

NEW YORK CITY
BOARD OF CORRECTION
MEETING OF OCTOBER 10, 1990

Members Present

Robert Kasanof, Chairman

Judge William Booth

Louis Cruz

Barbara Margolis

David A. Schulte

Rose M. Singer

Excused absences were noted for Reverend Irvine Bryer, Jr., John R. Horan, Vice Chairman and David Lenefsky, Esq.

Representatives of the Department of Correction

Robert Daly, General Counsel

Hector Eugui, Deputy Chief of Facility Operations

John Shaw, Captain

Others in Attendance

Mary Jo Mullan, Office of Compliance Consultants

George Jordan, Newsday

Mark Mooney, New York Post

The meeting began at 2:10 p.m. Chairman Robert Kasanof welcomed the representatives of the Department of Correction and other guests. Mr. Kasanof called for a motion to adopt the minutes of the Board meeting of September 13, 1990. The motion was made by Board member Rose M. Singer, seconded by Board member Judge William Booth and approved unanimously.

Mr. Kasanof stated that population figures for the system suggest to Board staff that the number of inmates in the system will exceed its capacity including variance beds within a few weeks. He asked whether it was accurate that the Department would be unable to open certain new facilities as planned. Deputy Chief Eugui responded in the affirmative, reporting that the Nursery-Beacon facility which had been scheduled to open in mid-September would open in mid-December.

Mr. Eugui added that completion of the White Street facility has been delayed from mid-September to late October. He said that he opened half of the eighth floor there prior to its scheduled opening, but was unable to open other areas ahead of schedule because of contractual problems related to the installation of cell doors. He noted that it will take three weeks to complete installation of these cell doors.

Board Executive Director Richard Wolf then asked for a

report on the status of construction of the kitchen at the White Street facility. Mr. Eugui responded that construction remains behind schedule and that it was necessary to bring meals in from the Brooklyn House of Detention. Mr. Wolf asked if there was a projected date of completion. Mr. Eugui said that he did not know but would find out and provide the date to the Board.

Mr. Kasanof then inquired whether his understanding that the Department would be unable to house the anticipated increase in the inmate population was correct. Mr. Eugui confirmed that this is the case. Mr. Kasanof then asked what efforts the Department would undertake in order to cope with the increase in population. Mr. Eugui said the first thing the Department would do is request a variance from the State Commission of Correction to mix parole violators and city-sentenced inmates at upstate facilities. Mr. Daly noted that the State has granted such variances in the past and he was hopeful they would do so again.

Mr. Kasanof continued by asking whether, even if both the State and the City were to grant all requested variances, the Department would have the necessary bed space to house the anticipated inmate population. Mr. Daly responded that the Department would undertake the following measures to cope with the increased inmate population: it would maximize the use of upstate facilities, as Mr. Eugui had described; Commissioner Sielaff would meet with the Chairman of the N.Y.S. Division of

Parole in an effort to speed the "affirmation process" of parole violators; the Department would do whatever possible to maximize use of alternative programs. He admitted the Department has a down-cell problem, primarily due to broken toilets, sinks and gate-motors.

Mr. Kasanof again inquired whether, even assuming the Board granted all requested variances, the Department would have sufficient bed space to confine all inmates. Mr. Eugui replied that there would be a problem with detainees. Mr. Kasanof then asked whether the Department would have to go to Judge Lasker to secure approval to squeeze detainees. Board member David A. Schulte interjected that he wished to know the difference between the Department's capacity and its anticipated population. Mr. Eugui answered that the difference was 500. Mr. Schulte then asked what the Department intended do to reduce this figure. Mr. Eugui said that, as he mentioned previously, the Department hoped to reduce this figure by squeezing more inmates and by expediting the transfer of parole violators to the State.

Mr. Kasanof then asked whether the number of down-cells had increased since the last Board meeting. Mr. Eugui answered that the number of down-cells had increased due to extenuating circumstances caused by the loss of water pressure at the James A. Thomas Center (JATC) and asbestos removal efforts. Mr. Kasanof commented that he thought these problems had occurred

prior to the last meeting and asked whether the Department needed some kind of special assistance to secure funds to repair the down cells. Mr. Daly responded that the cells are down because they lacked motors, toilets or sinks and that the Department has ordered this equipment using "emergency declarations" and will repair the cells as this equipment comes in.

Mr. Kasanof reiterated his concern regarding the Department's plans for responding to the anticipated increase in the inmate population. He advised the Department to present its needs and proposals to the Board before the housing shortage becomes a crisis so that the Board can provide the Department with as much assistance as possible. He also recommended that the Department go to Judge Lasker with its needs before the anticipated shortfall in beds becomes a crisis. Mr. Kasanof commented that, in his experience, parole violators are particularly difficult to squeeze, therefore it is to the Department's advantage to get the State to accept these inmates as soon as possible. Mr. Eugui noted that the State has been accepting parole violators expeditiously. He added that currently only 60 inmates await transfer to the State and he anticipated that no parole violators would be waiting by the end of the week.

Mr. Schulte commented that an organization the size of the Department cannot be run without a sufficient inventory of spare

parts. He suggested to the Department that, if it were helpful, the Board would consider an emergency resolution to assist the Department in securing funds necessary to procure an adequate stock of spare parts.

Mr. Schulte then asked whether Judge Lasker had prohibited the use of certain cells in JATC. Mr. Daly responded that while the capacity of JATC is 1876, Judge Lasker had capped the population there at 1200. He said that the Department has repeatedly sought to have the cap lifted. Mr. Schulte said that the onus was on Judge Lasker if the only alternative to housing additional inmates in JATC was to discharge inmates prior to their release date. Mr. Daly noted that the State Commission of Correction had proposed capping the facility at 1000.

Mr. Kasanof then asked Mr. Daly whether the Department considered Judge Lasker's actions unreasonable. Mr. Daly responded that the Department did not consider his actions unreasonable. He explained that Judge Lasker had given the Department many opportunities to bring the issue before him, but that after carefully considering the operation of the facility the Judge had denied the Department's requests. Mr. Schulte asked what the Judge's specific objection was. Mr. Daly responded that the Judge considers the third tier inherently dangerous due to its unique construction, though he noted that the Judge has permitted some inmates to be housed on the third

tier with enhanced staffing. Mr. Daly said that the specific problem is that there are blind spots on the tier due to its length and this makes it inherently dangerous for staff.

Mr. Daly also noted that Commissioner Sielaff agrees with Chairman Kasanof's assessment of the difficulty of housing parole violators and that is why the Commissioner has scheduled a meeting with the Chairman of the Parole Division.

Mr. Kasanof said that, using Department and Board figures, it appears the Department will soon run out of space and face a population problem. Mr. Eugui agreed this was likely to happen. Mr. Kasanof again urged the Department to come to the Board in advance of any acute difficulty regarding the system's capacity.

Mr. Wolf then reported that Board staff projects the peak deficit of beds will occur on November 12; therefore, the Department has approximately one month to prepare a response to the anticipated shortage. Mr. Wolf stated that the Department's method of assessing bed deficits may underestimate the problem. He explained that to determine the capacity of the system, the Department takes the number of beds available at standard, of which 95% of that figure plus 174 beds is considered actual capacity. Mr. Wolf then asked Mr. Eugui whether for a number of reasons, the most important being the large number of down-cells, it is more accurate to estimate actual capacity as 92-93% of

beds at standard. He continued by asking Mr. Eugui whether this indicated the system's capacity is 400-600 beds less than the Department projects. Mr. Eugui agreed that the system's capacity may be less than estimated. Mr. Wolf concluded that, therefore, the 500 bed shortfall could go as high as 700-900 beds.

Mr. Schulte asked what effect this additional shortfall would have, specifically whether this would make it necessary to discharge inmates prior to their release date. Mr. Daly responded that case law requires municipalities with jail systems that exceed capacity to attempt to secure "substitute" jails to house their excess population. If they are unable to secure such facilities, they must reduce intake.

Mr. Kasanof excused himself, explaining that he would have to leave the meeting to attend a hearing in Federal Court and that in his absence Judge Booth would serve as Chair. He asked Mr. Wolf to review the remaining agenda items.

Mr. Wolf asked for an update of Department efforts to increase the number of beds in the Central Punitive Segregation Unit (CPSU). Mr. Eugui answered that the completion of phase two of the expansion of CPSU provides 150 new beds in the unit, for a total of 300 beds. These new beds have enabled the Department to eliminate the most serious offenders from the waiting list. Mr. Schulte asked how the Department exercises disciplinary

deterrence if the CPSU has a waiting list. Mr. Daly responded that the CPSU was expanded for precisely this reason. Mr. Schulte then asked how long it would take to complete the expansion of the CPSU. Mr. Eugui responded that it would take approximately 1-2 months to complete the conversion of remaining cells to punitive segregation cells.

Mr. Wolf asked if Board Members had any additional questions. Mr. Schulte commented that he thought the Department should consider the use of community courts to adjudicate inmate infractions. He noted that criminal behavior is not effectively deterred in prison. He stated that the use of community courts to speed the adjudication of inmate infractions would reduce the frustration and anger of correction officers, who would see a direct connection between the infraction and a resulting punishment. Mr. Daly responded that the idea merits consideration but emphasized that the Department receives a high degree of cooperation and assistance from the Bronx District Attorney's Office. Mr. Schulte said that may not be enough given the current climate of violence in today's system. Mr. Daly added that it would be helpful to the Department if the Board would support the Department's efforts to secure consecutive sentencing of inmates who assault correctional officers. Mr. Booth commented that some people oppose community courts out of a concern that they function as "kangaroo" courts and do not provide adequate due process protection for defendants.

Mr. Booth said that the issue of bail amounts is another matter that merits consideration. He said that his experience as a judge suggests to him that in many instances individuals with low bails should be released on their own recognizance. He added that many states permit and encourage a 10% alternative cash posting, but that while New York law permits this, it is rarely practiced.

Mr. Schulte asked why efforts to improve the efficiency of the criminal justice system are not coordinated on a city-wide scale to enhance their success. Mr. Daly responded that, in fact, there are serious attempts to coordinate such efforts. One example is the cooperation between the Police and Correction Departments facilitated by the Mayor's Deputy for Public Safety, Milton Mollen, in an effort to coordinate administration of the pre-arraignment and court pens.

Mr. Wolf then asked when the Department's high impact incarceration program would open. Mr. Eugui said the program would open on October 22 and that program eligible inmates were presently being recruited. Mr. Wolf related that the program requires a highly structured day and that it will, therefore, be necessary for the Department to secure a number of variances before operation of the program can begin. He emphasized that the Board needs these requests so that staff can analyze them and

provide the Board with its recommendations in a timely manner. Mr. Wolf noted that it should be understood that the program will not provide any savings in beds for at least the first several months that the program is in place.

Mr. Wolf also noted that two measures of management effectiveness at the Department--compliance with court-ordered limits on the time inmates spend in receiving rooms and the time allowed for inter-facility transfers--have slipped significantly below the 90% compliance level during the last few months. Mr. Eugui responded that there were several reasons for this, primarily the blockade of the Island in August and the fact that the system was generally overloaded. Mr. Wolf said that if projections are accurate, pressures in these areas will grow and this problem can be expected to worsen. Mr. Eugui agreed that was the case.

Mr. Wolf then introduced and welcomed Louis Cruz, the newest member of the Board and Mary Jo Mullan, the Deputy Director of the Office of Compliance Consultants. He also introduced Leslie Paris, an Urban Fellow who will be working with the Board this year. Mr. Cruz thanked Mr. Wolf and noted that, given recent events, the Board certainly has its hands full.

Mr. Booth called for a Board vote on the Department's request to renew existing variances. Mrs. Singer proposed the

vote based on Board staff's recommendations. Her motion was seconded by Mr. Schulte and it passed unanimously.

Mr. Booth thanked the representatives of the Department of Correction and others present for their participation in the Board meeting. The meeting was adjourned at 3:10 p.m.