

# MINUTES OF THE MEETING OF THE BOARD OF CORRECTION

December 2, 1975

A regular meeting of the Board of Correction was held on Tuesday, December 2, 1975 in the 14th floor conference room at 100 Centre Street, New York, New York.

Present were Mr. Tufo, Mr. Jackson, Mr. Kirby, Father Rios, Mr. Schulte, Mrs. Singer and Reverend Wilson. Also present by invitation of the Board were Marc Rosen, Executive Director; Michael D. Cleary, Executive Secretary/Fiscal Officer; Barbara J. Armstrong, Acting Director, Clergy Volunteer Program; Stephen Fisher, Staff Assistant; Nancy Kessler, Urban Fellow; Dave Jones, Law Interne; and Joe Smith, Student Interne.

Present from the Department of Correction were Benjamin J. Malcolm, Commissioner; Jack Birnbaum, Deputy Commissioner; Luis Cadiz, Deputy Commissioner; Alphonso Ford, Assistant Commissioner; Joseph D'Elia, Director of Operations; William Ritholtz, Director of Legal Affairs; Arnett Gaston, Executive Assistant to the Commissioner; John Walsh, Acting Director of Public Affairs and Captain Constantine Mellon, Acting Inspector General.

Present from the New York State Commission of Correction were R. Robert Byers, Chief, Inspection and Investigation Unit; and Stephen Rahavy, Correctional Facility Review Specialist.

Mr. Tufo served as Chairman and Messrs. Smith and Fisher as Secretaries of the meeting.

The meeting was called to order at 2:45 p.m.

A discussion ensued on the use of force and its alternatives to effect the transfer of inmates from Block 2 to Block 8 at the New York City House of Detention for Men, following the riot at that institution on November 23 and 24.

The Board discussed the recent stabbing of a correction officer and whether it was part of a conspiracy. After some discussion, it was agreed generally that there was no conspiracy.

At 3:35 p.m., Father Rios and Mr. Rosen entered the meeting.

The Chairman reported that on the evening of November 26, through the combined efforts of Mr. Jackson, Mr. Kirby and Father Rios, he succeeded in having First Deputy Mayor designate John Zucotti send sanitation trucks out to HDM the following day. In addition, the Chairman stated that Deputy Commissioner Birnbaum and Chief D'Elia were at HDM on November 27, Thanksgiving Day, to supervise the Department's response to the post-riot situation.

At 3:45 p.m., Mr. Fisher entered the meeting.

The Chairman reported on the incident in Block 3 at HDM on November 22, in which correction officers walked off the job. He noted that at 7:00 p.m. he was able to convince the "A" officers to return to their posts. By 9:00 p.m., he and Warden Greco were able to convince the rest of the officers to return to their posts by promising that their situation would be examined and improved.

At 4:05 p.m. Mr. Fisher began acting as Secretary, and Commissioner Malcolm, Deputy Commissioner Birnbaum, Deputy Commissioner Cadiz, Assistant Commissioner Ford, Mr. Ritholtz, Mr. D'Elia, Mr. Gaston, Mr. Walsh, and Captain Mellon entered the meeting.

The Commissioner commented on the riot that occurred at HDM on November 23, 1975. He noted that when overcrowding exists, problems arise in the administrative services in any institution. He declared that he felt the Department was lucky about the final outcome of the situation, and he expressed no regrets in the manner in which the situation was handled. He noted that if there had been any loss of life or injuries he would have had to take full responsibility.

Regarding the amnesty question, the Commissioner noted that if a court of law decided to indict an individual that held hostages, they would have to indict the entire cellblock. The Commissioner wondered how many of those indicted on the entire cellblock would eventually be convicted.

The Commissioner stated that the clean-up following the release of the hostages on Monday afternoon was delayed because the intermingling of correction officers and inmates would have increased the tensions and hostilities in the institution. The Commissioner noted that when he was present at HDM on Tuesday, the hostility of the officers was still intense. He thanked especially Messrs. Cleary and Fisher and other Board staff for the work that they performed at HDM the week following the riot. He noted that hostility was very high and the Board staff as well as the State Commission of Correction staff were probably subject to a great deal of abuse by the officers and inmates.

At 4:30 p.m., Messrs. Byers and Rahavy, staff members of the State Commission of Correction, entered the meeting.

A lengthy discussion ensued on the Board's role in the HDM disturbance. The Commissioner declared that he is responsible for the operation of the Department of Correction and that responsibility rests solely with him. He noted that if one was to read press accounts of the HDM situation during the following days of the riots, one might think that the Chairman was running the Department. The Commissioner stated that if there had been a loss of life or serious injury, then he probably would have to take the responsibility by himself.

The Chairman asked the Commissioner to explain why he started to refute the Board's HDM report during the course of the summer. The Commissioner noted, in his opinion, that the HDM report was good. When the report was released on June 30, and for a month and a half following the release of the report, the inmate population experienced a decrease. However, on August 11th, the population started to rise. In addition, the Commissioner stated that the report was being used by correction officers as a license for banging-in and calling in sick more than they had in the past.

Mr. D'Elia stated that 28 correction officers had been reassigned temporarily to HDM. He stated further that the correction officers at the Adolescent Reception and Detention Center were threatening to call in sick tomorrow on the 5:00 a.m. tour. Apparently, he noted, Warden Rubin was not able to quell the situation. Deputy Commissioner Birnbaum noted that correction officers are using the Board for their own means and, in turn, creating anarchy along the lines of authority. He stated that he had no problem with the Board trying to improve relations with the line officers but noted that the Board should not be taken advantage of and the Board should not use its own position to create factions within the Department.

Mr. D'Elia said that it was a tribute to the correction officers that HDM is back to the point where it is now. He noted that officers have been pulled very far and have put in enormous amounts of overtime, and he cannot blame them for doing some of the things they do. The Commissioner noted that one of the problems in the Department of Correction is that there is a civil service hierarchy all the way up from correction officer to warden that presents policy problems. If he had the opportunity to appoint wardens from the uniform ranks, the Commissioner feels he would have better management control over the Department.

The Commissioner outlined the goals of the Department of Correction is seeking in the coming months to reduce overcrowding. He noted that other solutions and goals will need the assistance of the Board of Correction and other interested groups.

Based upon verbal communications with the Division of Criminal Justice Services, the Law Enforcement Assistance Administration may be willing to let the Department of Correction use \$7-9 million in unencumbered federal funds from 1973. If the Department of Correction is allowed to use the full \$9 million, its uses would be broken down into the following:

- 5.2 million to reactivate the Manhattan House of Detention
- .7 million to rehire 84 correction aides
- 1.7 million to reactivate part of the Adolescent Detention Center
- 2.2 million for activation of all of the Adolescent Detention Center.

The Commissioner noted that Judge Lasker was sympathetic to the problem of reopening the Tombs, and the Department has submitted a general letter to Judge Lasker setting forth the necessity for reopening that institution. In the letter, the Commissioner noted, the Department states that the State Commission of Correction and the Federal Bureau of Prisons will report to Judge Lasker on conditions at the institution as well as conduct full inspections of the Tombs before the Department would reopen it following the consent of the Judge. However, the Commissioner declared that the Department cannot meet the order for contact visits at the Tombs at the present time.

The Commissioner stated that the Bureau of the Budget is starting to eliminate items that are in the declaration of emergency for HDM by saying that they aren't necessary.

It was noted that the Ossining Correctional Facility statute allowing the City to house pre-trial detainees at Ossining expires on July 31, 1976. The Commissioner said that the Department will be forced to submit a bill to the State Legislature to extend the contract for an additional two years.

At 5:35 p.m., Mr. Jackson left the meeting. Before he departed, he stated that if the Board votes on reopening the Tombs he was in favor of it.

The Commissioner stated that the Department is willing to operate the Tombs for a year and then evaluate its operation.

At 5:40 p.m., Commissioner Malcolm and his staff left the meeting, as well as the staff of the State Commission of Correction.

A discussion ensued on the pros and cons of the reopening of the Manhattan House of Detention. It was stated by several Board members that they would like to see the reopening of the Adolescnet Detention Center first before the reopening of the Tombs. Another question raised was how temporary is the reopening of the Tombs? It was agreed, however, that there was an immediate need for the use of the Tombs. Upon motion duly made by Reverend Wilson and seconded by Mr. Schulte, it was

RESOLVED THAT the Board of Correction supports the Department's move to reopen the Tombs on a temporary basis as an emergency measure. The Board will send a separate letter to Federal Judge Morris Lasker restating its recommendations regarding the Manhattan House of Detention.

Mr. Kirby abstained from voting, stating that the Tombs was closed by the Mayor when there was no budget crisis and that Judge Lasker said the institution had to be liveable to conform with constitutional requirements. Therefore, he could not support the reopening of the Tombs.

Upon motion duly made by Mrs. Singer and seconded by Mr. Tufo, it was

RESOLVED THAT the Board of Correction appreciates the tremendous services rendered by the staff during the crisis at the House of Detention for Men.

Father Rios noted that the inmates are expecting the Department of Correction and the Board of Correction to exert pressure on the courts for bail review.

The next meeting of the Board of Correction will be on December 16, 1975 at 2:30 p.m. at Mr. Tufo's office.

Upon motion duly made by Mrs. Singer and seconded by Reverend Wilson, the meeting was adjourned at 6:05 p.m.