm designated Assistant Commissioner Forde to supervise the AAP project.

Mr. Brickman reported on the Board's monitoring of disciplinary hearings at the Tombs. He stated that the Board has submitted three observation reports to Judge Lasker and to the parties in Rhem v. Malcolm. He stated that Board observers had identified certain problems in the administration of the disciplinary hearings, which the Commissioner had rectified, and he reported that the Tombs hearings appeared to be operating in accordance with the rules and regulations. He stated that the Board intended to monitor hearings in other institutions on a less extensive basis. Commissioner Malcolm noted that the rules and regulations require that the inmate be advised of his right to call witnesses and informed of the possible penalties he faces. The Commissioner expressed his wish to be notified of any breach of these rules.

Mr. Brickman reported that the Board was presently studying the prison commissary system, correction officer training, and evaluating the Department's vocational and general education

programs. He stated that the Board's final report on the Literacy Program would be completed shortly. He noted that the Department had filed a request with CJCC for funds to expand the Literacy Program to three or four institutions.

Commissioner Malcolm reported that the Department had held a barbecue picnic for men and women inmates at Branch Queens on the previous Saturday. He called the event a great success, and reported that a similar event is scheduled for Columbus Day on October 12.

Commissioner Malcolm reported on plans to house City detention inmates at Ossining. He said that the City's contract with the State will permit 800 City inmates to be housed in Ossining's cellblock A. He stated that Mr. D'Elia had prepared a detailed memorandum on the Department's plans for transportation and housing of inmates at Ossining. He said that the first group, comprised of approximately 500 adult inmates convicted and awaiting sentence, will be transported to Ossining beginning next week. The New York City House of Detention for Men will be used as a staging area. The Commissioner stated that the second group to be sent will be comprised of adult inmates indicted and awaiting trial on serious felony charges. He reported that Deputy Commissioner Birnbaum will use the Department's computer system to monitor the impact of the drug law on the City's prisons.

Commissioner Malcolm reported that the prison population census is running between 91 and 95 percent of rated capacity and that since August 10 there has been an escalation in the detention population of approximately 100 inmates per week. He declared, however, that the total prison population has not increased significantly because of a recent decrease in sentenced population.

Commissioner Malcolm stated that he anticipates complaints from defense attorneys seeking to interview clients housed in Ossining. He reported that the Department will arrange to bring inmates from Ossining to the City within 24 hours after a request is received from a defense attorney. Inmates will not be transported to Ossining for seven days after conviction, to permit interviews by probation personnel in the City. He noted that the housing of City inmates in Ossining will create a hardship for their families seeking to visit them. He asked for the Board's assistance in securing funds to arrange for buses to transport indigent families to Ossining. The Chairman declared that the State should bear the expense of providing transportation to families of Ossining inmates. It was agreed that the Commissioner would write to General O'Hara requesting funds for this purpose and stating that the Board supported his request. Mr. Dribben suggested that Penn Central might be approached concerning the possibility of providing a special one-day excursion fare to Ossining.

The Commissioner reported that the Department had as yet received no prisoners sentenced to terms of intermittent imprisonment. He stated that he had met with Presiding Justices Stevens and Rabin to suggest guidelines for the imposition of intermittent sentences. Mr. D'Elia reported that orders for receiving and processing intermittent prisoners had gone to the institutions. Men receiving intermittent sentences will go to the New York City Correctional Institution for Men and women will be sent to the New York City Correctional Institution for Women.

As to suicide prevention, the Commissioner stated that the Department is attempting to move all inmates identified as suicidal to dormitories. He reported that inmates under mental observation at the Brooklyn House of Detention were moved to the tenth floor last week, where dormitory space has been provided for 15. He stated that the dormitory can be expanded to house 25 to 30 inmates. He reported that he has requested the Corporation Counsel to declare a state of emergency so that renovations at the Branch Queens facility can be finished expeditiously. He stated that in the near future, 60 dormitory spaces would be available on Rikers Island, 50 spaces at Branch Queens, and 30 spaces at the Brooklyn House of Detention.

Ms. Pickman left the meeting at 5:40 p.m. and Mr. Brickman began to act as Secretary.

The Commissioner declared that the Department had submitted its capital budget for the next fiscal year to the City Planning Commission, and said that he would see that the Board received a copy. He noted that there were two items which he felt were particularly important. First, he declared, the Department has made a strong request for a new and separate training academy in which first rate training could be provided for correction personnel and other staff. Second, the Department had reached a decision that it made little sense to continue to rent space in various hotels for the Department's work-release facilities. Rather, he declared that he felt it was time to begin the process of acquiring outright buildings in which work-release programs could be operated, and noted the proposed capital budget reflects this decision.

Upon motion duly made and seconded, the meeting was adjourned at 5:50 p.m.