

MINUTES OF THE MEETING OF THE BOARD OF CORRECTION

February 3, 1975

A regular meeting of the Board of Correction was held on Monday, February 3, 1975 in the 14th floor conference room, 100 Centre Street, New York, New York.

Present were Mr. Lehman, Mr. Jackson, Mr. Kirby, Father Rios, Mr. Schulte, Mrs. Singer and Mr. Tufo. Also present by invitation of the Board were John M. Brickman, Executive Director; Marc Rosen, Assistant Executive Director; Greg Harris, Director, Clergy Volunteer Program; Michael Cleary, Executive Secretary/Fiscal Officer; Jerome Cappellani, Stephen Fisher and Charles Hamiel, Staff Assistants; and David Rivera, Urban Fellow.

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

Mr. Lehman served as Chairman and Messrs. Fisher and Cappellani as Secretaries of the meeting.

The meeting was called to order at 1:30 p.m.

Upon motion duly made and seconded, a request for an excused absence from Reverend Wilson was approved.

The minutes of the meeting of January 16 were distributed for comments and approval. Formal approval of the minutes was held over until additional members joined the meeting.

A status report on staff projects was distributed, followed by a general discussion.

At 1:50 p.m., Mr. Tufo entered the meeting. The staff was excused from the meeting and the Board met in Executive Session.

At 2:55 p.m., Father Rios had entered the meeting, and the staff was readmitted to the meeting, and the subject of notification of unusual incidents and access to various documents of the Department was taken up. Mr. Brickman stated that it appeared that the Department's response to the Board's attempts to obtain Departmental documents on the Kovzelove matter, the Ossining contract, and an opinion letter from the Corporation Counsel regarding custody of medical and mental health records was inconsistent with the

Charter mandate of the Board. It was agreed generally that the Board would attempt to resolve the matter with the Commissioner; if this proved to be fruitless, the Board would take the matter up with the Corporation Counsel or seek court resolution. It was also agreed that a letter will be sent to Commissioner Scopetta of the Department of Investigation describing the problem of Board access to Department of Correction records of cases which have been referred to the Department of Investigation, and asking for his assistance in its resolution.

The matter was raised of the conditions under which City detainees are housed at Ossining Correctional Facility ("OCF"). It was agreed generally that the Board would look into the question, and that interested Board members and staff would visit OCF to review the conditions under which City detainees are housed.

It was agreed generally that a letter of congratulations would be sent to Benjamin Ward, the newly appointed State Commissioner of Correctional Services, upon his confirmation by the State Senate.

A discussion ensued regarding the slow rise in the detention population at the Adolescent Reception Detention Center and the effect that an increase in the overall population would have on the tension levels in the prisons, given the loss of the Correction Aide program and several mental health workers. It was agreed generally that the Board would examine court backlogs, population increase, and decrease in personnel and write to the mayor calling attention to the problem and urging his intervention in its resolution.

A discussion followed of the Board's need to become more involved in parole and probation. It was agreed generally that a letter would be sent to the Chairman of the Parole Board seeking a meeting in the near future.

Upon motion duly made by Father Rios and seconded by Mr. Jackson, the minutes of the meeting of January 16, 1975 were approved as amended.

A draft of rules and regulations, pursuant to the State Freedom of Information law, was presented to the Board. After discussion and upon motion duly made by Mr. Kirby and seconded by Father Rios, the rules and regulations were approved in the form attached hereto.

At 3:35 p.m., Commissioner Malcolm, Deputy Commissioner Birnbaum, Mr. D'Elia, and Mr. Gaston entered the meeting.

There was a general discussion of the impending layoffs of correction officers and civilian civil servants, as well as how certain of the layoffs might be avoided.

At 3:40 p.m., Assistant Commissioner Ford and Mr. Ritholtz entered the meeting.

A discussion of overcrowding then followed, during which Commissioner Malcolm affirmed that double celling was occurring. General's office refused to reveal any materials to the Board on the ground that evidence to be presented to the Board which initiated a review of the case after there

At 3:50 p.m., Mr. Fisher left the meeting and Mr. Cappellani began acting as Secretary of the meeting. that since it was

Commissioner Malcolm was asked whether the hiring freeze does in fact save the City money, since the Department must pay time and a half for the extra hours worked by correction officers. He responded that the time and a half wages mitigate the savings from the freeze to such an extent that not much is being saved. expressed his belief that it would

The matter of the confrontation between inmates and C.O.'s at the House of Detention for Men on January 29 was taken up. Commissioner Malcolm stated that from the confrontation certain grievances were revealed. One grievance was that the Legal Aid liaison attorney favors cell block five. The other primary grievance concerned the bail system.

The attempted escape from the Adolescent Reception and Detention Center was then discussed. In connection with the escape, it was noted that the Adolescent Reception and Detention Center had lost a substantial number of mental health workers and correction aides. The Commissioner did not seem to believe the attempted escape was a direct result of the reduction in manpower. It was his belief that the attempt was done as "a lark". He pointed out that one escapee was held in only \$500 bail.

A question was asked regarding the delay from the time an inmate jumped off a tier at HDM on December 28, 1974 to the time the Board was notified on January 31, 1975. Neither the Commissioner nor Mr. D'Elia was aware of any specifics about the inmate's case. No explanation was offered for the delay. p.m., Mr. Al Jackson entered the meeting.

The next matter discussed was the fact that the Board was not notified by the Department of the attempted escape from ARDC on February 1. It was noted that the Board became aware only through radio broadcasts. Commissioner Malcolm replied that that was how he heard about it as well. The Commissioner declared that the lack of notification was not serious in this case, because nobody actually escaped. It was suggested when an escape attempt occurs the Board should always be notified, and it was noted that there is a Teletype Order to the effect that the Board should be notified of such attempts. The Commissioner agreed. representatives

At 4:20 p.m., Mr. Cadiz entered the meeting. of all the interested agencies to resolve the matter.

BOARD OF CORRECTION

Rules on Public Access to Records

RULE 1 PURPOSE. (a) A free society can only be maintained when the public is aware of government actions. Government is the public's business, and the public should have unimpaired access to the records of government.

(b) The Board of Correction, in full accordance with the letter and spirit of the State Freedom of Information Law of September 1, 1974 and to the extent authorized by law, does hereby enact rules to permit all members of the public access to its records.

RULE 2 DEFINITION. For the purpose of these Rules, the term "records" means all information on file which the Board of Correction, pursuant to Sub-sections 81(1), (4), and (5) of the Public Officers Law, and Sections 1113 and 1114 of the New York City Charter, is authorized to disclose to the public.

RULE 3 LOCATION AND TIME OF AVAILABILITY. (a) Records are available for public inspection and copying on weekdays, except holidays, between the hours of 9 a. m. and 5 p. m. at:

New York City Board of Correction
Room 931
51 Chambers Street
New York, N. Y. 10007

(b) An appointment should be made with the Records Access Officer to assure prompt availability of the appropriate records.

RULE 4 DESIGNATION OF RECORDS ACCESS OFFICERS. The Executive Director and Assistant Executive Director of the Board are hereby designated as the Records Access Officers, and they or their designees will coordinate the Board of Correction response to all public requests for records.

RULE 5 FISCAL RECORDS. (a) An itemized record setting forth the name, address, title, and salary of every officer and employee of the Board of Correction is available upon request.

(b) All requests for such records must be submitted to:

Executive Secretary/Fiscal Officer
New York City Board of Correction
Room 931
51 Chambers Street
New York, N. Y. 10007

RULE 6 FEES. (a) There shall be no fee charged for the following:

- (1) Inspection of records;
- (2) Search for records;
- (3) Certifications.

(b) Copies of records will be provided upon request, at the cost of 25 cents per page. Remittance must be by check, draft, or money order, made payable to "New York City Board of Correction."

(c) Certain records are produced specifically for public distribution, and may be obtained free of charge.

RULE 7 LIST OF CURRENT RECORDS. Attached hereto as Appendix A is a current list of all records produced, filed, kept, or promulgated by the Board *(to be maintained on site).*

RULE 8 REVIEW OF DENIAL OF ACCESS. A decision by the Records Access Officer denying a request may be appealed in writing to the Board of Correction. Appeals should be directed to:

ORIN LEHMAN, Chairman
New York City Board of Correction
Room 931
51 Chambers Street
New York, N. Y. 10007
(212) 964-6307