

BOARD OF CORRECTION  
MINUTES  
MAY 16, 1986

A regular meeting of the Board of Correction was held on Friday, May 16, 1986 at the Board's offices. Members present were Chairman Robert Kasanof, Vice-Chairman John Horan, William Booth, Wilbert Kirby, David Schulte, and Rose M. Singer. Excused absences were approved for Board Members Angelo Giordani, David Lenefsky, and Barbara Margolis. The meeting was called to order at 2:10 p.m. The minutes of the previous meeting were approved.

Chairman Kasanof advised Board members and staff that the Board would no longer automatically honor subpoenas. In particular, he indicated that requests for records of internal deliberations and of information received in confidence would be resisted so as to encourage staff, inmates and public to call to the Board's attention or assist the Board in determining matters within the Board's statutory authority, on a confidential basis. He emphasized, however, that the Board would continue to comply fully with the law.

Chairman Kasanof reported that he had had received inquiries from the Office of the Special Prosecutor, the Office of the United States Attorney for the Southern District of N.Y. and Commissioner of Investigation and that if confidential investigations were to arise they would be kept in close confidence to protect the integrity of the investigations.

Chairman Kasanof addressed the Department's requests for variances on the sixty square foot rule for sentenced men and on rooftop recreation at the Brooklyn Correctional Facility. He indicated that he did not find the Commissioner's memorandum requesting the variances to be inherently compelling, but would ask for more detail. He also stated that he would invite comments from the Legal Aid Society and from Board staff, and that a vote would be held at the next meeting. The Chairman expressed his puzzlement that the Department had submitted its variance requests only one month before the expiration of the current variances.

Executive Director Richard Wolf advised the Board that, calculating capacity at a rate of sixty square feet per inmate in housing areas, the New York City Correctional Institution for Men (CIFM) was roughly 500 inmates above capacity. Mr. Schulte inquired as to why the City was waiting to enforce Judge Lasker's order requiring the State to take prompt custody of State-ready inmates. Chairman

Kasanof replied that the City preferred to negotiate, since the State was holding a significant number of inmates of whom the City could arguably be required to take custody.

Mr. Kirby recommended that the Department attempt to devise viable work release and furlough programs. Mr. Booth recalled that within the last few years, reviews of bails under \$200 had been held on Rikers Island, and questioned why this was no longer done. Chairman Kasanof added that the average length of stay was currently 43 days, and that for each day the average length of stay was lowered, the census would decline by 175. He mentioned the possibility of developing contingency plans for a release at perhaps five days below sentence, and emphasized that the granting of variances must not become routine. Especially impermissible, he said, was that the Department should predict a population excess, and plan to manage that excess by requesting a variance, a full year in advance.

At 2:30, representatives of the Department joined the meeting. Present were First Deputy Peter Seitchik, Deputy Commissioner Sharon Keilin, General Counsel Devora Cohn, and Special Counsel Robert Daly. Deputy Commissioner Keilin delivered the first report.

Many proposals of the Rikers' Island Development Plan (RIDP), Deputy Commissioner Keilin reported, have been accepted by the City, and essential parts of the plan are now included in the capital budget. \$142 million has been budgeted for the boroughs, and \$380 million has been budgeted for Rikers Island, of which \$260 million will fund new capacity construction, and \$120 million will pay for improvements to the Island's infrastructure and support systems.

In addition to the new cells at the Correctional Institution for Women (CIFW), and the completely new East Facility, both of which are under construction, the RIDP will provide for the following construction, 93% of which will be single cell housing:

1. Nursery-Beacon I: An 855 bed, single-cell adult male facility. Plans will be similar to the East Facility's (with minor changes), which will enable construction to start quickly.
2. A second housing wing of 600 single cells will be added to C-95, and 100,000 sq. ft of program and administrative space constructed next to C-71. This will allow the Department to split AMKC into two separate facilities. The C-71 portion will be known as the West Facility.

3. An addition of 200 single cells will be made to the North Command. Most program spaces at this facility were originally oversized to allow for such expansion.
4. A central storehouse and industries shops, with administrative space, will be constructed.
5. Rikers Island Hospital will be completely renovated and turned into a mental health center. The North Facility Annex will be renovated into a new infirmary. These facilities will be built and operated as a single command.
6. The following improvements to the Island's infrastructure will be made:
  - A module will be added to the Control Building to separate staff and visitor functions.
  - From 280-600 new spots will be added to the West parking lot.
  - Electric service will be improved, either by increased use of Consolidated Edison power lines or through expansion of the power house.
  - A new inmate telephone system will be installed department-wide. This will be a credit-card type system which will allow for daily free calls, and will allow inmates to add extra calls to their cards through the commissary. The number of inmates per phone will be halved, to fifteen. Staff communications will also be improved by purchase of new administrative telephone systems.

Chairman Kasanof inquired whether any of the building programs would mitigate the capacity deficit of 600-700 beds projected for next year. Deputy Commissioner Keilin indicated not. Mr. Wolf requested that a written version of the plan be forwarded to the Board; First Deputy Commissioner Seitchik indicated that the relevant charts were already available and a summary description would be forthcoming.

In response to a question from Mr. Schulte, First Deputy Commissioner Seitchik estimated the projected system capacity by 1990 to be approximately 15,000 inmates.

Special Counsel Daly reported on the status of negotiations with the State over custody of State-ready inmates. From April 1985 to April 1986, he reported, the City increased its capacity by about 1500 beds. During the same period the State prisoner population in City custody

rose by 1100, thus taking 75% of the new capacity. Recently, Judge Lasker reaffirmed his ruling requiring the State to accept State-ready inmates within 48 hours. On the other hand, the State is holding hundreds of technical parole violators whom it wants the City to house. It is therefore in both the City's and the State's interests to negotiate a solution rather than litigating each issue separately. However, Mr. Daly added, if a compromise cannot be reached and each issue is taken to litigation, even if the City loses on all fronts the City's situation will still be better than at present. Mr. Daly pointed out that one obstacle to a prompt and favorable resolution of the problems is the State's desire not to alienate the upstate Sheriffs by appearing to be "too easy on the City." Nevertheless, the City is hoping to negotiate a population cap, either a straight number or a percentage of total City capacity, for all categories of State inmates. Mr. Daly stated that he believed such an agreement was likely.

Chairman Kasanof asked whether, in light of these anticipated developments, the capacity deficits for the fall of 1987 would be eliminated. He added that, if they were not, he would oppose granting a variance for which the need was forecast so far in advance.

Mr. Daly replied in several parts. First, he said, if a deal is to be struck with the state, it can be expected quickly. If such a deal is not made promptly, the City will move to enforce the 48-hour rule and to get a ruling on the technical parole violators. Enforcement of the 48-hour rule would take approximately 500 inmates out of City custody: the equivalent of the population excess at CIFM. The effect of a ruling on the technical parole violators remains impossible to forecast at this time. Finally, Mr. Daly said, efforts are being made to change the laws governing conditional release (the City equivalent of parole). Currently, an inmate accepting conditional release must agree to one full year of supervision, a condition only about ten inmates per month are willing to accept. The effort is to amend the law to provide for a period of supervision equivalent only to the remaining days of an inmate's sentence, which would lead to many more inmates seeking and obtaining conditional release, with an attendant drop in jail sentenced population.

First Deputy Commissioner Seitchik mentioned that the projected population and capacity figures had been revised, and that projected deficits for September through November, 1987, are now: September 595; October 905; November 812. Overall, the figures show a reduction, though not elimination, of the planned deficit; some months the Department will be in compliance with Minimum Standards, other months a variance will be required. Capacity and population projection numbers are very volatile. If an

agreement is reached with the State, the Department will reproject population and reassess what actions are needed to close future projected population - capacity gaps.

Chairman Kasanof repeated his intent to oppose any request for a variance for which the need was clear so far in advance, and asked whether there were any plans to deal with the projected deficits for the months in question. First Deputy Commissioner Seitchik stated that the option of opening new modular housing units was always present, but that the Department considered itself overburdened with such units already, and resisted adding more. Mr. Daly stated that contingency plans exist, but that no decisions have yet been made. Chairman Kasanof stated that he assumed action would be taken when the time came, and that such action would not simply consist of requesting a variance.

Mr. Booth asked about furloughs and bail reviews as means of controlling population. Mr. Daly replied that bail review had historically led to very few releases and was not now underway. Chairman Kasanof offered to meet with Judge Keating to explore ways of reducing processing time by the courts. Mr. Daly added that at present there is effectively no furlough program, but said that criteria were being developed.

Mr. Schulte asked how long it would take to build modules if the need arose. First Deputy Commissioner Seitchik replied that three months was the fastest a module had ever been built, and five months the slowest for a housing module. Chairman Kasanof inquired whether there were any reasons to grant the variance on the space standard which were not mentioned in the Commissioner's letter. General Counsel Cohn pointed out that the Fisher case, a lawsuit challenging conditions of confinement at CIFM, is to go to trial in December, and that it would damage the Department's position to be out of compliance with Minimum Standards without a variance. According to Ms. Cohn, the Department believes that conditions at CIFM are not in violation of Eighth Amendment Constitutional Standards. In response to a question from Chairman Kasanof, she stated that the variance request was for six months, as usual. The Chairman suggested that the Department cease to consider six month variances usual, and indicated that a variance of three months, followed by a review, was also possible. Ms. Cohn invited the Board's suggestions on problems at CIFM, and First Deputy Commissioner Seitchik requested the longest variance possible. Chairman Kasanof informed the Department that the Board would vote on the variance at its next meeting, and advised the Department to allow for two Board meetings to obtain a response to variance requests. First Deputy Commissioner Seitchik urged again that the Department not be forced into the position of having to build modulars,

and Chairman Kasanof replied that the situation would require a balancing of public safety interests and constitutionality.

Deputy Commissioner Keilin reported on the status of construction at the Brooklyn Correctional Facility (the Brig). She reported that the ground floor administrative area awaits completion, as do five dorms: two will be ready in the near future, one in July, and two in October of this year. The recreation roof is expected to be ready by January 1987. Mr. Wolf asked whether sentenced male adolescents were still being housed at the Brig; First Deputy Commissioner Seitchik said there were about 60 of them there. Ms. Cohn answered a second question from Mr. Wolf by explaining that the adolescents go by bus to CIFM for daily recreation. Mr. Wolf asked if there were jobs available to the adolescents, and if so, if there were schedule conflicts with recreation. Ms. Cohn said that there was an education program, but she thought no jobs. She said she believed there were no scheduling conflicts, but would make certain. Mr. Wolf also asked about the construction of unassisted access to toilets. Deputy Commissioner Keilin stated that once the Department of General Services' contractors were out of the building, Departmental staff would begin work on toilets. Mr. Wolf asked what the Immigration and Naturalization Service's plans for occupying the building were, to which First Deputy Commissioner Seitchik replied that because of budget constraints the INS does not expect to utilize beds in the building in the current or next quarter.

First Deputy Commissioner Seitchik briefed the Board about the Department's executive budget for fiscal year 1987. The total operating budget is \$385 million, an increase of 16%. The following areas have had major increases: Absence Control (which will have enough medical staff for second day call-in for all absent officers), purchasing efficiency, Management Information, Overtime Analysis, Assets Management (i.e. maintenance), telephone improvements, the transfer of the Maximum Security Unit to the House of Detention for Men during the period of construction in Brooklyn, service enhancements at CIFM (including visits and commissary), radio shop enlargement, the addition of two days to Academy training for officers, relocating the work release program from Mel's Plaza while it is renovated, and the introduction of unit management into parts of ARDC, with an Assistant Deputy Warden in command of each unit, for a six month initial trial period. First Deputy Commissioner Seitchik stressed the helpfulness of the Board's report on ARDC in obtaining funding for unit management. He also repeated the request that the Board share any suggestions it might have on CIFM. The members of the Department left the meeting at 4:15 p.m.

Mr. Booth expressed surprise that bail review was considered a failure. Mr. Wolf stated that staff would examine conditions at CIFM and at the Brig relevant to the variance requests. Mr. Kirby informed the Board that violence at CIFW was becoming increasingly problematic, and cited two incidents of assaults by correction officers on inmates. Neither of these incidents, Mr. Kirby stated, were reported to CCC. Chairman Kasanof stated that information would be gathered on the matter and forwarded directly to the Department of Investigation.

The meeting was adjourned at 4:25 p.m.