

MINUTES OF THE MEETING OF THE BOARD OF CORRECTION

June 3, 1974

A regular meeting of the Board of Correction was held on Monday, June 3, 1974 in the 14th floor conference room, 100 Centre Street, New York, New York.

Present at the meeting were Mr. Lehman, Mr. Gottehrer, Mr. Jackson, Mr. Kirby, Fr. Rios, Mr. Schulte, Mrs. Singer, Mr. Tufo, and Rev. Wilson. Present by invitation of the Board were John M. Brickman, Executive Director; Mary D. Pickman, Assistant Executive Director; Kenneth G. Nochimson, Co-Director, Investigation and Reporting Unit; Greg Harris, Director, Clergy Volunteer Program; Michael Cleary, Executive Secretary; Sylvia Kronstadt, Staff Assistant; Steven Fisher, Staff Assistant; Barbara Allen, Secretary to the Executive Director; and Constance Baugh, summer interne with the Clergy Volunteer Program.

Present from the Department of Correction were Benjamin J. Malcolm, Commissioner; Jack Birnbaum, First Deputy Commissioner; Luis Cadiz, Deputy Commissioner; Alphonso Ford, Assistant Commissioner; A.L. Castro, Director of Public Affairs; Joseph D'Elia, Director of Operations; William Ritholtz, Director of Legal Affairs; and Arnett Gaston, Assistant to the Commissioner.

Mr. Lehman served as Chairman and Ms. Allen as Secretary of the meeting.

The meeting was called to order at 2:10 p.m.

Mr. Brickman stated that he hoped to get a revised draft of the 1973 Annual Report to the Board by the June 18th meeting. Mr. Schulte declared that the Board should publicize the release of the report as much as possible, perhaps mentioning it on the Board's radio program. It was agreed generally that this was a good idea.

Mr. Brickman stated that he would send copies of all the resumes he had received as possible replacements for Ms. Pickman to the screening committee and that hopefully by the end of next week all interviews would be completed, so that he and Ms. Pickman could send their recommendations to the screening committee for interviews. Mr. Brickman urged any Board member who might have a suggested replacement for Ms. Pickman to send resumes to him or Ms. Pickman as soon as possible.

Mr. Harris introduced Constance Baugh, a student at Union Theological Seminary, who will be with the Board as a work study interne for the summer. He noted that Ms. Baugh will be working at the New York City Correctional Institution for Women.

The Chairman stated that the Department had asked him for the Board's help in trying to resolve some of the Department's budget problems. Mr. Brickman suggested that the Chairman should tell the Commissioner that the Board has its own budget problems and this has to be the Board's first priority; when these are resolved, the Board will be glad to assist the Department. Mr. Brickman noted that the present executive budget is not necessarily the final budget. Rather, it is the budget which the Mayor submits to the City Council and Board of Estimate for approval. Mr. Brickman declared that according to the budget, as of June 21 the lines presently held by Mr. Fisher and Judith Straut would no longer exist. He declared that there was a lump sum allocation of \$39,000 for the Board of Correction, some of which could probably be used to pay their salaries. He declared that this would give the Board less flexibility to do what it desired in other areas, but that there appeared to be no alternative.

At 2:30 p.m. Mr. Gottehrer entered the meeting.

The Chairman stated that he has a meeting scheduled this Thursday with First Deputy Mayor Cavanagh to discuss the Board's budget problems. The Chairman declared that he would also discuss the fact that he did not feel that City Hall was properly using the Board. He noted that he expected this first meeting to be rather general, with future meetings being more specific.

The Chairman stated that the Mayor, Mr. Cavanagh, Mr. Scoppetta, Mr. D'Elia and First Deputy Police Commissioner James Taylor had recently had a meeting at which Mr. Scoppetta presented a report he had prepared on the Department of Correction's security system. The Chairman stated that he felt the Board could have done the same report in less time. He declared that he felt the Board had not been used properly in this case and that he would discuss this with Mr. Cavanagh. He noted that he also intended to discuss the reorganization of the Investigations Unit of the Department of Correction with Mr. Cavanagh and tell him that he feels, and Mr. Scoppetta has stated, that the Board should be involved in the reorganization of this unit.

Mr. Schulte asked where the Board would stand in terms of receiving reports of investigations from the Investigations Unit. The Chairman stated that the Inspector General would report directly to the Commissioner. It was generally agreed that the Board should get as much information as possible on the various investigations being conducted by the Investigations Unit.

Mr. Brickman stated that in preparation for the meeting with Mr. Cavanagh, he had prepared a list of items which the Board hoped to work on over the summer, indicating various reports presently in progress with tentative completion and release dates.

Mr. Gottehrer stated that at the last meeting, Commissioner Malcolm had responded to many of the questions as to the status of various projects and investigations presently ongoing in the Department that responsibility lay with another agency, not the Department. Mr. Gottehrer suggested that a list of all items the Commissioner says are in the hands of another agency could be compiled. The Board could then check on the status of these items with the particular agency involved and then if there are problems, seek to get the item moving. He added that if the problem was found to lie with the Department, the Board should go to City Hall.

Mr. Schulte stated that he would like to see a staff report on security in the institutions. Mr. Brickman declared that he was not sure if the Board staff was capable of doing this, but would explore the possibility. Mr. Schulte declared that he would also like to see a complete classification breakdown of the prison population. Mr. Brickman stated that this was possible and would be done.

The Chairman stated that he felt the major point the Board's report on the future of the Tombs should deal with would be to urge reform of the criminal justice system. Mr. Brickman stated that on June 15, the City was due in court to let Judge Lasker know what it intended to do with the Tombs. The Chairman declared that he would ask the Commissioner what he intended to recommend for the Tombs. Mr. Brickman noted that the staff is waiting for Mr. Zuccotti's report and figures and should have them tomorrow. He stated his hope that the Board would get its report out before City Hall makes its announcement about the future of the Tombs. It was generally agreed that it was important to have Mr. Zuccotti's figures as well as a memorandum Mr. Brickman was to prepare on the

criminal justice system before reaching a final decision as what to recommend for the future of the Tombs. A special meeting of the Board was scheduled for June 10 at 2:00 p.m. in Mr. Tufo's office to make a final decision.

Mr. Brickman stated that the Board must also make recommendations regarding bail, and noted two points which he felt the Board should stress. First, in light of its proven success in Brooklyn, the Pre-Trial Services Agency should be expanded to all the boroughs; second, the State Legislature should enact the Dominick Commission recommendations. The Chairman stated that in a recent meeting with Judge Ross, the judge had blamed part of the problem of court delays on the Department of Correction's transportation division and the fact that people are not delivered to court on time. Mr. Brickman stated that it was possible for a judge to be assigned to each institution by the Administrative Judge in order to conduct bail hearings in the institutions. He explained that there is a standard procedure for an individual's bail review within 48 hours. However, the way the present system works, bail reviews are in general conducted superficially. A final decision on bail recommendations was delayed until the meeting of June 10, 1974.

Mr. Jackson and Mr. Cleary gave a detailed description of their investigation into the Branch Queens incident. Mr. Brickman noted that their investigation would be made into a formal report.

At 3:50 p.m. Fr. Rios entered the meeting.

Mr. Nochimson stated that the Board should let the Commissioner know that it is concerned with the Branch Queens incident and ask him specifically what he knows of it.

At 4:05 p.m. Mr. Schulte left the meeting.

Mr. Brickman stated that a revised list of Inmate Liaison Committee assignments had been prepared and would be sent to each Board member. Mr. Brickman noted that it was important for Board members to attend the Inmate Liaison Committee meetings at their assigned institutions as this gave support to the staff.

At 4:15 p.m. Commissioner Malcolm and his staff entered the meeting.

The Commissioner introduced William Ritholtz, the new Director of Legal Affairs for the Department.

The Chairman declared that he understood the Commissioner had problems with his budget and would like the Board's support and help, but the Board too has budget problems which must be its first priority. After these were resolved, he said, the Board would be glad to be of assistance. The Chairman asked the Commissioner specifically where he would like the Board's assistance.

The Commissioner declared that the Department could not operate with the budget allowed it. He stated that the budget would mean laying off correction officers, doing away with services, and closing Branch Queens. He noted that he hoped to make a "trade off," by closing down the Tombs and keeping Branch Queens open. He added that there were 100 correction officers in Branch Queens, as compared to 293 in the Tombs, and that he hoped he could possibly use the additional 193 officers to fill vacancies in other institutions.

The Commissioner declared that in all likelihood he would close the Manhattan work release facility at Mel's Plaza Hotel, as he was not too pleased with the facility, nor any of the options in the area, and transfer the residents to vacancies at Sloane House. The Commissioner stated that ideally he would like to have a work release set up at a Y or similar type facility with recreation and similar facilities. The Commissioner noted that on June 20, the lease for the Brooklyn work release program would be coming up before the Board of Estimate for refunding. He said that he would like a representative of the Board to be present at this hearing. He declared that money was needed not only for a short term refunding, but also for the next fiscal year. He stated that the Brooklyn program was the best of the work release programs, and that it was important the Board support not only the Brooklyn program but the entire concept of work release.

The Chairman asked the Commissioner if he would like someone from the Board staff to be designated as liaison with his staff to discuss the budgetary problems. The Commissioner stated that he and his senior staff were going into budget retreat the next afternoon, following which he would set up a meeting with Mr. Lechner of the Bureau of the Budget and be in touch with the Board.

The Chairman asked the Commissioner what he intended to recommend regarding the future of the Tombs. The

Commissioner stated that he had requested a meeting with First Deputy Mayor Cavanagh, and that he wished to meet with City Hall to determine its position before making a final decision. He noted that if Judge Lasker's final order is close to his January 1974 opinion, the Commissioner would probably recommend closing the Tombs. He noted that there were two alternatives--renovation or tearing down the present structure and building a new one. The Commissioner noted that at this point, nearly one and a half million dollars had been spent on renovation, all of which would be wasted if the building were torn down. He declared that because of this, he would probably recommend renovation. Ultimately, however, he stated that this would be the City's decision. He noted that by September 1 or October 1 he hoped to start moving people out of the Tombs if it was closed. He declared that it could not be any sooner than this, because it would take until then to finish renovations on the cell blocks on Rikers Island. He added that the entire 10th floor of the Tombs would be transferred to Branch Queens.

The Commissioner declared that if the Tombs were closed in order to comply with Judge Lasker's order, before any decision were made as to exactly what should be done with the structure, meetings should be held including the Department, Board, City Planning Commission, and other involved parties, in order to determine the most worthwhile and feasible use of the structure.

The Chairman asked the Commissioner what he knew of the Branch Queens incident. The Commissioner described the incident as he understood it. He stated that all the "weapons", blankets, etc., used in the incident had been turned over to Mr. Scoppetta. The Commissioner stated that under the circumstances, he felt the use of tear gas was probably the only way the situation could have been quieted down.

At 5:20 p.m. Ms. Pickman and Mr. Nochimson left the meeting.

The Chairman stated that the Board staff was still having access problems at various institutions and it appeared that some of the correction personnel in the institutions were not even aware of what the Board of Correction was. The Commissioner stated that at the recent heads of institutions meeting, he had read from the City Charter the section establishing the Board of Correction and that Chief D'Elia had put out a teletype order giving the Board complete access.

The Chairman asked the Commissioner to describe the status of the Investigations Unit grant application presently before the Criminal Justice Coordinating Council. The Commissioner stated that it would go before CJCC on June 20th. He noted that he had spoken with Judge Altman, and had been informed by him that the grant had been cut from the original \$469,000 to \$234,000 because of a shortage of money. He said that as the grant was presently written, the Inspector General will report directly to the Commissioner. The Commissioner noted that he hoped that the Investigations Unit would be staffed both by correction officers and civilians.

Mr. Gottehrer stated that he understood that a sum of the money was to be used to purchase various types of electronic equipment and questioned the need for this. Deputy Commissioner Birnbaum replied that this equipment was necessary for taking testimony, etc. Mr. Gottehrer asked if there was still "buy money" written into the grant application. The Commissioner stated he was positive that there was no longer "buy money" in the application, but that he would check this again.

At 5:35 p.m. Mr. Castro left the meeting.

Mr. Brickman expressed his judgment that there might be a problem having correction officers in the Investigations Unit if they have to investigate other officers who might have been or could later be their colleagues or superiors. Mr. D'Elia stated that this could pose a problem, but the unit needed personnel with experience. He added that the chance of a correction officer in the unit investigating someone who was later to be his superior was unlikely since officers given assignments such as these usually remain in those assignments for the duration of their service with the Department. He further stated that in the correction officer community there is a desire not to do anything which might endanger one's self or one's fellow officers. He declared that the idea was to get the right kind of person in this assignment and that the key words were for the Investigations Unit staff were "mix" and "team." Commissioner Malcolm added that the key also is having a first-rate Inspector General.

At 6:05 p.m. Mr. Brickman left the meeting.

The Chairman asked the Commissioner to report on the suicide of Carlos Olivencia. The Commissioner declared that it was still under investigation, and that he only had the basic facts at this time. Mr. Cleary stated that

there was a question as to whether Mr. Olivencia was on a tier by himself in administrative segregation. Mr. D'Elia replied that this could not be answered until the investigation was completed.

At 6:10 p.m. Messrs. Gottehrer and Tufo left the meeting.

Commissioner Malcolm stated that in the recent Rikers Island escape, much manpower and many overtime hours were spent searching the island for the escaped inmates. He noted that he had been in touch with the State Police in Poughkeepsie who could provide a tracker dog and have the dog and a handler in New York within two hours after receiving a phone call at no cost to the City. He declared that he felt this would save much time and manpower and asked that the Board give consideration to supporting this if the situation for use of the dog should arise again. He noted that some people think of tracking dogs as vicious. Rather, he said, these dogs are quite gentle.

Commissioner Malcolm stated that regarding disciplinary action against correction officers involved in the recent escapes, he expected the five cases in the Tombs escape to go to trial this week. He added that the Brooklyn case was still with Mr. Nadjari's office.

Commissioner Malcolm stated that word had just come from the Bronx District Attorney's office that there was a plan to make an escape at the Bronx House of Detention and that they had word that there was a gun in the institution. At that moment, he said, correction personnel were in the institution looking for it.

Upon motion duly made and seconded the meeting was adjourned at 6:20 p.m.