

MINUTES

BOARD OF CORRECTION

MAY 22, 1985

A regular meeting of the New York City Board of Correction was held on May 22, 1985 at the offices of the Board of Correction, 51 Chambers Street, New York.

Members present were Chairman Peter Tufo, Vice-Chairman John Horan, Angelo Giordani, Wilbert Kirby, David Lenefsky, David Schulte and Rose M. Singer.

An excused absence was approved for Mrs. Barbara Margolis.

Chairman Tufo called the meeting to order at 2:15 p.m.

The meeting began with a discussion of the reports prepared by staff. Chairman Tufo indicated that the suicide report should be given to Commissioner McMickens for her review and comment, and thereafter should be submitted to the Mayor. Chairman Tufo stated that since the escape was neither successful nor notorious, the report should not be sent to the Mayor unless the Board agreed that the report raised serious systemic issues. Mr. Schulte said that facts surfaced by the report were of a serious nature. Why, asked Mr. Schulte, was a 1973 order not replaced when it was rescinded? Mr. Lenefsky suggested that the reports should be distributed to the Commissioner and that a decision regarding the distribution of the reports should be made after receiving her response.

Mr. Tufo asked whether the escape report might be combined with the homicide report and the ARDC violence report. Counsel Barbara Dunkel said that the reports should not be combined because the reports cover very different subjects.

Mr. Kirby indicated that the Inspector General's failure to take action thus far against the correction officers on duty during the escape at ARDC is a significant problem. Executive Director Richard Wolf noted that the escape report included a recommendation that charges be preferred as soon as possible to maximize their deterrent effect.

Mr. Lenefsky reported that he had received allegations of staff misconduct at CIFW. Board staff were directed to conduct a preliminary inquiry and report back to the Board.

The discussion returned to the issue of the ARDC escape report. Mr. Horan questioned whether the Board had ever named people who were negligent in its reports. Mr. Wolf said that the Board's

investigation and its findings in this matter helped guide the Warden's investigation. The conclusions in the escape report, according to Mr. Wolf, were consistent with Warden Bantum's conclusions. As a matter of Board policy it was agreed that the names of correction staff would be removed from the recommendations.

Ms. Dunkel reported on the status of changing the variance procedure. In the Board's negotiations with the Department for a revised space standard, the Department requested permanent variances for several of the facilities. Since such a mechanism did not exist, a continuing variance procedure has been proposed. If a continuing variance is granted, it is subject to review at the request of inmates, correctional staff, or other concerned parties. The Board may choose to revoke a continuing variance in the event that the Department has not complied with a promise tied to that variance or for any reason that shows compliance to be necessary and feasible. Board staff met with the Department regarding this amendment two weeks ago. The Department had difficulty with language that they believed gave the unions an inappropriate role in the process. Staff modified the language as a result of that meeting. This morning, staff met with the Department's Special Counsel who requested that all references to correctional staff's involvement in the continuing variance process be removed. Staff had indicated to the Department's Counsel that this request was contrary to the Board's charter mandate and that the current variance procedures permit the involvement of correctional staff.

Department staff joining the meeting at 3:05 p.m. included Deputy Commissioner Albert Gray, Jr., Deputy Commissioner Frank Headley, Special Counsel Robert Daly, and Warden James Hunter. Chairman Tufo welcomed the Department's representatives and asked them to report on recreation for inmates at the Brooklyn Correctional Facility. Deputy Commissioner Frank Headley indicated that he had sent a letter regarding this matter to Mr. Wolf. As of May 15, Brig inmates have been offered five days of recreation each week. Recreation time is from 7:00 p.m. until 8:00 p.m. A family day at ARDC will be offered to Brig inmates during the months of July and August. If necessary, a family day will be offered in September. Mr. Tufo asked about the turnout for recreation and Mr. Headley responded that only 5 inmates had participated since the 15th. When asked by Mr. Tufo whether the program should continue, Warden Hunter said that the Department was committed to providing the recreation and should continue the program. He indicated that schedules have been posted and announcements have been made.

Ms. Dunkel asked what happened regarding recreation to inmates who worked in the Tombs on the morning shift. Warden Hunter replied that they return to the Brig and are sent out again. When asked about the visit schedule, Warden Hunter indicated that

recreation is held at the same time as visits. Mr. Wolf asked why the time slot for recreation was changed. Mr. Headley responded that the 7:00 p.m. time slot had received a better response from inmates last year. Mr. Lenefsky commented that most people don't want to exercise after a long day of work. Mr. Schulte suggested that a questionnaire be used to determine what hours would be best utilized by the prisoners.

Counsel Robert Daly expressed his appreciation to the Board for the excellent work done by Mr. Wolf, John Rakis, and Elizabeth Armao in organizing the Mental Health Minimum Standards Retreat at Sterling Forest last month.

Chairman Tufo asked the Department for comments on the proposed amendment to the variance procedure. Mr. Daly said that certain members of the Department thought that the amendment interjected the Board into areas that involved labor relations. For that reason, he recommended that the words "working conditions" be changed to "facts and circumstances." Chairman Tufo remarked that this language change, if accepted, would not affect the Board's obligations under the City Charter.

Mr. Daly suggested that the Department send the Board a letter which would indicate its understanding that the Board would not be involved in labor relations issues. Mr. Schulte responded by saying that such an action would be similar to waving a red flag at the union. Mr. Tufo said that the Board would give careful consideration to the Department's comments.

Warden Hunter said that the Brig will soon be expanded to another floor and that Immigration and Naturalization Service prisoners will be housed there. Chairman Tufo asked the Department for a copy of the agreement between the City and I.N.S.

Chairman Tufo thanked the Department representatives for their participation. The Department members left the meeting at 3:30 p.m.

A vote was taken on the amendment to the variance procedure with the changes recommended by staff. The amendment was passed unanimously.

A second vote was taken on the Brig recreation variance. The Board approved the variance with the stipulation that the Department change the recreation time so as to maximize participation in recreational activities.

Chairman Tufo asked whether the Board should investigate the conduct of correction officers at CIFW. He recommended that Board members and staff make their own inquiries and that recommendations be made at the next meeting. Mr. Lenefsky questioned whether the Board should wait this long. Mr. Tufo indicated that only hearsay

evidence exists. Mr. Lenefsky said that an attempt should be made to identify a person who is willing to talk. Mrs. Singer believed that it was unlikely that any correction officer at CIFW would talk. She added that some information might be obtained from the residents of the Women's Prison Association. Mr. Rakis suggested that interviews be conducted with officers who have left CIFW. Chairman Tufo said that staff should work with interested Board members to formulate plans by the next meeting.

Chairman Tufo commended Board staff for its work on the suicide and escape reports and stated that the reports should be given to the Commissioner for her review before being distributed further. Mr. Schulte added that the Board should ask the Commissioner for her opinion as to what should be done to remedy the problems noted in the reports.

Mr. Wolf presented a summary of what was done at the Sterling Forest Retreat. The purpose of the retreat was to draft, pursuant to section 4.2(b) of the Mental Health Minimum Standards, written criteria defining adequate housing and treatment space for inmates with mental disorders. Mr. Wolf noted that the Standards require that the criteria be submitted as a proposed amendment. As a result of the retreat a draft amendment was prepared that is presently being considered by the various agency heads. Because of the difficulties associated with modifying existing housing areas, the Department of Correction has proposed that a consultant be hired to cost-out the necessary changes and plan their implementation. The hiring of this consultant would require Board of Estimate approval. A significant accomplishment of this retreat was the agreement reached by all parties that mental health treatment space should be in or very near the mental observation areas. Mr. Wolf reported that at the conclusion of the retreat he presented the group's accomplishments to Deputy Mayor Brezenoff.

John Rakis discussed the events that led to the suicide of Carlos Cruz at the Bronx House of Detention and Elizabeth Armao presented the facts in the suicide of Juan Saavedra at the Queens House of Detention. Both cases demonstrated that the Department needs to take a fresh look at its dormitory housing for the purpose of identifying and removing any structural components that might facilitate a suicide attempt.

Barbara Dunkel informed the Board that the Prisoner's Rights Project at the Legal Aid Society is suing the Department over conditions at CIFM and that lawyers for the plaintiff have served the Board with a subpoena for its documents relevant to that facility.

Ms. Dunkel also commented on the preliminary findings of the ARDC violence report. A final report will be ready for the next meeting.

The next meeting was scheduled for June 20 at 2:00 p.m.

The meeting was adjourned at 4:10 p.m.