

DRAFT

MINUTES OF THE MEETING OF THE BOARD OF CORRECTION
MAY 31, 1977

A regular meeting of the Board of Correction was held on Tuesday, May 31, 1977, in the 14th floor conference room, 100 Centre Street, New York. Present were Peter Tufo, Peggy Davis, Rev. Holder. John Horan, Wilbert Kirby, Marjorie Kogan, David Schulte, and Rose Singer. Also present by invitation of the Board were Marc Rosen, Executive Director; and Michael D. Cleary, Dan Pochoda, Gay McDougall, and Joseph V. Smith of the Board staff. Present from the Department of Correction were Benjamin J. Malcolm, Commissioner; and Arnett Gaston, Alphonso Ford, Joseph D'Elia, Brian Malone, William Ritholtz, Martin Barr, Thomas Binnie, Philip Leshin, John Buchholz, and Kinard Lang.

Peter Tufo served as Chairman and Joseph V. Smith as Secretary of the meeting. Chairman Tufo called the meeting to order at 1:25 p.m.

Chairman Tufo began the meeting by stating that there were many events since the March 1977 meeting between the Board and the Department which could be discussed but continued debate would prove counterproductive. The Chairman suggested the possibility of a phased implementation by category of standards as a basis for future discussion with the Department. For example, those that codified existing court orders, existing standards, department practice, etc., could be made immediately effective; standards that would require additional staffing, requests for which the Board would support would take longer; and those standards which would require improvement or renovation would require the longest time within reasonable limits to implement. Chairman Tufo stated that disagreement on costs or means of implementation was acceptable, but disagreement on principle was not. He cautioned the Department against continuing efforts to mislead the public through the release to the news media of erroneous information.

The Chairman stated that the release of standards had been clouded by side issues and read excerpts from a letter written by the President of the Correction Captains Association, Alfred Mandinici, as an example.

The Chairman cited changes in the proposals as a sign of the Board's willingness to accept departmental input during the drafting process and stated that all such comments would be received in the spirit in which they are made. He stated that today's meeting should seek to discuss specifics and to establish a mechanism for a standard-by-standard review between the Department and the Board.

Commissioner Malcolm reminded the Board of his history as an advocate for progressive causes and declared that much progress had been made in the Department of Correction during his tenure as Deputy Commissioner and then as Commissioner. He stated that there was no constituency for correction, that he never expects to see a Stavisky-Goodman bill for correction, and that correction will always receive the crumbs of the criminal justice budget. Commissioner Malcolm stated that there had been some confusion as to whether or not he wanted minimum standards. He declared that Ben Malcolm wants minimum standards and read part of his statement from the Board's June 1976 hearings as proof of his desire.

Commissioner Malcolm cited funding difficulties and budget stagnations as problems that his administration had faced in its attempts to implement new programs such as seven-day recreation. He declared that it was unfair to the public for the Board to release standards without cost estimates.

Commissioner Malcolm stated that he was still in full support of regular monthly meetings between the Board and the Department and that he felt that this schedule should not be deviated from. He stated that he welcomed the suggestion that committees be appointed to deal with the questions of standards response and designated Arnett Gaston to coordinate the Department's operations in this area.

Chairman Tufo instructed Dan Pochoda to coordinate meetings with Arnett Gaston and to inform Board members of the time, location, and subjects of the meetings.

Chief D'Elia suggested a review of the 10 recommendations made at the end of the Department's response to the proposed minimum standards. Chairman Tufo conducted a review of each of the issues raised, with general discussion following.

It was agreed that meetings to extensively discuss the standards would be held in the Department's 14th floor conference room on June 7, 8, and 9, starting each day at 10 a.m.

Commissioner Malcolm reported to the Board on the backlog of transfers to State facilities and the subsequent overcrowding that it is causing the City system. He also reported on the difficulty the Department is facing in attempting to hire anyone from the Police preferred list. He stated that the Department would not be able to comply with the June 1, 1977 deadline for single celling at ARDC. Instead, the Department would present evidence to Judge Pierce on that day requesting a temporary stay of the order.

David Schulte suggested that the Board could be of inestimable help to the Department in the matter of overcrowding if it were willing to take a strong public stance against the unsatisfactory practices of the State Division of Correctional Services. It was the consensus of the meeting that the Board was willing to adopt such a stance and Chairman Tufo directed Marc Rosen to draft a letter on the matter. David Schulte requested a copy of the Division of Correctional Services reply to Commissioner Malcolm's inquiries on the matter. Commissioner Malcolm stated that refusals had been

verbal to date. David Schulte advised him to request a written refusal and to provide copies of same to the Board members individually.

At 3 p.m. the members of the Department left the meeting.

Chairman Tufo informed the Board members that he had received a letter from the American Civil Liberties Union, New York Chapter, alleging that he had brazenly flaunted the law in his remarks on the Joseph Little matter and that the controversy over Little's appointment continued.

Some general discussion about the matter followed.

At 3:10 p.m., upon motion duly made by Peter Tufo and seconded by Rose Singer, the meeting was closed.