

NEW YORK CITY
BOARD OF CORRECTION
MEETING OF FEBRUARY 21, 1990

Members Present.

Robert Kasanof, Chairman
John Horan, Vice Chairman
David Lenefsky
Barbara Margolis
David A. Schulte

Excused absences were noted for Judge William Booth, Rev. Irvine Bryer Jr., Angelo Giordani and Rose M. Singer.

Representatives of the Department of Correction.

George Vierno, Acting Commissioner
Julian Prager, Deputy Commissioner of Management Evaluation and
Specialized Services
Robert Daly, General Counsel
Peter Mahon, Deputy Chief of Operations/Staff Management
Michael Cleary, Executive Director of Management Evaluation
Division
Carl Coppola, Deputy Warden of Management Evaluation Division
Capt. Patricia Martin, Use of Force Unit, Rikers Island

Others in Attendance.

John Guzman, New York State Commission of Correction
Frank Reay, State Senate Committee on Crime and Correction
Richard Truta, Paul Weiss, Rifkind, Wharton & Garrison
Mark Mooney, New York Post
George E. Jordan, New York Newsday

The meeting began at 2:15 p.m. with Board Chairman Robert Kasanof welcoming the representatives of the Department of Correction and other agencies. Mr. Kasanof moved for adoption of the minutes of the January 10, 1990 Board meeting. The motion was seconded by David Schulte, and approved by all Board members present.

An excused absence was noted for Board member Rose M. Singer and the Board members requested that the minutes reflect their best wishes for her speedy recovery.

Mr. Kasanof began the discussion by commenting upon the increased levels of violence in several jails and the occurrence of two major incidents since the last Board meeting; a shooting and a homicide. He noted that the rising level of violence was taking place in the face of continuing instances of non-compliance with the Board standards and conditions to variances. He also noted that there were still large numbers of State inmates in the City's jails and that overall there had been sharp increases in the inmate population, a trend that was unlikely to abate.

Board member David Lenefsky stated that he had been under the impression that the Department's new capacity would have a substantial impact upon the inmate housing shortage, and that the State's agreement to take out its inmates would have helped to ameliorate the situation.

George Vierno, Acting Commissioner of the Department of Correction, said that Thomas Coughlin, Commissioner of the New

York State Department of Correctional Services, had agreed to remove 100 hundred overdue state inmates per week from the City's jails and had done so until the week of the Board meeting. The present delay was due to problems at two of the State's facilities. He expected that by the end of the week, the inmates would be picked up by the State.

Mr. Kasanof explained that even at that rate the commitment to take out 100 inmates, though welcome, was not an immediate panacea because of the steady supply of new State inmates. However, it was encouraging that the State had agreed to remove the entire backlog of its "overdue" inmates by the middle of March.

Mr. Kasanof then asked about the construction schedule for the Sprung structures and whether it was true that even with the new capacity, the Department would begin to feel a population "crunch" in March or April. Commissioner Vierno replied the "crunch" will be felt most acutely this coming April.

Board member David Schulte then raised another issue of concern. He had recently visited the White Street jail and found a serious problem with the plans for providing meals to inmates. Apparently, meals for inmates at White Street are to be prepared at the already overburdened kitchen in the Manhattan House of Detention. The original plan had been to use the new kitchen constructed in the White Street jail. But the contractor responsible for building the kitchen had gone bankrupt before the job could be completed. So, at the moment, a nearly completed

kitchen existed in the White Street Jail that would not be available for use when inmates are moved in.

Mr. Schulte suggested that the only way to resolve this problem was for the City to immediately begin negotiations with another contractor in order to get the kitchen finished so that it can service inmates as was intended. He stated that this situation could precipitate a serious crisis. He urged the news reporters to visit the facility and see the abandoned kitchen. Mr. Schulte said that he had been told by staff who worked in the kitchen at the Manhattan House that the kitchen could not effectively service another inmate, let alone the entire White Street Jail. As things presently stand at the Manhattan House, as soon as breakfast has been cooked and served, the kitchen staff immediately begins to cook and serve lunch and then afterwards supper. The jail effectively has continuous day and night "feeding" in order to accommodate the large number of inmates for whom the kitchen must prepare meals.

Mr. Schulte suggested that a letter from the Board addressing this serious issue should be sent to the Mayor's Office.

Chairman Kasanof agreed with Mr. Schulte and said that such a letter would be written.

Mr. Schulte then asked the Department representatives what was wrong with expanding its use of Hart Island. He recalled that in the past the Island had housed 2,000 inmates.

Commissioner Vierno replied that through the years of

disuse, the buildings on the Island had deteriorated considerably and that there had been litigation over expanded use of the facility.

Mr. Schulte raised the possibility that a number of the buildings could be rehabilitated. He stated that it seemed a waste not to try to use this area to house inmates in light of the current crisis.

Robert Daly, General Counsel of the Department, explained that there had been opposition from residents of City Island to increased use of Hart Island as a place to house inmates. A suit was filed to prevent an expansion of the jail. The question raised in litigation was whether the City had abandoned Hart Island and whether the City would have to go through a time consuming environmental impact assessment before it could put more inmates on the Island. The New York Supreme Court decided that the Department had abandoned the Island. The Appellate Division did not specifically rule on the substance of the dispute, but found that the residents of City Island had made several technical errors in the pressing of their complaints. The matter is now before the Court of Appeals.

Mr. Kasanof then asked Executive Director Richard Wolf to report on the levels of violence in several facilities.

At that point, Mr. Wolf gave to the Board members and Department representatives copies of a report prepared by the Board's Director of Management Information System, James Bennett, on violence levels at the George Motchan Detention Center. The

data in the report was a compilation of the Communication Control Center's 24 Hour Reports from January 1989 through January 1990. The handout showed that violence in the Motchan Center had increased by 24% in the last month on the heels of a fairly steady increase throughout the end of last year. Mr. Wolf prefaced his remarks by reminding those assembled of the Department's plan to expand the Motchan Center into a jail that would be larger than AMKC, a facility that the Department has admitted is too large to managed effectively. Board staff has already conveyed its concern about the problems posed by having a facility with over 3000 beds, including problems with violence, delivery of program services, and medical care.

Commissioner Vierno said that the Sprung Structures would house substance abuse program participants with low security classifications.

Mr. Kasanof asked if it wasn't dangerous to undertake such a large expansion of a jail that is already beset by a high level of violence, even if the individuals housed there are in a substance abuse program.

Commissioner Vierno said that the Department had already begun to react to the problems at the Motchan Center, increasing daytime and evening searches of the jail. All inmates going to or coming from court are searched. Whenever incidents of violence occur, the inmates involved are questioned closely to find out how they obtained the weapons used in the incident. In addition, in an attempt to create greater accountability among

correction staff, officers in the areas where violence takes place are questioned to find out how weapons got into the area.

Mr. Wolf then reported on the homicide that occurred in the James A. Thomas Center on February 6, 1990. Detainee Terrance Smith received several stab wounds which caused his death. During the investigation, the murder weapon was recovered and the perpetrator was identified and rearrested. Mr. Wolf then asked the Department representatives if they had determined the reason for the assault.

Commissioner Vierno replied that the two inmates involved had previously had an altercation over the use of the telephone. Deputy Chief Peter Mahon, Deputy Chief of Operations/Staff Management said that it had not been definitively established whether problems between the two inmates had arisen prior to their arrests.

Commissioner Vierno announced that Deputy Chief Mahon had been designated as the Department's Intelligence officer.

Deputy Chief Mahon said that the Department had instituted a tracking system to identify inmates who come into the jails as members of gangs. He emphasized that such a system is needed in order to cut down on jail violence that may be a result of disputes that had their origin in drug gang competition both inside and outside of the jails. He stated that budgetary considerations had hampered his efforts.

Mr. Wolf then turned the discussion to the shooting that occurred at the Motchan Center on January 28, 1990. Detainee

Vernon James received a gunshot wound to his thigh by an unidentified inmate. Mr. Wolf then asked the Department representatives if they had learned whether the bullet that struck Mr. James was fired from the gun that was found later.

Commissioner Vierno replied that the ballistic tests were not yet complete. While tests did show that the gun had been fired recently, a definite match between the gun and the bullet had not yet been made. As of the date of the meeting, no suspect had been identified.

Deputy Chief Mahon attributed the increasing violence to the presence of members of drug gangs who come into the system and re-establish gang ties. Deputy Chief Mahon said that the Department was still trying to determine how the gun was brought into the facility.

The discussion turned to the issue of Department staffing. Mr. Wolf asked if OMB had approved funds for increases in staff to fill corridor posts.

Commissioner Vierno indicated that OMB has always been reluctant to provide funds for additional corridor staff, suggesting that the Department increase unescorted movement of inmates. He noted, however, that OMB had approved funds for the Department's most recent proposed list of promotions.

Mr. Lenefsky asked how many officers were in the Department and how much more money would be needed to increase the level of staffing by 100 or 200.

Commissioner Vierno said that there were approximately

10,000 officers. The Department had plans to hire another 2,200 over the next twelve months, with 500 coming on the job in March.

Michael Cleary estimated that an additional 200 officers would cost approximately one million dollars a year.

Mr. Kasanof asked if there would be any special training for or additions to the middle management staff in order to handle what will be a younger and less experienced uniformed staff.

Commissioner Vierno said that the Department had plans to promote 26 new captains, 6 assistant deputy wardens, and 2 deputy wardens.

Mr. Schulte said that he would like to see the Board get involved in helping to make the case to OMB on the importance of adequate levels of staffing.

Mr. Kasanof mentioned that he had spoken with former Commissioner Richard Koehler and former Deputy Mayor Stanley Brehznoff in the past about the Department's budgetary needs.

Deputy Commissioner Julian Prager stated that the Department's final budget was not yet settled, so there was still time for the Board to have some input if the members were willing.

Mr. Schulte wanted to know if any staff members had ever seen the Budget proposals.

Mr. Kasanof said he had requested that the document be sent to the Board's office. He suggested that the Budget's Executive Summary be distributed to the Board members so that they might get a better idea of the issues involved without getting too

bogged down in the specifics of what is a very long document.

Mr. Wolf then described the circumstances surrounding two allegations of officers assaulting inmates in clinic areas in the presence of medical staff. These incidents occurred in the Motchan Center and the James A. Thomas Center. They were unusual because they violated the informal "understanding" between corrections personnel and medical staff that altercations between inmates and correction officers will not take place in the clinic. Several Board member expressed dismay at the existence of this informal "understanding" as it seemed to imply medical staff acquiescence in violence against inmates that takes place outside of the clinic area.

Mr. Wolf explained that medical staff within all facilities are usually reluctant to speak with Board staff about the conduct of officers because they fear that officers will be less than vigilant in providing civilian personnel within the clinic area with protection from inmates if the civilians are seen as taking sides when an incident occurs. In these cases, however, medical staff in the area where the alleged assault took place told a Board staff member that an inmate was assaulted by an officer causing serious injuries to the inmate. Mr. Wolf requested that Department representatives give a status report on the Department's investigation of both incidents.

Deputy Chief Mahon responded that the had received a written report from IAD about the incident in the Motchan Center only one half hour before the Board meeting and therefore had not had an

opportunity to review it. He said he had spoken with Al Campagnola, Acting Assistant Commissioner in IAD about the incident in JATC. Mr. Campagnola said that IAD had closed out its investigation with an official decision that the use of force had been appropriate. Deputy Chief Mahon described the inmate involved as having a history of violence as a member of a drug gang and as an inmate within JATC.

Deputy Chief Mahon stated that he would contact Mr. Wolf about the use of force at the Motchan Center after he reviewed the report on the incident.

Mr. Cleary then thanked the Board staff for assisting the Department in resolving the compliance problems at Wards Island so that the Department could ask for return of the variance beds lost as a result of the Department's non-compliance with Board standards and conditions to variances. He requested a renewal of all other existing variances as well as the implementation of the variance for the Sprung Structures. He said that the Department had withdrawn its request for a variance at the North Infirmary Command while the plans for renovation at the facility were reconsidered.

Mr. Wolf explained that a variance for the Sprung Structures was required because although the housing areas gave inmates the 60 square feet mandated by Board standards, the facility's dayroom space is not physically and acoustically separate from but immediately adjacent to the inmate sleeping area as required by the Board's standards. Instead, the Sprung Structures have

one dayroom that will service all 300 inmates. Mr. Wolf emphasized that Board staff had communicated to the Department that the variances for the Sprung Structures could not be implemented until several conditions had been met. Specifically, the Department had to provide the Board with a written schedule for law library recall as well as a copies of complete, updated Institutional Orders relating to medical care for the Motchan Center, including the Sprungs.

Commissioner Vierno and Mr. Cleary acknowledged that the Department understood the conditions.

Mr. Kasanof asked if the Board staff had received copies of the Fire Department certifications with respect to the Sprung Structures. Mr. Wolf said that the staff had received the certifications.

Mr. Schulte asked what effect it would have on the Department if the Board refused to grant the requests for renewal of the variances.

Mr. Wolf displayed a chart which showed a much sharper increase in the number of inmates in 1990 than in previous years. He noted that Deputy Mayor Norman Steisel had assured the Board that the State had committed to have all its overdue inmates out of the City's jails by mid-March. This would have a positive impact on violence in the jails but would not solve the population problem.

Commissioner Vierno explained that the Department had filled all of the City-sentenced beds in the upstate jails. He then

listed the areas where the Department's capacity would increase over the next few months including, 300 beds in the Sprung Structures, 200 beds at White Street, 200 beds at the Motchan Center and the Adolescent Reception and Detention Center and the 800 bed barge that is to come on line in the fall of 1990.

Mr. Wolf noted that the Department could request an extension of the Substitute Jail Order from the New York State Commission of Correction and swap the City-Sentenced inmates housed there with parole violators being held in New York City jails.

Mr. Schulte observed that the Department seemed to be nearing a situation in which a release of inmates would be imminent if the Board did not grant variances.

Mr. Kasanof disagreed, stating that the Second Circuit had been highly critical of the previous release of inmates. He said that the more likely scenario would be that the number of arrests would decrease, thus slowing down the rise in the inmate population. He then reflected on his recent six week stay in Philadelphia during which time a serious jail riot took place. There was significant political fallout because of the riot. He said that each time New York City has faced a release of inmates in recent years, the means have been found to prevent the release from happening.

Mr. Wolf added that the Department's response to the Board's taking away of variance beds at Wards Island because of non-compliance with its standards was instructive. After the Board

took that action, the Department worked diligently and, in most areas, successfully to come into compliance so that the variances would be granted again.

Deputy Executive Director Maddy deLone added that on a positive note, Montefiore Hospital had signed an extension of its contract to provide medical care within the City's jails.

The discussion then turned to the Department's letter dated February 14, 1990, requesting a 30 day extension of its existing variances previously granted by the Board of Correction.

Mr. Kasanof reminded the Department representatives of the discussions held at previous Board meetings about the Department's non-compliance with conditions to the existing variances. Mr. Kasanof stated that the existing variances are contingent upon the Department's ability to maintain the safety and security within its institutions and to comply with Board standards and with conditions to the variances granted. If violence could not be controlled, and if efforts to achieve compliance were not more strenuous, he would not hesitate to recommend revocation of variances. The Board then approved a renewal of existing variances for a thirty day period, subject to the fulfillment of conditions attached to the granting of the variances.

Commissioner Vierno again thanked the Board members for working with the Department to rectify instances of non-compliance with conditions to the existing variances. He pledged that the Department of Correction would work to remain

in compliance with Board standards.

It was agreed that the next Board meeting would be held on Wednesday, March 14, 1990.

Chairman Kasanof thanked the representatives of the Department of Correction for their participation at the Board meeting. The meeting adjourned at 3:10 p.m.