

MINUTES

BOARD OF CORRECTION

JULY 11, 1984

A regular meeting of the Board of Correction was held on July 11, 1984, at the office of the Board, 51 Chambers Street, New York, New York.

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

Absences were approved for Mr. David Lenefsky and Mr. David Schulte.

Chairman Tufo called the meeting to order at 12:20 p.m. He stated that the purpose of the meeting was to give the Department an opportunity to discuss an inmate grievance appeal from the Bronx House before the Board made a decision. The grievance was being presented to the full Board because it related closely to the Board's proposed amendment to its space standard.

Counsel Barbara Dunkel reviewed the underlying facts as follows: In Ambrose v. Malcolm Judge Lasker set a cap of 29 inmates each side of the Bronx dorms, erroneously believing that this would afford each inmate 75 square feet in the sleeping area. In fact, at 75 square feet, only 22 inmates can be housed on a side. Under the Board's

proposed amended standard of 60 square feet--including all floor space wall-to-wall--28 inmates can be housed in a dorm. However, when Board staff calculated the capacity of each dormitory in the system, it subtracted from gross square footage a standard three foot-wide corridor per dorm area for a major circulation corridor. Using this methodology, the Bronx dorms can house 26 inmates on a side.

The grievant alleged insufficient space in the sleeping area. During its investigation of the grievance, Board staff received unsolicited complaints of inadequate space and general overcrowding from inmates other than the grievant.

Chairman Tufo stated that it was vital that the Board apply the same criteria in assessing the Bronx housing as it had to all dormitories. Board staff stated that the same methodology had been utilized. Executive Director Richard Wolf said that staff allowed for corridor space because the Board's standard applies to the "sleeping area," and not to space used for other purposes. Mr. Wolf stated that in a recent letter to Judge Lasker, Deputy Commissioner Peter Seitchick stated that the Department's population was less than the level projected by the Department. A bed reduction in the Bronx would not be ill-timed due to present system-wide overcrowding. It was further noted that the soon-expected opening of the North Facility Dorm E and the third floor of the Brig would further alleviate overcrowding problems.

Chairman Tufo requested comments from the Board on what a reasonable time period would be for implementing a reduction of beds in the Bronx. Vice-Chairman Horan suggested November 1 as a possible date, because it is also the date that the space standard is slated to go into effect. Chairman Tufo remarked that November is often a time of high inmate population. Vice-Chairman Horan suggested that since the grievance required an immediate decision, and the Department seemed able to absorb a loss of beds at this time, the Board should make a recommendation to be effective immediately.

The Board discussed a number of issues informally. Mr. Wolf reported that the funds appropriated by the City to promulgate the new Mental Health Minimum Standards would be enhanced by additional monies to cover services for new construction projects, according to a per-bed formula set by the Office of Management and Budget.

Mrs. Margolis discussed a complaint from an inmate at C-76 that inmates have been brought to the visit house without being told who their visitors are, thus having to see visitors they would not wish to see. Staff was asked to look into the issue.

Ms. Dunkel discussed the grievance mechanism and the Board's active role in investigating and making recommendations during the last six months.

Staff of the Department arrived at 1:00 p.m., including Commissioner Jacqueline McMickens, Chief of Operations Gloria Lee,

Bronx H.D.M. Warden John Cunningham, and Assistant Counsel Joseph Guarnio. Chairman Tufo welcomed the representatives of the Department and reported that Board members and staff were carefully considering the issues raised by the grievance from the Bronx House.

Commissioner McMickens stated that she was committed to enforcing a 60 square foot standard throughout the system. New beds recently opened in the system would allow it to absorb a certain number of inmates displaced as a result of the amended standard taking effect. Commissioner McMickens stated that the Department was willing to remove the beds from the Bronx dorms, two from each housing area, in order to put the Bronx dorms at a capacity of 27 per side. She stated this would give each inmate at least 60 square feet. The Commissioner requested that the Board allow the Department the option of housing individuals at a capacity of 29 per dorm on an emergency overnight basis.

Board staff stated that the Department's calculations of square footage did not allow for a standard corridor width of three feet. Commissioner McMickens stated that the Department used the entire square footage of each housing area in estimating facility capacity.

Ms. Dunkel stated that in completing its analysis of every existing dormitory, Board staff subtracted a standard allowance for a major circulation corridor of three feet multiplied by the length of the pathway. Disagreements which arose between Department

and Board staffs in drafting the space standard were not over raw numbers, but the methodology to be used for sleeping areas.

Commissioner McMickens stated that the use of this standard allowance was problematic for the system in general and the Bronx House in particular. She inquired whether, since the Board contended that the corridor area was unsuitable for bed space, if the Bronx could be allowed to reconfigure the bed areas in a way that was equitable and thereby retain its proposed capacity of 29 per side. Warden Cunningham said that beds were aligned along the catwalk for several reasons, including the preference of inmates, and increased ability for surveillance by officers. Warden Cunningham stated that he wished to retain the option to arrange the beds as he saw fit. He further stated that it might be more prudent to remove two beds from the most crowded partitioned areas, rather than along the hallway. Chairman Tufo stated that it was not the Board's intention to dictate how the Warden should configure the beds.

Chairman Tufo discussed the Board's option to resolve the grievance in terms of requesting immediate compliance with the basic square footage requirement, leaving open the question of how the methodology for sleeping area may affect the amount of square footage per inmate.

Commissioner McMickens stated that the Department's classification policy functions well in keeping out of crowded dorm situations those people who function better in cells.

Chairman Tufo informed the Department that the Board would submit a written response to the Commissioner in light of the Department's presentation. The Board would accept the Department's plan to remove two beds from each dorm, but would leave open the question of how the methodology of calculating space might further reduce the Bronx dorm capacities. This question was directed to be discussed between staffs to be resolved by October 1, 1984. Chairman Tufo thanked Department staff for its presentation.

The next Board meeting was scheduled for September 13th at 1:00 p.m.

The meeting was adjourned at 1:30 p.m.