

NEW YORK CITY
BOARD OF CORRECTION
MEETING OF SEPTEMBER 13, 1990

Members Present

Robert Kasanof, Chairman
John R. Horan, Vice Chairman
Reverend Irvine Bryer, Jr
David Lenefsky, Esq.
Rose M. Singer

Excused absences were noted for Judge William Booth, Barbara Margolis and David A. Schulte.

Representatives of the Department of Correction

Allyn R. Sielaff, Commissioner
Gerald Mitchell, Chief of Department
Robert Daly, General Counsel
Toni Bair, Assistant Commissioner
Rosemarie Bonacum, Assistant Commissioner
Hector Eugui, Deputy Chief of Facility Operations

Others in Attendance

Patricia Thomas, New York State Commission of Correction
Bernard O'Brien, City Council
Frank Reay, New York State Senate
Mary Gay Taylor, WCBS AM
Mark Kirtzman, Daily News
George Jordan, Newsday
Mark Mooney, New York Post

Chairman Kasanof opened the meeting at 2:15 p.m. by welcoming Commissioner Sielaff and other representatives of the Department. He also extended a welcome to new Board staff member, Orelia Felder, and to the Board's Counsel, Annette Gordon-Reed, upon her return from maternity leave. Mr. Kasanof called for a motion to adopt the minutes of the Board meetings of June 13 and August 21, 1990. The motion was made by Board member Rose M. Singer, seconded by Board member David Lenefsky and approved by all Board members present.

Mr. Kasanof stated that he hoped Commissioner Sielaff would attend Board meetings frequently. He added that, in addition to performing its oversight function, the Board views its job as helper to the Department and sometimes as the bearer of bad news. Mr. Kasanof then stated that, after discussion of the Department's requests for variances from the Board's overcrowding Standard, Commissioner Sielaff was welcome to present information about the Department for informal discussion with the Board members.

Mr. Kasanof then introduced the topic of requests for new variances and for renewal of existing variances. A major new request before the Board was to increase the allowable capacity of the Correctional Institute For Men (CIFM) by housing additional City-sentenced prisoners at less than 60 square feet. Mr. Kasanof asked the Board's Executive Director, Richard Wolf, to present the recommendations of Board staff about CIFM after first describing the staff's views on the other new requests.

Mr. Wolf reported that Board staff recommended denying the request regarding the Otis Bantum Correctional Center (OBCC) to house newly-admitted parole violators at less than 60 square feet during their first fourteen days in City custody. This recommendation was based upon the recent history of violence at OBCC, including the riot on August 14, 1990. Mr. Wolf explained that Board staff also recommended denying the request to "squeeze" parole violators and City-sentenced prisoners in dormitories at the Anna M. Kross Center (AMKC) due to continuing problems with basic service delivery and the continued high level of violence at that facility, as demonstrated by the attack on Corrections staff by Muslim inmates on July 13, 1990. That incident involved an attempt by the inmates to retaliate against an Hispanic inmate for the stabbing of an inmate-elected Imam.

Mr. Kasanof then referred to the variance request regarding CIFM, noting that the Board had received a letter from the Legal Aid Society opposing the variance. He also mentioned that in the letter requesting these variances Commissioner Sielaff had reminded the Board of its longstanding practice of deferring to Judge Lasker on issues involving the Consent Decrees and the Board's Standards. Mr. Kasanof stated that Judge Lasker had imposed a cap of 2600 on the population at CIFM, and that the Judge now is considering a motion by Legal Aid to reduce CIFM's population capacity to Standard (2112). Mr. Wolf said the variance request for CIFM requested an increase of 488 beds for City-sentenced prisoners. Mr. Kasanof proposed to the Board

members that they grant half the requested variance for CIFM and then have Board staff monitor conditions at that facility to see if the additional squeezing causes a significant decrease in service provision or an increase in violence. Mr. Wolf added that additional staff in variance dormitories is essential. There should be at least two officers per dormitory on all tours and there should be no "cross-relieving" of housing officers.

Mr. Lenefsky observed that the data reveals that while the system's population has remained stable, there has been a substantial increase in violence. The burden is on the Department to prove to the Board that it can keep violence rates down and maintain acceptable service levels and manage violence.

Mr. Kasanof, referring to a graph of the Department-wide census prepared by the Board's Director of Information Systems, James Bennett, emphasized the importance of basing any evaluation of variance requests upon empirical data showing the Department's ability to handle additional overcrowding.

Deputy Chief Eugui then inquired about the denial of the variances for AMKC. He noted that City-sentenced prisoners have proven to be the least violent category of inmate. He stated that he understood the Board's opposition to "squeezing" parole violators. Mr. Wolf responded that the Board's position was that increasing the capacity of a large facility with any category of inmates has a taxing effect on all prisoners, and that the Board long has taken the position that it will not approve the housing of three different categories of inmates in any one institution -

a policy the Board consistently has upheld at CIFM.

Mr. Kasanof asked Department representatives for assurances that any variances approved would not cause failures in service provision. Deputy Commissioner Toni Bair responded that he had received the commitment of CIFM's Warden that services could be maintained and violence controlled. Mr. Bair added that the Department is committed to this goal since it is good, professional Correction management to provide appropriate services at all times. He assured the Board that the Department would carefully monitor conditions at CIFM. Board member Reverend Bryer expressed his appreciation for Mr. Bair's commitment but urged the Board to approve only half the variance beds requested for CIFM. Mr. Kasanof added that he would be pleased if the Department fulfilled its commitment but that, if it did not, the Board would revoke this variance and would deny requests for additional "squeezing". He said that if the Department needs more bed space in the future and can stand on a solid record, it is welcome to return to the Board with a new variance request for CIFM. The Board would be more disposed to grant such a request if it is supported by evidence of acceptable conditions at CIFM.

Mr. Kasanof then asked Mr. Wolf for the Board staff's recommendations regarding renewal of existing variances. Mr. Wolf responded that Board staff recommend renewal of the existing variances and approval of a new request for the North Infirmary Command. Chairman Kasanof called for a Board vote on the pending

variance requests. Board member Rose Singer proposed the vote based upon Board staff's recommendations. Her motion was seconded by Board member John Horan and it passed unanimously.

Mr. Kasanof then extended a welcome to the Commissioner, stating he hoped today's meeting would be the first of many open, free discussions between the Board and the Commissioner. Mr. Kasanof stressed the Board's sincere desire to be helpful to the Department, but suggested that Board members hold off their questions until after the Commissioner presented whatever information he wished to share with the Board.

The Commissioner thanked the Chairman, noting that Mr. Kasanof had been most cordial in their individual meetings and conversations. He also noted that he enjoyed his meetings with Board members Rose M. Singer and David A. Schulte. He applauded the involvement of Board member Barbara Margolis in the "Fresh Start" program for City-sentenced prisoners, which had recently held an impressive graduation ceremony. He said he welcomed today's meeting as an opportunity for introduction to the other Board members. He added that he had, of course, met with Mr. Wolf on a number of occasions and had invited him to join his executive staff's regular early morning meeting every other Tuesday to share concerns regarding the Department. He expressed his understanding of the value of making an effort to build a close working relationship with the Board while at the same time respecting the oversight relationship that exists by statute between the Board and the Department.

The Commissioner stated that there were a number of initiatives and issues he wished to discuss at today's meeting. He began by stating that he had added new members to his management team: William G. Jenkins, Assistant Commissioner for Assets Management and Victoria Verdiglione, Executive Director for Nutritional Services. He introduced Assistant Commissioner Bonacum as the person in charge of the alternatives-to-incarceration programs that he was going to describe to the Board.

The Commissioner stated, with reference to his efforts to control violence, that the second phase of the expansion of the Central Punitive Segregation Unit (CPSU) at the James A. Thomas Center (JATC) would be completed within the week, adding 100 beds to the 50 added during phase one. Presently, inmates found guilty of infractions were placed on a waiting list for assignment to the CPSU. With completion of the second phase of the expansion, the backlog of inmates sentenced to segregation for the most serious offenses such as slashing, stabbing and assaulting officers would be reduced further.

The Commissioner reported that the State Commission on Correction had approved the Department's request to extend the maximum number of days an inmate could be sentenced to punitive segregation from 30 to 90. He also referred to the Board's verbal support of the Department's proposal to require inmates in punitive segregation to wear jumpsuits. Chairman Kasanof acknowledged that the Board has long supported the use of

uniforms as a means of preventing inmates from hiding weapons, noting that the Board had officially proposed this method in its 1986 report on violence in ARDC.

The Commissioner next reported that the Department is establishing Community Advisory Boards, a concept successfully established elsewhere in the country. He explained that it is the Department's hope to use these Boards to forge greater ties with the community and to attract volunteers who will enhance the development of programs for the inmate population. The Commissioner added that he is aware the Board has had a longstanding and deep interest in the development of programs to occupy inmates, an interest that he shares. He said that while he believes that tight security is the primary means for controlling violence, he also believes that increased program services could have a significant and positive impact in this area since idleness is an often overlooked cause of violence. The Commissioner said that the detrimental effects of idleness have been amplified by the City's reliance upon dormitories as a means of coping with increases in the inmate population. Chairman Kasanof responded that public Board documents long have pointed to the negative impact of inmate idleness, and expressed his hope that budget cuts would not further reduce existing program activities for detainees.

The Commissioner reported that the Department has initiated a Family Restoration Program at Wards Island. This Program currently has 85 participants and will be expanded to RMSC and,

possibly, the Forbell facility. The Family Restoration Program seeks to teach positive parenting skills and provide counseling in domestic violence as well as drug and child abuse. He explained that City-sentenced women who actively participate in the Program can use it as a argument for approval of their applications for early conditional release or for work release.

The Commissioner then announced that the Department will soon initiate the Youth Awareness Program, which involves "adopting" a school to promote pro-social behavior among youths 11-15 years old. The students will be taken on tours of City jails and could meet with selected Inmate Council Representatives.

The Commissioner then reported that the Department will establish a Bail Re-evaluation Program. The Department will begin training student interns and volunteers in an effort to re-evaluate bail for selected low-bail detainees, thousands of whom are confined in City jails. It is hoped that the Program will lead to the assignment of individuals who will help guide individual inmates upon their release to the community.

Finally, the Commissioner reported that the Department has successfully expanded the Fresh Start Program, characterizing the program as the sort of partnership of the public and private sector needed for successful vocational training. Work Release is another program in which the public/private partnership is critical. The Commissioner said that in the weeks to come he will announce additional new programs and provide more detail on

the programs above.

The Commissioner noted the Board's interest in the new Use-Of-Force Directive and in the Department's staff disciplinary process. He stated that Department's General Counsel Robert Daly could describe more fully than he the Department's success in having a simplified Directive adopted. He explained his intent to revise the disciplinary process in order to strengthen it and make it more just. He stated that he planned to make field administrators more accountable and that he will pursue corrective actions based upon a human resources philosophy rather than a strictly punitive one. The Commissioner stated, however, that he would like to withhold further discussion of this issue because he was still developing the final plan, and will announce the format for the new disciplinary process in the next few weeks. He added that he thinks the Board will be pleased with the new disciplinary model.

Mr. Daly explained the training program being conducted on the revised use-of-force Directive both at the Academy and in the field. He stressed that this training would not be a "one-shot" process but would entail ongoing, daily training at roll call by individual supervisors.

Mr. Kasanof responded that he remains deeply concerned that recent changes in the Use-Of-Force policy, whatever their intent, may be perceived at an institutional staff level as a softening of the Department's position on the use-of-force by staff. He explained that he and the Commissioner had exchanged views and

correspondence about this issue and that he had no present reason to doubt the Commissioner's desire to maintain proper levels of staff discipline. He expressed a belief that the changes in the Directive must be sound or they would not have been approved by Judge Lasker. He added, however, that as exemplified by the response by COBA members on the Rikers Island Bridge to COBA President Phil Seelig's announcement of the demise of the 27-page Directive, Department line staff believe that the new Directive represents a change in policy on use-of-force rather than a simplified presentation of the policy of the Koehler administration. He expressed very grave reservations about the new procedure of having Warden's perform a "self-inspection" when incidents arise involving their own staffs. He noted that leaving this responsibility in the hands of field administrators runs contrary to what is commonly viewed nation-wide as good Correction or investigatory practice. With this in mind, he explained that he had asked Mr. Lenefsky and Reverend Bryer, who in turn had included Vice-Chairman John Horan, to investigate the Department's policy and procedures regarding internal investigations of violations of the Use-Of-Force Directive and of related issues. He stated that the Board is not wedded to any precise disciplinary formula. Chairman Kasanof noted that the kind of volunteers who will participate in Community Advisory Boards and the quality of personnel attracted to the Department will depend upon there being a perception that the institutions are safe. This can best be achieved through strict

accountability of corrections personnel.

The Commissioner responded that, in his opinion, the previous staff disciplinary system was not working. He explained that the model he is developing will focus on issues such as training, monitoring, investigatory procedures and accountability, as well as on disciplinary measures. The Commissioner added that he wishes to look at the total picture, and therefore welcomes contributions by Board members on an individual or group basis. He stated his intent to have the new Directive and disciplinary procedures be fairer, more uniform, effective and corrective of the ills and evils of the past.

Mr. Kasanof asked to what ills and evils the Commissioner was referring. The Commissioner replied that he has a great sensitivity about justice and fairness, not only for inmates but also for Correction officers. He had become aware of disciplinary measures taken under the old administration which, in his opinion, lacked justice and fairness. The Commissioner reiterated his understanding that change comes hard and will require the broadest kind of input from various interest groups. He stated that he anticipates being more strict in some instances and avoiding plea bargaining. The Commissioner emphasized that discipline had been too strident, and that he believes that the criminal prosecutorial approach can be supplemented or balanced by counseling, using human resources as a technique for correcting behavior. He stated that he was not satisfied with the success rate of the Department's Investigation and Discipline

Unit in presenting disciplinary charges at OATH.

Mr. Lenefsky said that he gathered that Commissioner Sielaff had been motivated to change internal disciplinary measures because of his view that, as a general rule, the Department's Investigation and Discipline Unit had been too severe.

Commissioner Sielaff responded that he also was not satisfied with IAD's success rate in prosecuting disciplinary cases before OATH. Mr. Lenefsky asked Commissioner Sielaff what success rate in prosecuting cases before OATH would he consider satisfactory, noting that the Department's figures regarding the disciplinary process suggest that the process was functioning quite well. Mr. Lenefsky reported that the Correction Department's success rate at OATH is 80%, with a 60% success rate on use-of-force cases. He added that this rate is higher than that of the Police Department. Commissioner Sielaff disputed those figures, and responded that he did not think that a comparison of agency success rates at OATH was a valid means of evaluation.

Mr. Lenefsky next expressed concern that the document the Commissioner had distributed at the meeting listed few programs that already were in place. Mr. Lenefsky emphasized that the Board was eager to see the initiatives regarding alternatives to incarceration and more constructive use of inmates' idle time finalized. He added that the necessity for State legislation may delay the implementation of some of programs proposed.

Commissioner Sielaff responded that accompanying him to the Board meeting was Assistant Commissioner of Alternative

Programming, Rosemarie Bonacum, who would address the Board's concerns about the multi-pronged program package which she had developed. The Commissioner explained that he had worked with the Deputy Mayor for Public Safety to revamp a bail re-evaluation program which had proved successful some years ago. He added that the Criminal Justice Agency had expanded its monitoring of the process whereby prisoners are evaluated for release on their own recognizance. As to other efforts the Department has initiated to address problems of overcrowding and security, the Commissioner described attempts to lobby for legislation to increase from 2% to 3% the state tax on bail, with the additional 1% to be slated for a New York City Fund for alternatives to incarceration. The Commissioner added that he has proposed development of an RFP for drug treatment to include consideration of private provider programs. Commissioner Sielaff noted the Department's efforts to revamp the Conditional Release Board, to assist in preparing inmates' applications to the Board, and to develop strong pre-release planning in order to counteract the Conditional Release Board's historical yearly approval of only 5% of the applications submitted.

Assistant Commissioner Bonacum then said she would describe with more detail the Department initiatives designed to increase the number of available beds in the system. Ms. Bonacum noted that 60% of those inmates granted bail of \$1000 or less are released in one day and 80% are released within 1-14 days. The Department's position is that the practice of confining these

individuals should be reevaluated. Ms. Bonacum also noted that 80% of those individuals detained in Central Booking test positive for drug use. The Department plans to develop a process whereby these individuals would be placed in private drug treatment programs rather than in detention jails. Ms. Bonacum stressed the importance of the new family restoration program given that 75% of female inmates report being mothers and 73% report drug usage once per day or more. Ms. Bonacum continued, reporting that the Department has requested that the New York State Division of Parole reduce the time between rearrest and final parole revocation hearings from 90 days to 60 days. The Department is also working with the State regarding the use of its two upstate facilities. The Department would like to bring long term City-sentenced prisoners to the City sometime before their sentence expiration date in order to prepare them for release to the community. To accomplish this, the Department must convince the State Department of Correctional Services to accept short-term prisoners at the upstate facilities.

Commissioner Sielaff stated that the programs under discussion were long overdue, as the City had pursued the very dangerous path of building staff-intensive dormitory style modular units without concern for program space or staff. Commissioner Sielaff added that the Department's plan will be in place within seven months. He explained that two new efforts related to Conditional Release will be in place within a month, one the week after next and one by the end of October. He

described these new programs as very creative and exciting. Mr. Lenefsky noted that, in terms of drug treatment, there is often a failure of "linkage" with the patient's home community. The Conditional Release addresses this problem by providing a continuum between confinement and release to the community.

Mr. Horan then stated that he would like to shift the focus of the discussion to the immediate management problem of restoring stability in the jails. He asked the Commissioner what needs to be done in terms of general training for Correctional Officers. The Commissioner answered that he has very definite views about this issue. He explained that when City and Department policy was to rapidly build new facilities to accommodate an increasing inmate population, there was a tendency to sacrifice the thoroughness of the officer application process, especially in terms of background checks. Problems that occur as a result of inadequate background checks, such as increased smuggling of contraband and poor work attendance by officers, are becoming evident. The Commissioner said that the Department can respond to these problems by: 1) recruiting from higher quality applicant pools such as community colleges and military discharge centers; 2) improving applicant background investigations; 3) emphasizing personal over "paper" reviews of applicants; 4) improving supervision of Correction officers; 5) improving management training of the new, younger supervisory staff; and (6) providing good management training for middle and upper jail managers. The Commissioner indicated that in order to

effectuate these improvements he has unified all personnel matters under one Deputy Commissioner who will have responsibility for, among other personnel matters, employee recruiting, labor issues, training and Employee Assistance Programs. The Department has hired an individual from the private sector to supervise this new plan.

Mr. Lenefsky then stated he would like to return to the issue of the internal management of the Department, an issue he considers fundamental. He said that there were several indicators of a decline in management effectiveness, including backups in receiving-rooms and delays in producing inmates for Court appearances. He asked Board staff to develop criteria that will determine the relationship, if any, between increased population and increased levels of violence. The Commissioner responded that Mr. Lenefsky's proposal was well taken. Mr. Kasanof then suggested that quantifiable measures of efficiency be developed in areas such as violence rates, suicides and homicides. Assistant Commissioner Bair said that one of his areas of responsibility is to monitor uses-of-force. He stated that for data to be useful to management, management must first ask the right questions. He has hired a research director make sure that this is done. He added that Deputy Commissioner Sinai and Investigations Director Adresen will also assist in monitoring use-of-force investigations.

Mr. Kasanof responded that he is glad the Department has hired someone to undertake this important task. He added that it

is hard for him to believe that violence is over-reported. It is generally thought that violence is under-reported. He went on to say that even if the Board's figures on violence were not exact, the trend line has been and continues to be ominously up, that violence levels are too high. He emphasized that if the Department wants to retain the confidence of the Board and the public, it must act to reduce violence levels.

Reverend Bryer then asked what the Department's plans are for retraining uniformed staff regarding use-of-force policies, not just regarding young captains, but also senior members of the supervisory staff. Mr. Daly responded that the Department wanted a document that could be understood, and that the Legal Aid Society had agreed that the Use-Of-Force Directive could be shortened without losing its impact as long as staff continue to be held accountable when they "go too far". He described the new Use-of-Force Directive as a shorter, clearer document that represented no change in policy. Mr. Lenefsky commented that the length of the document is not the issue, rather the issue is what the Department is conveying to the rank and file about its position on the use-of-force. Reverend Bryer added that he is also concerned about the practical implications of the new Directive. The Commissioner responded that training efforts regarding the new Use-Of-Force Directive must be an ongoing effort and that continued monitoring of staff conduct is essential. Mr. Daly emphasized that the Department has not changed anything: it reports all use-of-force incidents,

including allegations of use of force, within a prescribed time frame; these reports are, in turn, forwarded to the Investigation and Discipline Unit within one hour; and, the same people continue to respond to these incidents and investigate them as was the case in the past. Mr. Daly suggested that the Board had been misled about Departmental practices regarding the use of force.

Mr. Kasanof responded that unless Mr. Daly was prepared to state specifically who was misleading the Board, he should refrain from making such statements.

Mr. Bair added that the Commissioner has asked him, along with Mr. Adresen, to review all policies and procedures to personally ensure that no use-of-force incidents go uninvestigated. Mr. Kasanof responded that he draws substantial comfort from knowing that Mr. Bair will be personally involved in this matter.

The Commissioner then asked about the Board's position on making jumpsuits mandatory for inmates housed in punitive segregation. Mr. Daly added that the Department would like to be able to say to the Legal Aid Society and to Judge Lasker that it has the backing of the Board on this issue. Mr. Kasanof responded that when the issue is ripe for action the Board will rule on it. He suggested the Department request a variance rather than an amendment to the Standards in order to expedite the implementation of this practice. Mr. Kasanof added that although he has received an informal sense of the Board that it

would support the concept, the Board would not become involved in the negotiations between Legal Aid and the Department on this issue. The Commissioner stated that he understood the position being taken by the Board and felt that it would be helpful to the Department.

Mrs. Singer commented that the document about new programs which had been provided by the Department at today's meeting was very helpful.

Chairman Kasanof thanked the representatives of the Department of Correction and others present for their participation in the Board meeting. The meeting was adjourned at 3:35 p.m.