

BOARD OF CORRECTION
MINUTES
DECEMBER 13, 1988

Members Present

Robert Kasanof, Chairman
John Horan, Vice Chairman
Reverend Irvine A. Bryer, Jr.
David Schulte

Excused absences were noted for Judge William Booth,
Angelo Giordani, David Lenefsky, Rose M. Singer,
Barbara Margolis.

Representatives of the Department of Correction

Julian Prager, Deputy Commissioner for Management Evaluation and
Specialized Services
Robert Daly, General Counsel
Michael Cleary, Executive Director, Management Evaluation Division

Others in Attendance

John Guzman, Patricia Thomas, Thomas Tiberia, New York State
Commission of Correction
Evelyn Hernandez, New York Newsday

Chairman Robert Kasanof opened the meeting at 2:10 p.m., announcing that since a quorum of Board members was not yet present, the meeting would proceed without the Board being officially convened. He informed the Department representatives then present that he wished to convey to the Commissioner the Board's concern about several serious problems in the area of health care. He explained that although the issue of health services was not on the agenda, several Board members including Mr. Lenefsky had raised it with him, as had the Board staff. Although he has requested detailed information from the Department and from Board staff regarding existing health care deficiencies and plans for improvements, he declared this meeting as the first official notice to the Department of the Board's increasing concern about health care. He emphasized that if substantial progress is not made in health care provision, it would affect the judgement of Board members on future variance requests.

Chairman Kasanof asked that at the next Board meeting health care issues be addressed by senior officials of the Department. He reiterated the concern expressed by the Board at recent meetings regarding unusual causes of inmate deaths. He referred specifically to the October 16, 1988 death of inmate Ramon Medina, who died in a cell which was estimated to be 110 degrees in the C-71 Mental Health Center and to the December 11, 1988 death of seventeen year old Nelson Otero, who was sent to Kings County Hospital from the Adolescent Reception and Detention Center for treatment of a throat infection and who then died of cardiac arrest. He requested a thorough investigation and report by the Department about inmate Otero's death.

Chairman Kasanof also reiterated the Board's ongoing concern about the provision of health care services in the Rose M. Singer Center. He stressed that the failure of the Department to provide adequate health care at the Singer Center had been an issue since its opening in June, 1988 and that on December 12th and 13th one of its mini-clinics was closed due to a lack of heat, thereby further diminishing access to health services. He referred to the November 13, 1988 birth of a premature child in an inmate's cell as an example of the poor quality of medical care provided in the Singer Center as well as in other facilities.

MED Director Michael Cleary stated that Deputy Director Maddy deLone had invited him to update the Board on the issue of Montefiore staffing shortages, described at the last Board meeting as having been caused by staffing levels based on population projections that had underestimated the actual inmate population. Mr. Cleary explained that agreement on staffing increases had been reached yesterday, and would be presented to the Board of Estimate in December in hopes of passage in January, 1989. The population level exceeded the contracted staffing level beginning in early October. He added that the Singer Center will be equipped shortly with Ultra Sound equipment so that it need not send pregnant inmates out to hospital clinics as often, and so that untimely births, such as that mentioned by Chairman Kasanof, can be prevented. Chairman Kasanof responded that despite the installation of new equipment, the quality of health care provided has not been acceptable for confined people.

Board member David Schulte inquired as to which New York City agency ultimately is responsible for the provision of adequate health care - the Department of Correction, the Department of Health, the Health and Hospitals Corporation or some other group.

The Department's General Counsel, Mr. Robert Daly responded that the Department of Health has statutory responsibility for health care provision.

Mr. Schulte suggested that Chairman Kasanof testify before the Board of Estimate since reports indicate that there is insufficient medical staff and that existing staff is not providing appropriate levels of care.

Chairman Kasanof agreed, and recommended that the Board members consider holding public hearings on health care provision. He noted that the Department along with the Health and Hospitals Corporation, the Department of Health and the Department of Mental Health had hired their own consultant, Dr. Ronald Shansky, who had issued a highly critical report in the Spring of 1988. He asked that, at the January meeting, the Department discuss follow up to that report as well as to other issues that would be detailed by BOC staff over the next few weeks. He added that the Board is close to promulgating Health Care Standards.

Chairman Kasanof next expressed his apprehension about changes made by the State Commission of Correction in the official capacities of Department facilities, explaining that in certain instances the new capacities violate Board Standards on overcrowding. He requested that the Department issue an official statement describing how it will handle differences between its new capacities and the Board Standards, clarifying whether in the future it will ignore the Standards or request that the Board change them.

Deputy Commissioner Prager responded that Commissioner Koehler always adhered to a policy of deferring to whichever standard is most stringent, and has no plans to alter that policy. Mr. Prager explained that the new State legislation regarding the Supervised Detention Program requires that the State Commission determine what constitutes a Departmental capacity of 101%, the official "kick-off point" for the Program. He added that, in most instances, Departmental capacities had been 1% less than the new capacities set by the State Commission.

Chairman Kasanof expressed a related concern about differences between the Board's Classification Standards and amended State legislation on classification, emphasizing that since the legislation permits rather than requires mixing of inmate population categories, the Department has the option of upholding Board Standards or ignoring them or requesting that the Board revise its Standards to incorporate the revised Correction Law.

Mr. Schulte inquired as to the Department's intention in this instance to adhere to a Standard more stringent than State Law.

MED Director Cleary reported that the Department is not now mixing populations in violation of the Board Standard.

Deputy Commissioner Prager added that the staffs of the Board and the Department have been discussing the Classification Standard at length.

Chairman Kasanof expressed a particular concern about the Department's intentions regarding mixing of various categories of female inmates, as the female population appears to have increased much more rapidly than the Department's ability to plan for its Standard housing and service provision. He reported that he had

raised with City Corporation Counsel Peter Zimroth the question of whether the City can enforce higher standards than the State for decency and justice. He reiterated his concerns about the mixing of detention and sentenced inmates, stressing that fundamental principles of justice would be violated if poor, primarily minority non-white collar defendants who cannot afford to post bail are forced to reside with inmates who have been sentenced for crimes.

Chairman Kasanof then requested that Deputy Director deLone describe the Department's current variance requests. He moved first, however, for the adoption of the minutes of the November 9, 1988 Board meeting.

This motion was seconded by Mr. Schulte, and approved by all members present.

As to the Department's variance requests, Ms. deLone described the letter received from Deputy Commissioner Prager on December 12, 1988. She detailed a variance for C73 first granted at the last Board meeting to house inmates in two dormitories with insufficient fixtures. She explained that this variance had been granted contingent upon the Department evaluating the potential for an increase in fixtures to comply with Board Standards. Ms. deLone reported the Department's conclusion that only one additional shower and no additional toilets could be added to each of the dormitories in question. These dormitories each can house 35 detainee's at the Board Standard of 60 square feet, but the proposed new total of 4 showers and 4 toilets per dormitory would fulfill for only 32 inmates the Board Standard of 1 fixture per 8 inmates. Ms. deLone explained that, consequently, after the additional showers are installed, the Department can be expected to request a continuing variance for C 73 to permanently house 35 inmates in each side of dormitories 3 Main and 3 Upper.

Board Vice-Chairman John Horan inquired as to the expected date for installation of the additional showers.

Deputy Commissioner Prager responded that completion is anticipated within two months.

Chairman Kasanof recommended renewal of the C-73 variance for 30 days, at which time the Department is to submit a progress report as to shower installation.

Ms. deLone next explained that the Department wishes to renew all existing variances. She then described a request for additional variances for the Singer Center based on the Department's assertion that no more housing areas from the adjacent C73 could be deducted from male detention housing and annexed to the Singer Center to accommodate the swelling female population. She reported that today there were 1393 female inmates in a facility with a new capacity of 1446.

Ms. deLone explained that the Department currently has a variance to house City-sentenced women at 40 square feet in each of three 50 bed modulars, and is requesting a new variance to so house City-sentenced and Parole Violator women in two additional 50 bed modulars. Ms. deLone reported that there had been a serious, ongoing problem with a lack of hot water in existing variance Building 20, a problem intensified by the "squeezing" of inmates there. Noting the Department's promise that renovations to the hot water system in Building 20 would be completed by the close of business today, Ms. deLone recommended to the Board members that renewal or revocation of the existing variance for the Singer Center be contingent upon the Department's provision of hot water on schedule in Building 20.

Ms. deLone reported that repairs to the hot water system already are underway in Building 19, where the new variance has been requested. She recommended, therefore, that the new variance be granted contingent upon the Department's proven ability to provide hot water in Building 19. She recommended renewal of the existing variance for 25 beds in modular 17, which had not suffered hot water deficiencies.

Chairman Kasanof recommended that the new Singer Center variance be granted for City-sentenced women but not for Parole Violators. He emphasized the Board's historic position as to the housing of Parole Violators at 60 square feet or no less space than they are afforded when in the custody of the New York State Department of Correctional Services. He made a motion for the Board to accept all other staff recommendations as to the Department's variance requests. Vice-Chairman Horan seconded this motion.

Ms. deLone then introduced Ms. Edna Grajales, who recently was appointed Secretary to the Board. Ms. deLone thanked the representatives of the Department for their participation in the meeting, which was adjourned at 2:47 p.m.

[Additional Board members were telephoned after the meeting, and the recommendation made by Mr. Kasanof was approved.]