

NEW YORK CITY
BOARD OF CORRECTION
MEETING OF APRIL 8, 1992

Members Present

Judge William Booth, Chair
John Horan, Vice-Chair
Rev. Irvine Bryer, Jr.
Louis Cruz
Stanley Kreitman
David Lenefsky
Barbara Margolis
David Schulte

An excused absence was noted for Peter J. Johnson, Jr..

Representatives of the Department of Correction

Vito Turso, Deputy Commissioner
Robert Daly, General Counsel
John Shanahan, Assistant Commissioner
Marron Hopkins, Division I Chief
Tom Antenen, Public Affairs Manager
Roger Parris, Director of Health Services
Michael Cleary, Associate Staff Analyst
Lloyd Freckleton, Warden/Brooklyn House of Detention for Men
John C. Gnat, Warden/Manhattan Detention Complex
Joseph Stawkowic, Deputy Warden of Programs/BklynHDM
John Thompson, Deputy Warden of Security/BklynHDM
Roberto Otano, Captain #1036/C.S.S.U./BklynHDM
Julio C. Marquez, Assistant Director/Division of Design
David A. Fullard, Captain #604/BklynHDM
Sharon Thorne, Captain #42/Department of Investigation

Others in Attendance

Michael Tannebaum, Deputy Assistant Commissioner/DOH
Kevin McGrath, Director of Field Services/DOH
Mark Lewis, Clinic Administrator/BklynHDM/DOH
David W. Hardy, Reporter/NY Daily News
Selwyn Raab, Reporter/NY Times

The meeting was called to order in the Warden's conference room in the Brooklyn House of Detention for Men (BKHDM) at 2:00 p.m. after the Board members had gone on a tour of the facility.

Board member David Lenefsky made a motion to adopt the minutes of the Board meeting of March 11, 1992. Board member David Schulte seconded the motion. Mr. Schulte then requested that the Minutes be amended to clarify a statement that had been attributed to him in the Minutes. The Secretary to the Board, Carol Vargas, noted the clarification and without further discussion the Minutes were approved by all members present.

Chairman Booth requested that other Board members give their reports. Mr. Lenefsky said that at the last meeting the Board had deferred a vote on a Department of Correction (DOC) request for a variance to extend the required completion date for the clinic renovations at BkHDM. He moved that the Board vote to deny the request, which DOC had resubmitted for consideration at the meeting. Board member David Schulte seconded the motion. The motion was approved by all members present.

Mr. Lenefsky then requested that DOC report on the cost of Phase II of the building of the Contagious Disease Units (CDUs). Assistant Commissioner John Shanahan reported that DOC was awaiting delivery of the last cells for the completion of Phase I of the construction of the CDUs. He stated that the total cost

of Phase I was \$17 million, with an additional \$2 million for site, utility, and grading improvements. He then told the Board that the contractor quoted a price \$34 million for completion of the remaining 98 units, bringing the total cost of the project to \$55 million. Mr. Schulte asked that DOC send to the Board a copy of the total breakdown of the costs of these units. Executive Director Richard Wolf requested that the pro-rata cost of the buildings in which the individual CDU's cells would be placed also be included.

Mr. Lenefsky stated that it had been brought to his attention that there were some difficulties between Board staff and DOC regarding sharing information on the plans for construction of the clinic at BkHDM. He said that there should be effective communication between the agencies on all issues. Mr. Lenefsky reminded DOC representatives that at the last Board meeting the Chair had requested, and DOC had agreed to the request, that BOC staff be included in discussions concerning the BkHDM renovations.

Deputy Commissioner Vito Turso explained that BOC staff was not invited to attend the most recent internal meeting at the Department because other issues not relating to the renovations were also being discussed. He went on to say that it was his understanding that the Board had received all the relevant information pertaining to that meeting. Mr. Wolf told Mr. Turso

that the Board did not receive any information. He added that the information was to have been given to Board staff so that it could prepare for the Board meeting.

Mr. Schulte then began his report. He said that he attended a graduation ceremony of a STEP (Self Taught Empowerment & Pride) Program class at the Rose M. Singer Center (RMSC). He explained that participation in the program, which is run by the facility, is voluntary and that applicants who successfully complete it may submit this information to the Conditional Release Board as an item in their favor. Mr. Schulte said that while it is too early to say whether the program will be a total success, he believes that the Department is moving in the right direction in establishing it.

Mr. Schulte went on to describe his March 30, 1992 visit to the Anna M. Kross Center (AMKC) with Deputy Executive Director Cathy Potler. He stated he found conditions there, such as many light fixtures with exposed wiring, that were dangerous. Mr. Schulte reported that he and Ms. Potler had spoken with the Chief Mechanical Engineer at the facility who informed them that the facility had only 30 fixtures in stock while 100 were needed.

Mr. Schulte said that in addition to the lighting fixture problem, there was an inmate disturbance that resulted after cold food was served to the inmates. He explained that the food

was cold because a hot water heater tank, which was supposed to warm up the food, was broken and had been broken for a long time. Mr. Schulte stated that he and Ms. Potler also found two dishwashing machines, one of which had been broken for months. Mr. Schulte commented on the fact that the Department was still replacing broken porcelain toilets with porcelain ones, this despite the fact that everyone has long acknowledged that stainless steel toilets are more cost effective than porcelain toilets. Mr. Schulte asked that the Department comment on his findings.

Division Chief Marron Hopkins said that the Department was awaiting steel toilets that had been on order for the past 16 months, and that the out of state manufacturer was holding up delivery. Board member Louis Cruz suggested that a new request for proposals (RFP) be developed and submitted to local vendors. Chief Hopkins stated that he would present the suggestion to Department officials. Mr. Shanahan agreed that the Department should explore Mr. Cruz's suggestion. He added, with regard to the dishwasher problem at AMKC, that the Executive Director of the Nutritional Services Division, Victoria Verdiglione, had put in a request for a dishwasher to the Department of General Services (DGS). Mr. Shanahan reported that the facility was presently attempting to make emergency repairs on the dishwasher until a replacement arrives.

Chairman Booth asked if there were any other Member's reports. Vice-Chairman John Horan said that during the Chair's absence he learned of a problem that had arisen at the Adolescent Reception & Detention Center (ARDC) involving a correction officer and a member of the Board's field staff. Mr. Horan asked if the problem had been resolved and whether there had been any response from the Department regarding the incident. Mr. Wolf reported that the matter was partly resolved and requested that further discussions pertaining to the incident be discussed in Executive session. Mr. Horan agreed.

Board member Stanley Kreitman asked that the Department comment on the status of the three barges. Mr. Shanahan informed Mr. Kreitman that the Department had plans to sell both barges once the lease on the vessels has expired and DOC exercises its option to purchase them. He said that Bibby Venture, located on the west side of Manhattan, was closed and that the Bibby Resolution, located on the east side of Manhattan, would continue operation as a work release facility until it could be sold. He further explained that DOC General Counsel Robert Daly was presently negotiating the taking of title to the barges, to allow for that eventuality. Mr. Shanahan stated that once the barges are sold they will be moved from their present location. Chairman Booth asked Mr. Shanahan if the new barge had been opened. Mr. Shanahan said that the Department was completing some customizing work on the barge and that it was not open.

Board member Reverend Irvine Bryer, Jr. asked Department representatives if the City would suffer a financial loss as a result of the sale of the Bibby barges. Mr. Daly explained that the barges were being appraised and that DGS would put both barges up for bid and sell them to the highest bidder, so that predicting a loss or gain before that time would not be possible.

The Chairman requested the staff report from Executive Director Richard Wolf. Mr. Wolf reported that DOC had informed BOC that there had been an outbreak of measles in the system, originating in AMKC. Deputy Assistant Commissioner Michael Tannenbaum, of the Department of Health (DOH), stated that he would leave for Board member and staff review a copy of the isolation order that the Deputy Commissioner of Clinical Services Dr. James Neal issued April 7, 1992 .

Mr. Wolf then reported on the inmate census and Department capacity. He stated that on the day of the meeting there were 21,747 inmates in the City's jails and the system was at 98.6% of capacity. He said that on the day of last month's Board meeting, March 11th, there were 21,614 inmates.

Mr. Wolf went on to say that there were 2,788 overdue State prisoners and that this number would be enough to fill AMKC. He explained that on March 11th there were 2,389 overdue prisoners. The current number represented an increase of 399 overdue State

prisoners within one month, an amount slightly higher than the capacity of the Bibby Resolution. He stated that had the number of overdue inmates remained unchanged from last month, the census would be only 21,348 or 266 less than last month's figures.

Mr. Wolf said that a year ago to date, the census was 22,239. He stated that at that time DOC reported 348 overdue State inmates. However, Board staff knew that DOC had lost track of many more overdues in their system. He said that estimates put the actual number at around 1,500 overdue inmates. Had the City managed to prevent the number of overdue inmates from growing to its present level, there would be a little over 1200 fewer State overdues in the City jails. The census would be 20,459, or only 92.8% of capacity.

Mr. Schulte requested an update on the status of the lawsuit against the State regarding this issue. Mr. Daly replied that the City was still awaiting a response from the Judge who was handling the case. Mr. Schulte asked why, if the response was still pending, the barges were up for sale when the Department could still face a shortage of capacity because of the presence of the overdue State prisoners? Chairman Booth said that it was not the responsibility of the City to either build or maintain housing to accommodate State inmates.

Mr. Daly informed the Board that former Acting Commissioner

Gerald Mitchell had sent a letter, on March 25, 1992, to the Commissioner of New York State Department of Correctional Services, Thomas Coughlin, saying that the City had spent a great deal of money to build adequate capacity for housing City inmates, State inmates. Mr. Daly reported that the letter also told Mr. Coughlin that the City plans to close its two upstate jails and bring the inmates housed there back to City facilities. Mr. Daly stated that the Department was confident that once the State takes its inmates, the City would have adequate capacity even without the two Bibby barges. He added that the Federal Bureau of Prisons was presently interested in leasing one of the barges until the end of the calendar year to help alleviate its overcrowding problem.

Mr. Shanahan added that if the Department were to experience an overcrowding problem after the State took its inmates and the Bibby barges and the City's upstate facilities were sold, the Department could still rely on the 800 bed barge for additional capacity. Chairman Booth asked when the 800 bed barge would be officially opened. Mr. Shanahan stated that there had been no official date set.

Mr. Kreitman noted that since his appointment to the Board there had been numerous discussions of the crisis of overdue State prisoners within the City's jails. He suggested that there be a meeting with the Board's Chairman, the DOC Commissioner, the

Deputy Mayor of Criminal Justice, the State Commission on Corrections, and the State Criminal Justice Coordinator to resolve this problem. Mr. Daly informed Mr. Kreitman that the new Commissioner, Catherine Abate, had already met with Commissioner Coughlin on this matter. He noted that the Department had the full backing of the City administration as evidenced by its approval of DOC's participation in the lawsuit to force the removal of State inmates. Chairman Booth requested that Mr. Wolf set up the meeting suggested by Mr. Kreitman.

Mr. Wolf then continued with the staff report. He raised the issue of the report released by the Department of Investigation (DOI). He stated that the report contained three significant findings: (1) uniformed staff deliberately falsified records to make it appear that the Manhattan Detention Complex was complying with Judge Lasker's order that newly-admitted inmates receive beds in housing areas within 24 hours of admission, (2) inmates had been housed prior to being medically screened, and (3) DOC did not have a system to properly audit the procedures designed to ensure compliance. Mr. Schulte requested that Department representatives comment on the DOI investigation.

Mr. Daly said that earlier in the day he had met with Judge Lasker who said that if he had ordered the Department to do something that could not be done, DOC should have told him and explained the difficulties of complying with the Order. Mr. Daly

stated that he agreed with the Judge and that he was preparing a document that would contain DOC's plan to correct the problems identified in the DOI report. He assured the Board that he would forward a copy of this document to the Board for its review.

He went on to briefly summarize what would be contained in the response. Mr. Daly stated that as a result of the DOI report the Department would: (1) conduct more frequent audits of new admissions processing, (2) record telephone calls between the main office and the new admissions Captains, (3) conduct training for the Division Chiefs and Wardens on new admission policies and compliance with BOC Minimum Standards and (4) take disciplinary action against those staff members recommended for such action in the DOI report. Mr. Daly added that Mr. Wolf accepted the invitation to attend and assist in the training program.

Mr. Schulte stated that in the DOI report on page 32 "Deputy Chief Hector Eugui testified that he authorized the housing of new admission inmates prior to medical screening in violation of Departmental orders." He stated that the Department could educate all the Correction Officers, Captains and the Deputy Wardens, but if an official as high as the Deputy Chief could authorize an illegal act, the Department is in serious trouble. Mr. Schulte then asked the Department if Deputy Chief Hector Eugui was still in that position. Mr. Daly informed the Board that Mr. Eugui was removed from his position as Deputy Chief.

Rev. Bryer requested that a motion be made to endorse the Department's plan to revamp the process for auditing new admissions and to notify the Board within ample time of the results of the audits. The motion was seconded by Mr. Cruz, and approved by all members present.

Chairman Booth asked the Department to present its variance requests. Mr. Wolf reported that the Department had requested a program related variance for the CDU's. He explained that the Board's Standards require that inmates be allowed to go to the law library two hours a day, five days a week. Because the inmates in the CDU's are to be medically isolated the Department has requested that it be allowed to bring the law library services to the inmates. Mr. Wolf explained that there will be a part-time law library coordinator working, four hours a day, five days a week just to serve those 42 units. A motion to grant the request was made by Mr. Cruz, seconded by Mr. Horan, and approved by all members present.

Mr. Wolf reported that DOC had also requested a renewal of all existing space and program variances. Mr. Horan made a motion to grant the request, Mr. Kreitman seconded the motion, and the motion was approved by all members present.

Chairman Booth declared the meeting adjourned at 3:20 p.m..