

NEW YORK CITY

BOARD OF CORRECTION

MEETING OF SEPTEMBER 9, 1992

MEMBERS PRESENT

William Booth, Chair
John Horan, Vice-Chair
Louis Cruz
David Lenefsky
Barbara Margolis

Excused absences were noted for Board members Reverend Irvine Bryer, Jr., Peter J. Johnson, Jr., Stanley Kreitman and David Schulte.

REPRESENTATIVES OF THE DEPARTMENT OF CORRECTION

Catherine Abate, Commissioner
Marron Hopkins, Chief of Department
James Shine, First Deputy Commissioner
Antonio Figeroa, Deputy Commissioner of Capital Development
Lacy C. Johnson, Deputy Commissioner of Investigation &
Management Services
Amy Singer, Deputy Commissioner of Strategic Planning
Vito Turso, Deputy Commissioner of Public Affairs
John Shanahan, Assistant Commissioner of Capital Development
Robert DeRosa, Chief of Compliance
Nancy Reese, Deputy Chief of Facility Operations
Tom Antenen, Public Affairs Manager
Eric Sorenson, Associate Staff Analyst, Strategic Planning

REPRESENTATIVES OF THE DEPARTMENT OF HEALTH

June Binney, Deputy Commissioner, Correctional Health Services
Dr. James Neal, Deputy Assistant Commissioner, CHS
Kevin McGrath, Director of Field Services, CHS

OTHERS IN ATTENDANCE

Thomas Brennan, Deputy Inspector General, DOI
Dale Wilker, Legal Aid Society, Prisoner's Rights Project
Maria Vega, El Diario

The meeting began at 2:10 p.m.. Chairman William Booth welcomed the Department of Correction (DOC) Commissioner, Catherine Abate, her staff, and the other attending guests.

Chairman Booth requested that the Commissioner briefly introduce to the Board the newly appointed members of her staff. Commissioner Abate introduced the following appointees: Antonio Figeroa, Deputy Commissioner of Capital Development; Amy Singer, Deputy Commissioner of Strategic Planning; Lacy Johnson, Deputy Commissioner of Investigation and Management; and Nancy Reese, Deputy Chief of Facility Operations.

Chairman Booth called for a motion to adopt the minutes of the Board meeting of July 8, 1992. The motion was made by Board member David Lenefsky, seconded by Board member Louis Cruz, and approved by all members present.

The Chair announced that there would be no Chair's Report and asked for Members' Reports. Board member David Lenefsky congratulated the Commissioner on her resolution of the State-ready crisis. He then began discussions on the medical clinic renovations at the Brooklyn House of Detention for Men (BkHDM). He stressed the importance of the issue and asked that the Commissioner bring the same sense of energy and commitment to the BkHDM renovations as was brought to the crisis of overdue State inmates.

Mr. Lenefsky reported that prior to the Commissioner's appointment, the Board had conducted a meeting at the BkHDM. The Board members took a tour of the facility's clinic and saw first hand the conditions there. He stated that in February, 1991, First Deputy Mayor Norman Steisel and then-Deputy Mayor Milton Mollen gave commitments to the Board to the effect that funding for the renovations would be made available. He noted that in addition to City Hall's commitments, the Departments of Correction and Health had also made promises about the completion date of the renovations. Mr. Lenefsky noted that it was his understanding that the renovations had not started.

Commissioner Abate informed the Board that she had recently spoken with the Office of Management and Budget (OMB) about the problem, and had been told that OMB was hesitant to provide funding for short term renovations while it was preparing to fund a long term renovation project (C-104) that would include improvements to the clinic at BkHDM. Deputy Commissioner Antonio Figeroa added that City's procurement process had caused problems with scheduling renovations. He said that Assistant Commissioner John Shanahan's office had formulated a short-term plan that could be implemented and completed within a matter of six to eight months. Mr. Figeroa stated that in addition to reaching into its own capital budget to fund the renovations, the Department was also seeking additional funding sources. Commissioner Abate put the cost of the renovations at \$800,000.

Mr. Lenefsky reiterated that the Board had received a firm commitment from City Hall a year and a half before that the funding to renovate BkHDM's clinic would be made available. In addition, Mr. Lenefsky said that at the last Board meeting Mr. Shanahan had reported that the project could be completed within a two month rather than an eight month period.

Commissioner Abate stated that she was unaware of any commitments made by City Hall and requested that the Board provide her with a copy of any documentation of the agreement, indicating that she would present it to OMB. Chairman Booth stated that the commitment was given to the Board orally by First Deputy Mayor Steisel at a meeting which Deputy Mayor Mollen also attended. Mr. Lenefsky stated that the Board would provide Commissioner Abate with a copy of the follow-up memo received after the aforementioned meeting with the Deputy Mayors. Executive Director Richard Wolf stated that on numerous occasions, DOC representatives had made repeated assurances that the money for the renovations was available. He stated further that it was always clear that inquiries about funding concerned the short-term renovation plans, not the plans for C-104. In support of statements made by Mr. Lenefsky and Mr. Wolf, Board member Louis Cruz stated that he clearly recalled Mr. Shanahan's assurances to the Board as far back as March, 1992.

Assistant Commissioner John Shanahan stated that the

comments made by the Board members and the Executive Director were correct. He reported that in March, 1992 he had made a presentation to the Board outlining the plans for the renovations, including the schedule and budget. Mr. Shanahan agreed that at that time he assured the Board that the money necessary for the renovations was in the budget. He said that this was still true. Mr. Shanahan explained, however, that the Department had asked OMB for the authority to use money designated for the C-104 plan to fund the short-term renovations of the BkHDM clinic. To date OMB has declined that request.

Mr. Shanahan reported, with regard to the timetable for the renovations, that it would take two months to construct the trailers but that it would take approximately seven months for completion. He explained that the seven months would include the bid and award process for the City contract, the manufacturing process, and the installation of the trailers. In closing, Mr. Shanahan informed the Board that DOC had also requested that the Department of General Services carry out the construction of the C-104 renovations.

Chairman Booth asked if it might help if the Board requested the assistance of the First Deputy Mayor in pushing the project along. Commissioner Abate said she would like to see the documentation of City Hall's commitments with respect to the funding for the renovation project and then discuss what measures

should be taken. She added that she believed OMB would possibly reconsider its opposition in the face of evidence that officials at City Hall had promised to provide funding.

Mr. Lenefsky stated that he could not understand why DOC staff did not follow-up on the issue of renovations at BkHDM. He then told the Commissioner that Board staff would forward to her a copy of the commitments that were made to provide funding for the BkHDM clinic.

Executive Director Richard Wolf stressed that no matter how long it took to complete any renovations something must be done within the interim to correct the extraordinarily inadequate conditions within the BkHDM. He stated it was impossible for confidentiality requirements to be met when a doctor must counsel an inmate who tests positive for HIV in a room as small as the Board's conference table, with two other doctors attempting to counsel other inmates simultaneously.

Board member Louis Cruz stated that at the Board meeting in the BkHDM he noticed that the staff lounge area was clean and spacious. He suggested that the Commissioner look into using this area temporarily in order to provide a humane environment for counseling inmates.

Mr. Lenefsky stated that the next three issues would be

directed to the Department of Health. He stated that the first issue was the plan for providing out-to-court-medications. Mr. Lenefsky reported that at the last Board meeting DOH had promised to provide the Board with a copy of the plan prior to the meeting. The Board had not received the document. Deputy Commissioner June Binney apologized for the delay and informed the Board that she had brought the document to the meeting. After passing copies to the Board members and staff, she asked that the report's author, Deputy Assistant Commissioner Dr. James Neal, be permitted to briefly describe the plan.

Dr. Neal said that his report addressed issues of concern to the Board, and noted that substantial progress had been made. He said that a group called the Pharmaceutical and Therapeutic Committee (P&T) would examine the provision of services throughout the system with the aim of standardizing levels of health care. He reported that DOH did have procedures in place that would provide out-to-court medications to inmates who needed them. Dr. Neal explained that DOH has put in a proposal to OMB for the funding, and that OMB was still in the process of reviewing the proposal.

Dr. Neal explained that the P&T Committee had taken on the task of evaluating all of the individual formularies and would seek to ensure that the medications ordered by the individual divisions fit the administration's plans with respect to

provision of medication. P&T would also be responsible for seeing to it that Chief Physicians review individual charts and ensuring the appropriateness of twice a day medication for inmates who participate in the program. Dr. Neal said that P&T would oversee the computerization of the whole Pharmaceutical Management System in Correctional Health.

Chairman Booth asked why the report had just been given to the Board when it was dated July 28, 1992, two months before the meeting. He then said that there was little point in attempting to discuss a document the Board members and staff had not had a chance to read.

Deputy Commissioner Binney apologized for the lateness of the report. She then reported that DOH had made it very clear to OMB that the expansion of the "Carry Program" at the Anna M. Kross Center (AMKC) and Rose M. Singer Center (RMSC) is a top priority. She said that OMB would respond to DOH at the beginning of the following week.

Deputy Executive Director Cathy Potler asked if the report contained a plan for handling inmates who require psychotropic medication or medications that are controlled substances.

Dr. Neal reported that the report did contain information related to psychotropics and controlled substances. He stated,

in addition, that the report contained an extensive section on the management of patients on psychotropics and recommendations on how to correlate pharmaceutical reports and mental health therapy.

With regard to controlled substances, Dr. Neal stated that there were very few instances where an appropriate substitution could not be identified or made available.

Mr. Lenefsky then began a discussion of the report that was supposed to have been done on the Observation Aide Program, asking that the Department of Health discuss its progress. Ms. Binney stated that the report would be completed by the end of the day or the next day at the latest. She said that following its completion, the report would be reviewed by DOC and then made available to the Board.

Mr. Cruz requested that Deputy Commissioner Binney briefly share the highlights of the report with the Board. Ms. Binney stated that the report provided sufficient evidence to conclude that the Program is working very well. She added that DOH would become more involved with the Board on issues involving the training of observation aides. Mr. Cruz asked that the report become available to the Board prior to the next Board meeting.

Mr. Lenefsky then began a discussion of the lack of response

from DOH on the Health Surveys conducted by the Board on the following dates at the following facilities: July 6, 1992 - Rose M. Singer Center (RMSC); August 5, 1992 - Correctional Institution for Men (CIFM); and August 17, 1992 - George Motchan Detention Center (GMDC). He requested that the Board receive a response from DOH as soon as possible.

Ms. Binney explained that DOH had been unable to provide a prompt response because, in addition to the Board's survey, the agency had to respond to similar audits conducted by the Department of Mental Health (DMH) and Montefiore. Ms. Potler stated that the problems identified by the Board were more system-wide than the issues that would be raised in the other audits. Mr. Lenefsky commented that he could appreciate the problems that DOH was experiencing with auditors, but that this was no excuse for a delay in responses to the Board. He requested that the Board receive responses to these surveys within a reasonable time frame. Ms. Binney apologized for the delays and stated that the Board would receive a response within three weeks.

Mr. Lenefsky then asked DOC to discuss Phase II of the construction of the Contagious Disease Units (CDUs). Commissioner Abate informed the Board that Phase II of the project began September 1, 1992 and that the Department anticipated meeting the timetable set by the court. She stated

that the ninety-eight (98) beds would be completed as of May 1, 1993.

Mr. Lenefsky asked if the cost for Phase II would remain the same. Commissioner Abate stated that the cost would remain roughly the same. Deputy Commissioner Figeroa explained that there was some increase in cost because minor additions to Phase I had been incorporated into the cost of Phase II.

Mr. Cruz inquired if the settlement had been finalized by the court. Commissioner Abate stated that the challenge would be ensuring compliance after receiving settlement of the lawsuit. Deputy Commissioner Vito Turso added that on September 21, 1992 the Judge will be conducting a follow-up hearing at which time it is expected that she will approve the settlement.

Commissioner Abate explained that the removal of overdue state-ready inmates, which include adult and adolescent parole violators, will be completed as of October 1, 1992. She reported that this would leave no more than seven hundred State inmates in the system. Mr. Cruz asked what would happen if their stay surpassed ten days. He suggested that the State pay the entire cost of the inmates remaining in the City custody. Commissioner Abate stated that she would rather have the State remain in compliance with the settlement and move its inmates out of City jails.

Chairman Booth then asked for the staff report from Executive Director Richard Wolf. Mr. Wolf requested that the Department address the issue of population and capacity, including the plans for the Bain Barge.

Commissioner Abate stated that she was awaiting a call from the Bureau of Prisons which was presently conferring with the Department of Justice. She stated that it was unclear whether or not the Bureau and DOC had a deal but that she would have an answer by the end of the day. She further explained that the Department thought that the matter had been settled, but now the Bureau was unsure if it had the money to spend. She indicated that she was not prepared to state whether the deal would be closed.

Mr. Wolf asked Commissioner Abate if there had been any revised population projections for the Fall or for the end of the year. Commissioner Abate stated that the Department's projections had been based on certain figures such as the decline in the arrest rate and the decline in admissions. Mr. Lenefsky asked her to explain further. Associate Staff Analyst for Strategic Planning, Eric Sorenson further explained that when there is perceived capacity the criminal justice system usually adjusts. He stated that the adjustment could be reflected through the plea bargaining, longer trials, and longer lengths of

stay.

Chairman Booth stated that he did not understand Mr. Sorenson's explanation. He stated that during his thirteen years as a judge he never considered whether his sending an individual to jail would increase the capacity of the jails. He stated that that was not his function nor was it something he worried about. Mr. Sorenson clarified his explanation by stating that down the line decisions, perhaps made by District Attorney's, for example, reflect upon the capacity of the City jail system.

Commissioner Abate stated, with regard to population, that the Department could come up with sophisticated projections but that they must be careful when trying to anticipate situations that could be affected by other branches of the criminal justice system. In addition, she stated that at present the Department was protected from overcrowding because the two upstate jails would remain open until December 31, 1992. She stated that she remained concerned about the number of down cells in the system and requested that Mr. Figeroa be permitted to briefly outline his plans with regard to that issue.

Mr. Figeroa described his plan to attack the problem of down cells. He stated that money from the capital budget would be distributed to repair the approximately 200 cells in need of

major repair. He said that a total of \$168 million would be put aside for this program; \$78 million would be for housing repairs and ninety million would be for kitchen repairs.

Mr. Wolf commended Mr. Figeroa on behalf of the Board and stated that this accomplishment had been something the Board had championed for years. He added that he thought Board member David Schulte would be happy to hear of the Department's plans in this regard. He stated that it was Mr. Schulte's attention to such details that prompted Board staff to undertake surveys of the fixtures within Department facilities. Mr. Wolf stated that most recently the Board had completed a survey of the Anna M. Kross Center (AMKC). He reported that the circumstances at AMKC were as bad if not worse than those found at the Adolescent Detention and Reception Center (ARDC). He attributed the conditions to the result of the years of inattention and/or lack of funds.

Board member Barbara Margolis asked if the 200 cells in need of major repairs were dispersed throughout the system or were located mainly in a few jails. Mr. Figeroa informed the Board that the cells were dispersed throughout the system.

Mr. Cruz asked if the problem that occurred last year with regard to overtime would affect the timeliness of cell repairs. He asked if Mr. Figeroa had the flexibility to increase the

maintenance staff for the repairs. Mr. Figeroa stated that he would propose the redeploying the maintenance staff as a way to address this issue. In addition, Commissioner Abate informed the Board that she intended to present the problem to OMB along with a plan to ensure that the project goes forward. If OMB declines to accept the proposal, the Department will still attempt to make substantial headway.

Mr. Wolf said that Board staff had viewed a videotape of conditions within the Visit House of the Correctional Institution for Men (CIFM). He stated that as a result of the condition of the roof in the visit house, portions of visit house are unusable on rainy days. In addition, he stated that vending machines (required by Board Standards) are also unusable. He explained that when Board staff raised the issue with DOC officials, they were told that the facility did not have the funds to make repairs.

Mr. Wolf asked if the Department had a solution to this problem. Mr. Figeroa informed the Board that the repair of the roof at CIFM had been included in the Capital budget plan project. Assistant Commissioner Shanahan stated that the response the Board received was directly from the facility. He stated that the facility is unaware of the plans for the Capital budget. Mr. Wolf stated that Mr. Shanahan's statement suggested that there should be better communication between Central Office

and the facilities about these matters.

Mr. Figeroa asked that the Board send all future letters addressing issues of maintenance, repairs, or capital development to his attention.

Mr. Wolf then turned the discussion to the homicide that occurred on August 23, 1992 at the George Motchan Detention Center (GMDC). Mr. Wolf asked DOC to comment on the event.

Chief of the Department Marron Hopkins reported that a fight had occurred between two adult prisoners in which one inmate stabbed another. He reported that after a facility search two shanks were recovered and it was discovered that another inmate had participated in the stabbing incident. Chief Hopkins reported that, at present, the Department was pressing the District Attorney to charge the inmates involved with homicide.

Mr. Wolf stated that there were two additional issues pertaining to the homicide that he wished to address. First, in the summer of 1990, the Board sent a security report to DOC questioning the wisdom of relying on cameras as substitutes for staff. He said that according to the report received regarding the most recent homicide, the incident apparently occurred when one Correction Officer was patrolling two different areas of a Modular and was on the opposite end of one of them. He stated

that the way Correctional Staff found out that an incident was occurring only when an inmate told the Officer in the "A" station. Mr. Wolf stated that maintaining safety for facility staff and inmates is a continuous concern of the Board. He then stated that his second issue of concern was where the weapons were found. He stated that it was his understanding that the shanks were found in the air-vent with the metal mesh missing. He said this raised a question as to the quality of security patrols.

Commissioner Abate revealed that the Department was preparing a comprehensive plan, including a videotape, that discusses the issue of violence. She stated that Department staff would be retrained in the methods concerning use-of-force as of September 14. Chief Hopkins further explained that new language would be added to the use-of-force policies in addition to the retraining of Assistant Deputy Wardens (ADW) and Deputy Wardens (DW). He noted that following the training of the ADW's and DW's, Captains and Correction Officers will receive retraining during roll-call. Commissioner Abate stated that once the videotape was completed she would forward a copy to the Board.

Board member Louis Cruz asked if the Department had procedures for tracking violence for both officer vs. inmate and inmate vs. inmate incidents. Deputy Commissioner Lacy Johnson

explained that one of his functions was to institute programs to begin tracking such incidents. Mr. Wolf stated that Mr. Johnson would be coming to the Board office get ideas from Director of Information Systems, James Bennett who had already set-up a system that tracks violence and the use of force.

Chief Hopkins added that the Department was presently producing monthly reports that tracked all incidents involving use of force within all of the facilities. He stated that Chief Wagenstein's office was responsible for tracking inmate-on-inmate incidents.

Mr. Wolf commented that DOC has a Directive that states that if a uniformed staff person is involved in three or more use-of-force incidents within a year he/she is supposed to be counseled or action is to be taken. He stated that that procedure is rarely followed. Mr. Wolf reported that the Board has a computer program that lists as far back as 1986 the names, shield numbers, and facilities of every single reported use-of-force involving all ranks within the Department.

Chairman Booth then asked the Department if there was any progress with the institution of new search procedures for individuals coming into the jails. Commissioner Abate stated that she had discussions with the Deputy Mayor and that they were going to test new equipment and procedures during the forthcoming

month. She informed the Board that they were looking to begin the procedures in CIFM and ARDC but that prior to beginning they wanted to receive the support of the officers, OMB, and the Deputy Mayor.

The Chair then began a discussion of the hostage situation that occurred in the Queens House of Detention on Tuesday, September 1, 1992. He said that the Board's Director of Field Operations, Carl Niles, had been present during the negotiations, which ended without the inflicting of serious injuries. Commissioner Abate applauded the efforts of the staff present including Department Chief Hopkins, Chief Allen, and Chief Wagenstein. She explained that in addition to demanding use of the telephone, the inmates requested that the Inspector General's Office be present. She stated that what could have been a disastrous situation ended peacefully and staff responded calmly. She reported that the inmates were segregated and the inmate held hostage received medical care.

Chairman Booth addressed the issue of variance requests. He stated that the Board received a letter from Chief of Compliance, Robert DeRosa requesting a renewal of all existing variances. Board member David Lenefsky made a motion to grant a renewal of all existing variances, Vice-Chairman John Horan seconded the motion, and was approved by all members present.

At the request of Commissioner Abate, the date of the next Board meeting was changed from October 14, 1992, to October 21st.

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