

# MINUTES

## BOARD OF CORRECTION

April 26, 1984

A regular meeting of the New York City Board of Correction was held on April 26, 1984 at the offices of the Board of Correction, 51 Chambers Street, New York, N. Y.

Members present were Chairman Peter Tufo, Vice-Chairman John Horan, Mr. Wilbert Kirby, Mr. David Lenefsky, Mrs. Barbara Margolis, Mr. David Schulte, and Mrs. Rose M. Singer.

An excused absence was approved for Mr. Angelo Giordani.

Chairman Tufo called the meeting to order at 1:00 p.m. Chairman Tufo requested that staff present its findings on the Department's request for an amendment to the Board's standard of 75 square feet per detainee in multiple occupancy housing areas to a standard of 60 square feet. Barbara Dunkel, Counsel, presented the staff's analysis, as follows:

No dormitories presently comply with the Board's standard of 75 square feet. The average in the sentenced dorms is 45 square feet per prisoner. It is staff's opinion that the Department's construction of separate dayrooms, and its adherence to State Commission standards for sufficient sinks, toilets, and showers, are necessary preconditions to increasing dorm population density.

A meeting with the Department concerning its amendment request was held on April 24. The Department is apparently prepared to provide separate dayrooms, as they have begun construction of dayroom walls in the AMKC modular. Some areas of disagreement remain.

It was noted that space inequities in a few specific facilities needed to be addressed before an amendment could be passed concerning all facilities. Staff found the distribution of bed space in CIFIW dorms 3 Main and 3 Upper inequitable. Partitions divide the largest section of inmate space into 20 cubicles of approximately 50 square feet. Ten other beds are located in two very small alcove areas at each end of the dormitory. Board and Department staff were unable to reach an agreement on the use of space in these dorms.

Executive Director Richard Wolf reported that he met with Commissioner McMickens the day after the meeting and that she agreed with the Board's position that the number of beds in the alcoves should be reduced. Mr. Schulte asked what the Board's

position should be if a population influx forced the Department to use the present bed configuration. Chairman Tufo stated that the Department could apply for a temporary variance to place the beds in the current arrangement.

Ms. Dunkel went on to report that the arrangement of the Bronx House of Detention dormitories was also unresolved. In Ambrose Judge Lasker established a cap of 29 inmates per dorm, erroneously concluding that each inmate would thereby be afforded 75 square feet. This conclusion was based upon a miscalculation of total square footage. Board and Department staffs agree that 29 inmates per dorm would allow an inmate less than 60 square feet. Board staff suggests that 3 beds currently placed in the traffic corridor be removed.

Ms. Dunkel further reported that the North Facility was also problematic. Only one housing area has a separate dayroom, and bathroom facilities were the least adequate of all DOC facilities. The Board learned in its meeting with Department staff that the Department had set a cap of 50 on all North Facility dorms, thus providing each inmate with a minimum of 60 square feet, with the intention that the North Facility be used for detainees. It is important to carefully evaluate the North Facility both as it would operate with a cap of 50 and without the cap in the event that the Department should begin to house sentenced inmates as it had done in the past.

Issues to be considered in amending the space standard include:

- 1) square footage in sleeping area
- 2) separate day space
- 3) toilets
- 4) sinks
- 5) showers
- 6) dorm capacity
- 7) sentenced standard
- 8) new construction standard

Ms. Dunkel reminded the Board that in February of 1984, the Department would have lost 277 beds if a sentenced standard of 60 square feet had been imposed. The Board's position should allow the Department to phase into compliance with a sentenced standard.

Board and DOC staff disagreed on methodology. The Board's standards refer to square footage in the sleeping area, and the Department's measurements have considered the standard to be a wall-to-wall measurement in the sleeping area. Therefore, the Board and Department must reach an understanding on definitions of space.

Chairman Tufo asked that personnel issues be reviewed while the Board was waiting to hear the Department's presentation. The Chairman stated that relations between the Board and the Department had improved since Commissioner McMickens had taken office. The Commissioner expressed a commitment to support the Board's request for 5 additional field workers.

Mr. Schulte stated that he had been contacted with a problem of a correction officer who was unable to work on the Jewish Sabbath and who had not been afforded an adequate alternative work schedule. Chairman Tufo stated that the Board should not intervene in special individual personnel cases because the problem would be better handled by the Office of Municipal Labor Relations.

At 1:40 p.m. Department staff Peter Seitchik, First Deputy Commissioner, Gloria Lee, Chief of Operations, and Devora Cohn, General Counsel and Legal Aid staff Ted Katz and Jonathan Chasan joined the meeting. Chairman Tufo thanked the Department and the Legal Aid Society for their participation. Devora Cohn said that Board and Department staff had discussed the space amendment several times. She commended Board staff on its detailed information and diagrams. She stated that the two staffs had been able to narrow the issues considerably. She outlined the areas for discussion to include use of the CIFW dorms, the Bronx dorms, the issue of separate dayrooms, and the North Facility. She stated that the Department was willing to modify its use of 3 Main and 3 Upper in CIFW by reducing the population in the alcove areas by 5 inmates, thereby changing the number currently housed in each dorm from 30 to 25. She stated that each bed in these alcoves would have 60 square feet.

Ms. Cohn further reported that the Department assented to the Board's recommendation of separate dayrooms for each housing area. She stated that the Department had begun to construct dayroom walls in the older modules at AMKC, and was committed to the construction of dayroom walls in all areas lacking them. She further stated that the Department would submit a timetable to the Board showing when separate dayrooms in each facility would be completed. Peter Seitchik reported that the pilot dayroom construction created a slight shortage in square footage in the sleeping area according to the measurements of Board staff. He stated that the existence of a "yellow zone" near the outside door of these mods also detracted from the sleeping area measurement. Ms. Dunkel responded that since the square footage measurement could be sufficient if the new dayroom wall were constructed only one foot from its current position, the Board staff could accept the distribution of space in these modules, and require a slight modification of the placement of dayroom walls in all other construction areas.



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Commissioner Seitchik reported that the Department would present a timetable under which North Facility renovation would be completed. Ms. Cohn added that the Department would begin housing inmates in Dorm E at the end of May 1984.

Ms. Cohn discussed the Department's views on use of the Bronx dormitories. She reported that the Department would repair the missing plates of plexiglass which separate the day room from the sleeping area in the Bronx dorms. Ms. Cohn stated that according to the Department's calculations, the capacity of 29 per Bronx dormitory allowed each inmate a total of 58 square feet. If the Board adopted an amended standard of 60 square feet, the Department would apply for a variance in the Bronx. Commissioner Seitchik stated that Judge Lasker's order was contradictory in that it allowed for 29 inmates per housing area but required 75 square feet per inmate. Commissioner Seitchik further stated that the Department had functioned successfully for several years at 29 inmates per side.

Commissioner Seitchik introduced another area of disagreement between the Board and the Department stating that the Board subtracted a length of walkway space in the dorm from its "sleeping area" calculations whereas the Department's measurements defined sleeping space as the total square footage from wall to wall. Ms. Dunkel replied that other standards, including the ACA, acknowledged that corridor space is by its nature unusable for sleeping. Chief Lee stated that in her experience as Warden of the Bronx House, inmates passing through these corridors did not bother the occupants of the beds in the corridors. She stated that the Department had allowed the inmates to place the beds next to the corridor because the inmates chose to place their beds there. Mr. Schulte inquired whether there was space on these housing floors in which to expand the dormitories. Chief Lee said there was no additional space.

Ted Katz of the Legal Aid Society was asked about Judge Lasker's order in the Bronx. He said he had had recent conversations with Barbara Dunkel regarding the discrepancy between 75 square feet and 29 inmates per side, but that the Legal Aid Society had not raised the issue with Judge Lasker. Ms. Dunkel reported that as evidence of the inmates' perceptions of overcrowding in the Bronx, a grievance alleging overcrowding was pending from that facility.

Board staff asked Department staff to clarify plans for the use of the current North Facility upon completion of the new North Facility. Commissioner Seitchik stated that it was the intention of the Department to maintain and renovate the old North Facility, which will become part of the North Command. Renovations will be planned under a design of 60 square feet per inmate.

Chairman Tufo stated that the Board intended to consider adopting a square footage standard for sentenced inmates. He asked the Department to consider the impact of such a standard in coordination with new construction. Commissioner Seitchik said that the impact in numbers of beds lost would be 500 to 600 if a sentenced standard of 60 square feet were imposed today. Commissioner Seitchik stated that the Brig would house sentenced inmates, which would help to relieve the population pressures at CIFM. In addition, 2 modulars are scheduled to open at CIFM in May, 2 are scheduled to open at C-71 in August, and some may open at C-95 in September or October. Approval for these new facilities has not yet been obtained from the Board of Estimate. Modular construction is also planned for Rikers Island Hospital.

Mr. Schulte asked Department staff to develop projections of the population levels for next year. Department staff reported that it had already submitted such projections to the Board in November 1983. Department staff stated that its projections were based on an 8% increase in population over the year, a slower increase than in the past. Ms. Cohn remarked that the narcotics raids on the Lower East Side had increased the population in central booking lock-ups but had not added to the DOC populations.

Ms. Dunkel stated that she had spoken several time to Chief Lee regarding the need to repair and replace many telephones. She requested that Chief Lee submit by April 30 a list of all Department telephones which were out of service. Chief Lee agreed.

Chairman Tufo asked the Legal Aid Society to present any comments on the discussion. Mr. Ted Katz said that they had no response beyond its letters in opposition to a reduction of square footage in detainee dorms and in support of a sentenced standard. Chairman Tufo thanked the Department for its presentation. Department staff and Legal Aid Society staff left the meeting at 2:30 p.m.

Chairman Tufo asked for comments from Board field staff. Judie Ennett reported that the Department had begun to enhance its ability to provide phone calls by purchasing portable telephones. Ms. Dunkel reported that there had been lags in phone service from 6 weeks to 2 months and that no records exist which indicate that adequate alternative arrangements have been made for inmate phone calls. Ms. Ennett remarked that the phone company had a list of priorities for phone repair at Rikers Island, and that CIFM was its lowest priority.

Chairman Tufo asked Mr. Kirby to present the findings of the personnel subcommittee on the Department's alleged sexual and racial discrimination against its recruits. Mr. Kirby reported that the Department recognized its problems and had established a new review process for employees recommended both for tenure and termination. A dialogue will continue between the Board and the Department on this issue.



Chairman Tufo requested that staff draft a specific response to the issue of square footage for the next meeting so that the Board could vote on an amendment. The Board's response will take into account the timetables on dayroom construction and new construction which the Department agreed to submit.

The next meeting was scheduled for May 24th at 1:00 P.M. in the Board's conference room.

The meeting was adjourned at 2:40 p.m.