

NEW YORK CITY  
BOARD OF CORRECTION  
MEETING OF SEPTEMBER 13, 1994

MEMBERS PRESENT

William H. Booth, Chair  
Canute C. Bernard, M.D.  
Stanley Kreitman  
David Lenefsky  
Barbara A. Margolis

Excused absences were noted for John R. Horan, Vice-Chair and Board members Peter J. Johnson, Jr., David A. Schulte and Louis A. Cruz.

REPRESENTATIVES OF THE DEPARTMENT OF CORRECTION

Anthony Schembri, Commissioner  
Eric Taylor, Chief of Department  
Robert DeRosa, Chief of Compliance  
Robert Wagenstein, Deputy Chief  
Tom Kelly, Deputy Commissioner for Public Affairs  
Gary Lanigan, Deputy Commissioner for Administration  
Fred J. Patrick, Acting Deputy Commissioner of Programs  
Robert Daly, General Counsel  
John Meglio, Special Counsel  
Andrew Harris, Assistant Commissioner for Budget  
John Picciano, Assistant to Chief of Department  
Leonard Venechanos, Director of Design

REPRESENTATIVES OF THE DEPARTMENT OF HEALTH

Michael Tannenbaum, Assistant Commissioner  
Arthur Angst, Director, Budget and Procurement  
Ruth Cecire, Director, Special Projects  
Arthur Lynch, Director, Prison Mental Health  
Laura Szapiro, Director of Field Services  
Zoe Kollaras, Infectious Disease Coordinator

REPRESENTATIVES FROM THE CITY COUNCIL

Peter Sheingold, Office of Oversight and Investigation  
Bernard O'Brien, Policy Analyst

REPRESENTATIVES FROM THE STATE COMMISSION OF CORRECTION

Ed Wutzer, Chair  
John Guzman, Correctional Facility Review Specialist  
Patricia Thomas, Correctional Facility Review Specialist

OTHERS IN ATTENDANCE

Dan Janison, NY Post  
Mark Mooney, NY Daily News  
Maria Vega, Reporter, El Diario

Chair William H. Booth opened the meeting at 12:30 p.m. He introduced and welcomed the Chair of the State Commission of Correction, Ed Wurzer.

Dr. Canute C. Bernard made a motion to accept the minutes of the July 13, 1994 Board meeting. David A. Lenefsky seconded the motion. The minutes were so approved and there were no Board member reports.

Commissioner Schembri reported that at ARDC there was a reduction in stabbing and slashing incidents in the first six months of 1994 as compared to first six months of 1993. The Commissioner added that there were 500 more inmates at ARDC in 1994 than in the previous year.

The Commissioner said he had undertaken the following initiatives to combat violence in the jails:

- \* A poster has been placed in every jail receiving room announcing that all inmates who assault staff will be arrested, that a report will be included in the inmate's pre-sentence investigation, and that a consecutive sentence will be requested and obtained.

- \* Tactical Search Teams (TST) were established to recover weapons in the jails. In the first three weeks of operation, TSTs had recovered 183 weapons.

- \* Red inmate identification cards have been developed and issued to any inmate found to be in possession of a weapon. This will alert correction officers to potentially dangerous inmates who should be searched more often. The Commissioner stressed that correction officers must understand that this card should not be used to harass the inmates or as an excuse to use excessive force.

- \* The television set will be removed from a housing area for one day whenever an inmate is found in the housing area with a weapon. The inmate

will be transferred to another institution to prevent him from being assaulted or harassed by the other inmates.

\* The Commissioner reported that the Arrest Unit has been transferred from the Criminal Justice Bureau to the Deputy Commissioner of Investigations. Commissioner Schembri said that the Department of Correction (DOC) is a law enforcement agency and should not have to request permission from any District Attorney's offices to arrest inmates. If an inmate assaults a correction officer, the inmate will be arrested immediately. Three inmates have been arrested for assaulting officers and six inmates were arrested for assaulting other inmates.

Commissioner Schembri announced that the Inmate Grievance Unit was transferred from Investigations to the Deputy Commissioner for Programs Fred Patrick. Mr. Patrick reported on his investigation into the timeliness of legal mail delivery to inmates. He found that inmates were not receiving their legal mail in a timely manner. Commissioner Schembri reported that in an effort to combat that problem, time/date stamps have been placed in all of the facilities' general offices, except the Brooklyn House of Detention for Men (BKHDM), Correctional Institute for Men (CIFM), Manhattan Detention Center (MDC) and Queens House of Detention (QHD). These facilities have inoperable time/date stamp machines and are currently awaiting replacements. Meanwhile, the mail is being logged by hand. Currently, DOC is working on developing an institutional order that will require the delivery of legal mail to inmates within 24 hours of the Departments' receipt as required by the Minimum Standards. By the next Board meeting, the Board members will have a copy of it. Mr. Wolf stated that the order should follow the Minimum Standards, requiring delivery of all mail within 24 hours of receipt by the Department. Commissioner Schembri agreed.

Mr. Wolf said the Board supported many of the Commissioner's initiatives, but noted that they had not yet reduced violence. He noted that in August, the rate of violence was higher than the month of July. In July there were 101 stabbing or slashing incidents. In August there were 92. When one compares the number of incidents in August with the average monthly total for the preceding year, 70, August's total was 31% higher than the average. Mr. Wolf added that uses of force, a good barometer for how things are generally going in the system, are high. In August, there were more reported "A" uses of force - the most serious category - since September 1990.

Commissioner Schembri stated that there is a new strain of criminal offenders. At ARDC there are youth who will "cut you for fun". More programs are needed to occupy their time. As a result the Commissioner developed a Hispanic Needs Task Force. He feels that DOC has not been doing enough to meet the needs of the Hispanic population. For example, Hispanic inmates under-utilize the library. There are some Hispanic grocery products that should be available in the commissary.

Mr. Wolf noted that only six of the 32 legal coordinators speak Spanish. Mr. Wolf inquired as to how the Hispanic Needs Task Force would address this problem.

Commissioner Schembri stated that the Task Force is looking at the number of Spanish-speaking officers in the visiting rooms and the law libraries. Mr. Wolf asked how officers are selected for those assignments. Mr. Daly responded that in the future post assignments will include the bilingual criterion as an additional qualification. Commissioner Schembri

added that it violates the rules to put a Spanish-speaking individual in that position if that person is not senior. Mr. Wolf said that depending upon what happens with the budget on the civilian side and the extent to which DOC can hire the necessary legal coordinators, this would be a particularly good opportunity to specifically seek out bilingual people. The Commissioner concurred and said that if that happens then he would personally go out into the Hispanic community and work with Hispanic leaders to recruit more Spanish-speaking staff.

Deputy Commissioner Patrick reported that all programs and services are being reviewed to find ways in which they can be enhanced for the Hispanic inmates. For instance, in the few general libraries in the jails, Spanish language material is not available. Seventeen cases of Spanish language materials have recently been donated to the Department. Based on an inmate survey that was conducted, certain Hispanic foods will be made available in the commissaries. Beginning on October 1, English as a Second Language and other bilingual services will be provided. Mr. Patrick reported that the Department is trying to attract Spanish-speaking volunteers who can do quasi-social work functions. During the budget crisis, Mr. Patrick stated that the Department must develop interim measures to augment the lack of staff.

Mr. Wolf discussed jail capacity. He said that Mr. Daly, Deputy Chief Nancy Reese, Deputy Chief Robert Wagenstein and many others worked during most of last weekend trying to find beds for inmates. Mr. Wolf noted that several months ago the Department announced that the Brig would be reopened in the fall. The Department's projections on what its population would look like were quite close and it was expected that the Brig would open on September 12, 1994 and approximately 350 inmates were going to be moved in

by then. In anticipation of that, DOC sent staff and about 50 inmates to get the jail ready. Within days, the Brig was closed again. Mr. Wolf asked Commissioner Schembri to report on the status of the Brig.

Commissioner Schembri remarked that he was not convinced that every bed was filled on Rikers Island. Over the weekend an additional 80 beds were found. The Commissioner stated that the Brig would be staffed completely with overtime.

Board member David Lenefsky asked who made the decision to open the Brig. Commissioner Schembri responded that it was his decision to open and to close the Brig. The Commissioner stated that when he is absolutely sure that all of the beds are being used, he will inform OMB Director Abraham Lackman and the Mayor that the Brig is going to open. Commissioner Schembri said that he wants to be as efficient as possible. The Commissioner noted that during his first two weeks at the Department, there were 544 down cells, and now there are 140.

Mr. Lenefsky asked Commissioner Schembri how BCF would be staffed and when the decision to open BCF was made, was it clear that there were no available beds on the Island. Commissioner Schembri responded that he felt it would open within the next few days. Mr. Lenefsky said that something must have happened within 24 hours that changed the Commissioner's mind. Commissioner Schembri noted that additional beds were found. Mr. Lenefsky remarked that obviously if more beds were found then there was no need to open BCF.

Mr. Daly reported that the projections at that given time contributed to the decisions made. In January 1994, when the Department closed BCF,

they decided that it would not be needed unless police activity increased. During the summer months, police activity increased by 10%. In the last two weeks of August activity increased 16% over the rate in 1993. Finally, within the first few days in September police activity went up 26% over what it had been one year earlier. Based upon these observations, the Department decided to open BCF on September 12, 1994. In an effort to avoid having the problem Commissioner Sielaff had when he was held in contempt for placing inmates in gymnasiums, Mr. Daly stated that BCF was opened. Since the Department was not funded to operate BCF, the Commissioner stated that it would be too expensive to open the facility. The only alternative was to open the Wildstein ferry, which was not in the best condition.

Mr. Lenefsky asked the Commissioner how, with the budget cuts, BCF would be staffed once the decision has been made to open the facility. While the Commissioner responded that he did not think that the answer to crime was to "throw more blue at it," he was convinced that there was a clear and present need for more officers, especially with opening of 500 additional emergency beds next year. The Commissioner said he asked the Mayor for permission to hire more officers.

Commissioner Schembri said that if BCF is to open, it will be on overtime. Residual effects of overtime on the officers result in officers working double-shifts two to three consecutive days per week. A short-tempered officer may come upon an inmate-inmate altercation that can result in a "use of force". During the altercation an ADW may respond and because of the officer's short temper, communication with the ADW is unacceptable and the may be charged with behavior unbecoming an officer. The Commissioner noted that after an officer works these extra hours, the

only way to get time off is to call in sick. He said that something must be done about the residual effects of the overtime.

Mr. Lenefsky asked Commissioner Schembri what staff were targeted to meet the 721 uniformed staff cuts by next summer. Commissioner Schembri reported that 122 positions have been considered and are under review. The decision to reduce these posts are not unilateral decisions. Collaborations with the union resulted in the reduction of 122 temporary posts. Another 322 are on the table plus 140 fire watch posts.

Chair Booth asked if any of those positions were C Posts. Commissioner Schembri responded that the 322 are C post officers. He said that every position will be reviewed with the Union, the Board of Correction and the State Commission of Correction. The Commissioner added that no cuts will be made that will endanger correction officers. For example, at the Central Punitive Segregation Unit, cameras are being installed that will enhance what the Department already has in place, not to replace officers.

Mr. Wolf asked if cameras will replace officers in other institutions. The Commissioner replied yes. Deputy Commissioner Gary Lanigan said that to comply with requirements of the FY95 budget, a total of 547 uniformed officer positions will be cut.

Assistant Commissioner Andrew Harris reported that the preliminary budget included the reduction of 300 uniformed positions and 120 uniformed positions with a partial offset of gaining 60 civilian positions. Thirty-one positions are to be lost at Bellevue outposts. Mr. Harris stated that in the executive budget there is another cut of 156 bringing the number of

cuts to 607, with the offset of the 60 civilian positions, the total is 547. Mr. Daly added that when the budget was developed it was assumed that there was no need to use the South Tower in the Manhattan Detention Complex which would have resulted in more savings.

Mr. Lenefsky asked when the 547 cuts are scheduled to take place. Mr. Harris responded that of the initial 300, 200 are scheduled for September 1, 1994; an additional 100 are scheduled for December 1, 1994; 156 are scheduled for October 1, 1994; 31 at Bellevue are scheduled for January 1, 1995; and 120 are scheduled for July 1, 1995. Mr. Harris added that if the Department is unable to cut 322, the Office of Management and Budget (OMB) would tell us to find another area to reduce.

Mr. Wolf reported on a document being circulated among correction officers on Rikers Island that contains information regarding the proposed cuts to housing area officers in each jail and asked if the document was accurate. Chief Taylor responded that the document was not accurate. During a meeting with all of the Division Chiefs, Chief Taylor stated that he revisited the list of proposed cuts and the first draft of possible cuts. The division chiefs were informed of the number of cuts in each jail and were asked to reexamine cuts they could sustain in areas other than C posts. Chief Taylor added that once these areas are identified, a plan will be submitted explaining how the facility will be managed with the loss of those positions.

Mr. Wolf said that he has heard that there is the possibility of eliminating all C Posts in the CDU, many housing officers in OBCC and a large number of posts in GRVC. The last two issues raise particular concern because the rates of violence are rising considerably.

Chief Taylor responded that the cuts that Mr. Wolf mentioned did not include OBCC. Mr. Wolf remarked that this is the type of information needed and asked if any cuts would be made to GRVC. Chief Taylor said that he would have to get back to Mr. Wolf with that information. Mr. Wolf stated that if the first projected cuts in staff at GRVC are close to being correct, officer strength will be reduced in that jail. That has other consequences beyond what is going on minute by minute in a housing area. For example, when a Mutual Assistance Plan (MAP) is begun and each facility affected is required to give a complement of officers to a facility to which they have to respond, they are further reduced. Mr. Wolf added that when they are reduced and an incident happens in that jail while some of the officers are out-housed, you are dealing with a skeleton staff. The ability to do the number of searches and the effective thorough kinds of searches that the Commissioner wants to conduct, inevitably gets compromised if there are no officers to do them.

Commissioner Schembri voiced his concern for the large minority population in the jails. He stated that the average stay on Rikers Island is 54 days and what is discouraging are the contributions that could be made toward crime prevention.

Board member David Lenefsky asked for the exact number of civilian staff to be cut by June 1995. Mr. Daly noted that the number is 570. Mr. Lenefsky asked what the cuts represented in terms of programs. Chair Booth noted that he, Mr. Lenefsky and Mr. Wolf consulted with OMB and the information they received was very disturbing. Mr. Lanigan reported that the problem is more complicated than it seems. If Department officials can decide operationally which group of employees to lose, the impact on programs would be much less than that from arbitrary losses due to the severance

operationally which group of employees to lose, the impact on programs would be much less than that from arbitrary losses due to the severance program. Mr. Lanigan stated that the Department is trying to get the trades people hired to keep the beds on line. At the same time, he added, Department staff have targeted a number of dietary aides for the severance program. If the City chooses not to include the aides in the severance package, it will hinder the Department's ability to hire trades people.

Mr. Lenefsky requested a status report on the SAID program. Commissioner Schembri reported that they had secured a half million dollar grant. Additional SAID drug abuse money will come from the new Crime bill. The Commissioner stated that there are community groups that want to help inmates with the transition process from jail back into the community.

Chair Booth recommended that the Commissioner contact Luther Gatling of 100 Black Men. Commissioner Schembri responded that he had been meeting with leaders in the Black community because of the overwhelming number of minorities in the jails.

Mr. Wolf noted the concern that Mr. Lenefsky expressed regarding the civilian and uniformed cuts. These cuts will be tremendously compounded if the Department is obliged to take the Post Adoption Reductions of the 4.8% in addition to the cuts already discussed. Mr. Wolf questioned the likelihood of DOC suffering either of the cuts and what the impact on the civilian staff will be.

Mr. Lanigan responded that the Mayor's office has asked all City agencies to submit proposals of cuts at 2.6 & 4.8 percent. DOC has submitted its proposal. Mr. Lanigan thought that it is premature to discuss these cuts

because he does not know what the Mayor will do.

Mr. Lenefsky asked the Commissioner to inform City Hall that if DOC sustains these additional cuts, the system in crisis today will become a system in chaos tomorrow. The cuts that have already been mandated were a great mistake and these additional cuts will also be a mistake.

Dr. Bernard asked if anything was being done to address the delivery of health care and treatment to inmates in DOC facilities. Commissioner Schembri reported that there were 7200 ambulance runs last year. He said that he sent a proposal to Deputy Mayor Peter Powers regarding the establishment of an Urgi-Center to reduce the amount of ambulance runs and to increase the level of care provided to inmates.

Chair Booth asked the Commissioner to define "Urgi-Center." Mr. Daly reported that all 7000 of those hospital runs were not necessary resulting in the Department incurring overtime. He explained that doctors who are experts in emergency room treatment have said that DOC can provide the same type of care on Rikers Island and cut the number of hospital runs in half. The Mayor's Office of Operations and the Office of Management & Budget have been asked to review this possibility.

Addressing Commissioner Schembri, Mr. Lenefsky noted the increase in the prison population, the rising number of serious violent incidents, the decrease in uniformed staff and low number of available programs. Mr. Lenefsky urged Commissioner Schembri to make the best case with OMB and City Hall. Mr. Lenefsky remarked that he did not want the blood on his hands and if blood is going to flow, it is going to coagulate on the Mayor's desk. Commissioner Schembri responded that he is hopeful that some

Chair Booth commented that if the Commissioner has to open BCF, he will go to the Mayor and "lay it on the table." He added that the Board supports the Commissioner's perseverance.

Chief of Compliance DeRosa requested the renewal of all existing variances. He also requested that the Board expand the multiple occupancy variance with respect to the Keane and Wildstien ferries.

Mr. Wolf remarked that in years past BOC had granted variances to the Department allowing as many as 81 detainees to be housed on each deck of the two ferries, totaling 324 people. Currently, City sentenced people are there instead of detainees. Mr. Wolf explained that when the Keane was first opened, the Board noted some extraordinary deficiencies in the delivery of basic services. All of the problems that the variances were set up to address were breaking down. As a result of a meeting with the Warden and the Deputy Warden for Programs, a solution to these problems was developed.

Mr. Lenefsky moved the renewal of existing variances. Upon Ms. Margolis' seconding the motion, it was adopted. Chair Booth adjourned the meeting at 1:45 P.M.