MINUTES

BOARD OF CORRECTION

NOVEMBER 29, 1984

A regular meeting of the New York City Board of Correction was held on November 29, 1984 at the offices of the Board of Correction, 51 Chambers Street, New York.

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

An excused absence was approved for Angelo Giordani.

Chairman Peter Tufo called the meeting to order at 2:10 P.M. He reported that Department staff had asked to review the minutes from the previous meeting, and he requested that members examine their statements recorded in the minutes for accuracy before Board staff released the minutes to the Department.

Chairman Tufo reported that final publication of the Mental Health Minimum Standards prior to implementation was imminent. The only remaining questions pertain to the implementation dates which, in part, depend upon the transfer of mental health services on Rikers Island from the Department of Health to Montefiore Health Services. Chairman Tufo described a recent article on the Standards in the New York Times which spoke favorably of their potential impact on corrections. The Department of Health formally requested that implementation be delayed from its planned date of January 1, 1985, to July 1, to allow the City time to reorganize its mental health delivery systems. Further negotiations with DOH have led to a tentative agreement to phase-in the implementation of the standards during the first nine months of 1985.

Chairman Tufo reported that negotiations had continued on the Board's space standard amendment. Counsel Devora Cohn is no longer the Department's liaison to the Board; Board staff now interacts with a Department task force composed of Deputy Commissioner Gray, Deputy Commissioner Keilin, Robert Daly and Assistant Commissioner Jeffers. The Task Force met on November 28 to resolve outstanding issues. At the meeting the Department and Board staffs reached agreement on all sssues but caps, although the Department agreed to conform with those conditions a cap would create in all dorms but the ARDC lower dorm. The Department will consider installing certain design measures to ameliorate the large size of the the ARDC Lower Dorm, but they are unwilling to commit to implement official requirements on staffing patterns intended to control larger populations. The Department is willing to take Board opinions on staffing under advisement, but it does not approve of minimum standards that include staffing requirements. The Department requests that the Board reconsider the permanent imposition of caps. The Board may decide to accept this request while considering possible caps on future construction plans. The Mayor and Commissioner McMickens are opposed in principle to caps as management tools. They don't want to be

placed in the position of being forced to accept laws which they may not be able to obey in the future. Most of the major new construction plans are too far under construction to alter their design, although all comply with the requirements that caps would impose. The Board may want to recommend caps in its review of the Department's Master Plan.

Counsel Barbara Dunkel reported that the Board's concerns had been stressed in the Task Force forum, and Department staff had made reasonable suggestions.

Chairman Tufo remarked that a further Department objection to cap results was the need to avoid a recurrence of the mass release ordered by Judge Lasker last year, which might result if the Department were found noncompliant with population limits. The Board's development of constraints upon their use of staff would probably never be able sufficiently to account for all inherent management variables.

Executive Director Richard Wolf remarked that Board staff had judged the Department's proposals to be reasonable. If the Board did not accept the Department's proposals, a loss of 71 detainee beds would result. The Department has not altered its position of implementing a sentenced square footage standard by July 1, 1985. The Department has now agreed to install improved toilet and sink facilities in the Brig to be completed by May, 1986. The Department had agreed in previous meetings that the plumbing fixtures in the North Facility were insufficient, and that additional fixtures would be installed.

In the course of further evaluation of its proposed space standard, Board staff continued to consult relevant construction codes. It has learned that a recent change in the city building code now allots one toilet per eight persons. The Board's proposed standard was one per ten. The Department has, however, sufficient fixtures to comply with a one per eight standard.

The issue of caps has bearing on existing Departmental facilities with regard to the ARDC Lower Dorm, which is scheduled to house 75 people. Various ameliorative measures have been discussed to avoid a reduction of capacity if caps were imposed, including subdividing the dorm into two dorms which are supervised by the same staff. A partition to divide the dorms would be a waist-high solid partition with a plexiglass addition extending up to the ceiling. Toilet facilities would be shared.

Board staff discussed Brig construction. The Brig is currently scheduled to be completed in 1986. The Department is still unable to offer outdoor recreation at the Brig. Although they had originally planned to finish an outdoor recreation site for January, 1985, completion is postponed to September. The Department has developed arrangements to provide recreation at other facilities, but this system is underutilized and insufficient.

Mrs. Singer remarked that a recreation problem existed at CIFW in that boys who are working have reduced recreation time. Boys must travel from their jobs to the recreation site and back within the hour allotted to them for recreation. Ms. Dunkel recommended that Board compliance monitors reconcile the problem.

Mr. Wolf raised the Department request for an extension on its law library variance. Board staff has determined that inmates seem to be getting their required two hours, and there is complete legal coordinator coverage. However, the Department will soon implement a classification system for unescorted movement throughout all facilities. The current law library variance is due to expire December 18, 1984. Staff recommends that the Board extend the variance until the law library system can be evaluated under unescorted movement.

Chairman Tufo announced that the Board had been sued by attorney Vernon Mason on behalf of several probationary officers. The lawsuit names "Members of the Board of Directors of the Department of Corrections" as parties responsible for denying the employment righrs of the former officers. The Board will request representation by Corporation Counsel and will request dismissal of the suit because it is uninvolved in the implementation or operation of the Department's personnel practices.

Chairman Tufo announced that the Department members of the joint Board-Department Task Force, and additional Department staff, would now join the meeting. Department representatives included Deputy Commissioner Albert Gray, Deputy Commissioner Frank Headley, Deputy Commissioner Sharon Keilin, and Special Counsel Bob Daly.

Chairman Tufo welcomed Department members and characterized recent staff-to-staff discussions as very fruitful.

Commissioner Keilin said that extensive discussion had narrowed the gap between Board and Department positions on the space standard. Keilin stated that the Bronx dorm issue had now been resolved in that the Department has accepted the Board's recommendation to set official dorm capacity at 26. The Department wishes to specify as a condition of this agreement that should overcrowding compel the Department to use extra beds, that the Bronx dorms could be allowed temporarily to hold 28 persons, providing that the Department give the Board prior written notice of its intention and reasons for doing so.

Keilin stated that the Department had reviewed its agreement with the Board on the CIFW dorms. The Board and the Department had agreed previously that alcove areas of CIFW dorms 3 Main and 3 Upper were inadequate to house 10 inmates per side, and thus should be reduced to 5 persons per side. Total population per side would thus be reduced from 30 persons to 25. However, the order to reduce the beds never had been carried out. Keilin attributed the discrepancy to administrative oversight, and stated that the reduction would be completed directly.

Keilin summarized former Board/Department agreements to add plumbing fixtures to the North Facility. 70 percent of the plumbing fixtures are on hand and will be installed directly. New dayroom furniture and 25-inch color televisions have also been ordered for the North Facility. Keilin reiterated the Department's definition of the space measurement for the North Facility as length times width.

Keilin remarked that the Task Force remains in discussion on the ARDC lower dorm. She described an option to divide the dorm. She stated that the Department would be unwilling to accept Board's requirements on specific staff levels for this dorm.

Chairman Tufo restated the need to resolve the question of caps. He stated that the Board could guess at some of the Department's philosophical difficulties with caps. He stressed that most of DOC capacity already satisfied the cap's potential requirements. He asked that the Department explain to the Board its opposition to caps. Commissioner Keilin responded that the Department did not feel that there was a need for caps. They did not plan to build housing areas to contain more than 50 people. The Department feels that the 60 square feet standard is sufficient control on overcrowding.

Ms. Dunkel remarked that the Board had suggested within the Task Force that where dorms exceeded projected caps, a staffing formula might be designed to assist control of the excess population. Commissioner Keilin stated that Commissioner McMickens' position is to fulfill the Department's mandate to staff institutions adequately. She is not prepared to accept additional constraints on her ability to place staff where it is most needed. Commissioner Keilin reiterated the Department's unwillingness to enter an arrangement in which they would frequently be required to request variances. The weekend and holiday temporary fluctuations in population pose emergency variance needs that would be increased in a cap situation.

Chairman Tufo requested a report from the Department on the Brig. Commissioner Keilin stated that the Fort Greene community has been opposed all along to outdoor street-level inmate recreation. The Department has been working on a plan to demolish the upper portion of three wings of the building and replace them with typical outdoor recreation areas. The project will not occupy the Flushing Avenue side of the Brig. No final decision has been made. There are no plans to use the cell area on the fifth floor as the conversion cost would be prohibitive. A roof-top recreation area is projected to be ready in September, 1985. The Brig recreation project will consist ultimately of 25 percent less space than originally planned.

Mr. Schulte asked whether the current street-level outdoor site could be structurally improved so as to provide outdoor recreation. Commissioner Keilin answered that the community would strenuously oppose that because children walk by the recreation yard to get to a nearby school. All that now separates the yard and the sidewalk is a chain link fence. A wall could be built, but the area is impractically small to recreate sufficient numbers of inmates.

Commissioner Keilin stated that one toilet and one sink would be placed in each dorm in the Brig at the completion of DGS's construction phase. Bathroom entrance will be observable by staff. A Brig staffing arrangement will soon be available.

Mr. Daly spoke on behalf of Assistant Commissioner Jeffers to request a formal extension of the five-day law library variance. The extension is required as the institutions move to a classification system of unescorted movement, which will affect law library use. Chairman Tufo stated that the Board would bring the request to a vote.

Department staff left the meeting.

Chairman Tufo called for discussion on the requested variance for five-day law library. Mr. Wolf said that the requested variance extension would add two months to the planned expiration date. Chairman Tufo called for objections to passing the variance. There were no objections.

Ms. Dunkel presented the background to two grievances on telephones which had been submitted to the Board. The grievances pertain to telephones. Ms. Dunkel reviewed the Board's minimum standards on telephone use. One Queens inmate has grieved that because he works and attends school or work during all scheduled day phone hours, he would like access to a phone on the floor where he works or extended hours in his housing unit. This grievance brings to light several inequities that exist among the phone schedules of all institutions. Queens and the Bronx have the fewest phone hours. Ms. Dunkel asked for comments from the Board on the intent of its standard that phones should be on during all lock-out periods. Did the standard intend that the phone should be on for the duration of each period, or for a portion of each period? Chairman Tufo remarked that phone use had changed as a result of the phones being removed from the officer's area into the inmate area. Ms. Dunkel remarked that now inmates control the phones and that calls are not logged. She stated that solving the problem only for the grievant did not address the inequities caused by limited phone hours. Another grievance had arisen recently from the Brooklyn House of Detention wherein the Board recommended additional telephone hours. This recommendation was accepted by the Commissioner but is not yet implemented because the facility interpreted the decision to permit merely changing hours. Board staff recommended that further discussion be held on telephones through the joint Board/Department Task Force. The Board asked that a proposal to address the inequities be presented to it at a later meeting.

The next meeting was set for December 18 at 2:00 P.M.

The meeting was adjourned at 3:40 P.M.