

Board of Correction  
Minutes  
November 9, 1988

Members Present:

John Horan, Vice Chairman  
Robert Kasanof, Chairman  
Barbara Margolis  
David Schulte

Excused absences were noted for Judge William Booth, Reverend Irvine A. Bryer, Jr., Angelo Giordani, David Lenefsky and Rose M. Singer.

Representatives of the Department of Correction

Julian Prager, Deputy Commissioner for Management Evaluation  
and Specialized Services  
David Frankel, Special Counsel to the Commissioner  
Michael Cleary, Executive Director, Management Evaluation  
Division  
Carl Coppola, Deputy Warden, Management Evaluation Division

Others in Attendance

Fran Vella, State Senate Committee on Crime and Correction  
Evelyn Hernandez, New York Newsday  
Paul LaRosa, Daily News

Chairman Robert Kasanof opened the meeting at 2:05 p.m..  
He moved for adoption of the minutes of the October 11, 1988  
Board meeting. The motion was seconded by Mr. Horan and  
approved by all members present.

The Department's representatives then arrived and joined  
the meeting.

Executive Director Richard Wolf introduced Joseph  
McLaughlin, an Urban Fellow and recent graduate of Boston

College, who recently joined the Board staff.

Mr. Wolf next informed the Board members that a Department request was pending to renew all existing variances for thirty (30) days, and to grant a new variance for C-73. He explained that Department representatives were present to describe plans for the upcoming implementation of the Supervised Detention Program recently approved by the New York State Legislature. He introduced Deputy Warden Carl Coppola, as the uniformed person in charge of the new program.

Chairman Kasanof requested, however, that the first topic for discussion be conditions at the Rose M. Singer Center (RMSC), which had been the subject of criticism and controversy at the October Board meeting, and that Mr. Wolf also describe the current variance requests.

Mr. Wolf reported that he had received a November 8 letter from the Department addressing concerns raised by Board staff in two recent letters to Warden Brennan and Commissioner Koehler regarding conditions at RMSC. Mr. Wolf added that he would circulate the Department's response at the end of the Board meeting. Mr. Wolf said the facility administrators' responses were that the problems noted by Board staff have been solved or are in the process of being remedied. Mr. Wolf observed that since the last Board meeting, the Department has focused attention on the Singer Center with the result that some improvements have been made and some better control is evident.

Mr. Schulte inquired as to issues remaining unsolved at

the Singer Center.

Mr. Wolf responded that medical services remain an issue for concern, and that he recently had received a separate letter from the Department regarding this topic. He explained that at the October Board meeting the Department had blamed insufficient and inattentive Montefiore staff for the failure to provide requisite medical care at the Singer Center. Recent correspondence from the Department explained that Montefiore staffing levels were based on population projections that underestimated the actual population, and that the Department had assured Board staff that staffing levels would be adjusted accordingly.

Mr. Wolf next outlined the Department's request for extension of all existing variances as well as for a new variance in two C-73 dormitories housing males. He explained that, in the past, these dormitories had not contained the maximum number of beds at the standard 60 square feet due to the inclusion of privacy partitions for female inmates. With the removal of the partitions, the permissible number of beds could increase from 24 to 35 on each side of the dormitory, which would violate the Board Standard on proportionate provision of showers and toilets. He explained that since the standard passed in 1985, a continuing variance regarding showers had been in effect in the Queens House of Detention, where the physical structure had proven incapable of supporting the installation of additional showers. He suggested the granting of a one month variance for C-73,

during which time the Department could provide Board staff with a thorough assessment of the feasibility of adding adequate fixtures to the dormitories in question.

Chairman Kasanof moved that the Board grant the Department's request for extension of existing variances, and approve a 30 day variance for C-73 contingent upon the Department making a legitimate effort to increase fixtures in compliance with Board Standards.

Mr. Horan seconded this motion, which then was approved unanimously by the Board members present. (Board members not present at the meeting were contacted by telephone later on November 9, 1988. A majority of the Board approved the variance requests.)

Chairman Kasanof then detailed his concerns about a reportedly unexplained recent death in the C-71 Mental Health Center of a Mental Observation inmate overflowed there from the Anna M. Kross Center, and cared for in C-71 by AMKC mental health personnel. He explained that the Medical Examiner's final report labelled the cause of death as "unclassified." The Medical Examiner had cited the 100 to 110 degree temperature in the cells as a factor possibly contributing to the death.

Chairman Kasanof noted that the facility was aware of the extraordinarily high temperature in the cell area and had as a partial solution ordered that cell gates be left open. He added, however, that the cell gate of the deceased was not open when the body was discovered apparently eight to ten

hours after the last reported conversation with the deceased. As he considered the existing official explanation for the death to be inadequate, the Chairman reported that he had asked for the body to be held by the Medical Examiner at the City Morgue in order that a second autopsy be performed if it became necessary. He stressed that inadequate explanation for inmate deaths is unacceptable in the jails and that the Board would not stop the investigation until the death was explained.

Chairman Kasanof next introduced the subject of the changes to New York State Correction Law permitting the mixed housing of detainees with sentenced inmates, a topic he mentioned having previously discussed individually with several Board members. He stressed that implementation of this legislation in New York City would violate Board Standards and, thereby, City law. He emphasized that although there are legal views that State law overrides the Board's City mandate, this State legislation is contrary to well-established, internationally recognized penal philosophy regarding the proper treatment of persons who have not been convicted of any crime.

He reported attempts to contact the Board's consultant, political scientist John DiIulio, regarding the implications of the revised Correction Law for modern penal practice. He added that Board Counsel Annette Gordon-Reed has been researching the legal and practical implications of the

revised Correction Law. He stressed that if confinement is to be anything other than warehousing of human beings, there must be a distinction between convicted inmates and those presumed innocent. He reported having relayed his classification-related concerns to Commissioner Koehler, who explained that he is seeking advice from the Corporation Counsel on the matter. Chairman Kasanof stated that he had delayed writing a letter expressing his position on mixed classifications to Commissioner Koehler until having addressed the Board members on this subject. Chairman Kasanof added that he had discussed the issue with Peter Zimroth, City Corporation Counsel, who he hoped would not issue a formal opinion contrary to Board Standards.

Board member Schulte inquired as to whether the revised State Correction Law mandates mixing of classification categories or simply permits it.

Chairman Kasanof responded that in his view, the legislation merely permits mixing and, by extending the authority to do so to New York City rather than just to the previously-authorized smaller county jails, the legislation raises Home Rule questions in that the Department can elect to ignore the Board Standard or request that the Board revise its Standard to incorporate the revised the State law.

Mr. Schulte recommended that staff review the classification requirements in the model standards of the American Correctional Association as well as reviewing classification practices in other large cities.

Mr. Wolf then asked Deputy Warden Coppola and Special Counsel Frankel to describe the planned Supervised Detention Program. Mr. Frankel introduced the program by recounting the personal lobbying efforts of Commissioner Koehler. He stated that the program would seek to divert as many as 200 detainees into a combination of educational programs, jobs and job training, and outpatient substance abuse treatment.

Board members, Mr. Schulte and Mrs. Margolis, expressed concern about admission and exclusion criteria. Mr. Frankel explained that admission criteria for the program are stringent and stated that the Department will carefully screen all potential applicants.

Inmates in the program will live at home, as the program was devised to help combat overcrowding. No one may be diverted into the program unless the Commissioner certifies that the inmate population is above 101% of capacity, and he requests and receives approval from the Mayor to activate the program.

The substance abuse treatment must be provided, under provisions in the law, in a facility run by the Department.

Mr. Wolf thanked the Department's representatives and the meeting was adjourned at 3:10 p.m.