

Board of Correction
Minutes
January 12, 1988

A meeting of the Board of Correction was held on January 12, 1988. Members in attendance were Chairman Robert Kasanof, Vice-Chairman John Horan, Judge William Booth, David Lenefsky, Barbara Margolis, David Schulte, and Rose M. Singer.

The Department of Correction was represented by Julian Prager, Deputy Commissioner; George Vierno, Deputy Chief of Operations; and Michael Cleary, Executive Director of the Management Evaluation Division.

Also in attendance were Robert Corliss of the State Commission of Correction, Robert DiCarlo of the New York State Senate Crime and Correction Committee, and Ron Davis of New York Newsday.

The Chairman opened the meeting at 2:10 p.m. by calling into question the Department's request for the extension of the existing variances. He stated that the census is currently down to 14,400 and expressed his belief that the Department's representatives can no longer legitimately contend that they are faced with an "emergency situation." He called on the Board's Executive Director, Richard Wolf, to present the Board with recommendations for the reduction of variance beds.

Mr. Wolf first introduced Ms. Patricia Phipps, the newest member of the Board's field staff. He then stated that the Board staff recommends the reduction or elimination of variances in the following three facilities: Brooklyn Correctional Facility/(BCF), Anna M. Kross Center/(AMKC), and the Correctional Institution for Women/(CIFW).

Mr. Wolf stated that there are four dorms in BCF which are closed, three because they are not needed and one for renovations. He added that the current variance allows for each of those dorms to hold 47 City-sentenced inmates, so that the 3 dorms which are not needed represent a surplus of 141 beds. Mr. Wolf asserted, therefore, that the need to squeeze City-sentenced inmates at BCF no longer exists. He also reminded the Board that, at the December meeting, the Department had been granted permission to house detainees in two additional dorms at BCF. He stated that neither of the two dorms has since been utilized for detainees, and suggested that the Board reduce the allowable number of detainee dorms from 22 back to 20.

Mr. Wolf also recommended that the Board not renew the variance which allows the Department to squeeze an additional 37 state inmates into the dorm "One Top" at AMKC. Also, he suggested that the Board withdraw the 100 variance beds designated for City-sentenced females at CIFW, indicating that these beds had not been used since the last Board meeting.

Mr. Schulte then inquired about the effect such reductions would have on the Department's capacity.

Mr. Wolf responded by stating that variance beds do not enter into the Department's computation of capacity.

Mr. Kasanof reiterated the Board's fundamental position that the granting of variances is appropriate only in response to emergency situations, and asserted that the Department should not be allowed to accumulate a reserve of variance beds.

Mrs. Singer made a motion to approve the minutes of the December meeting without alteration. The motion was passed unanimously.

Mr. Kasanof announced that the Board staff has drafted an annual report for 1987, and promised that copies would soon be made available.

The Chairman then asked the representatives of the Department to elaborate on DOC's short term plan for dealing with the inmate population anticipated in the coming months.

Mr. Prager responded that a great deal depends on whether the Department is allowed to utilize the Bibby Venture, adding that such permission would provide space for 386 detainees. He stated that the matter remains the subject of ongoing litigation.

Mr. Kasanof inquired as to whether the Department has any plans to procure additional floating jails.

Mr. Prager responded that the Department has no such plans.

Mr. Kasanof requested additional details concerning the Department's contingency plans if permission to use the Bibby Venture is not forthcoming.

Mr. Prager stated that there would not be any additional capacity available before March, adding that the Board will be placed on the distribution list for a periodic report which provides details on additions to DOC capacity.

Mr. Kasanof inquired as to whether the Department is taking any steps to reduce the rate at which inmates are absorbed into the system. Specifically, he asked for information on attempts to improve the bail review process.

Mr. Prager responded that an attempt is being made to expand the bail review process currently operating in the various court pens, the North Facility, and AMKC. He stated that the plan is not operating to the extent that the Department would like, and that a request for additional staffing is in the current budget. Mr. Prager added that the process consists of a review of an inmate's record and community ties. If appropriate, DOC recommends to the presiding judge that the inmate's bail be reduced. He stated that there is no "hard number" which reflects the average percentage of inmates released as a result of DOC intervention.

Deputy Chief Vierno stated that the Department also operates a bail expediting program which allows recently admitted detainees to make extra phone calls to raise bail money.

Mr. Kasanof asked Mr. Vierno to update the Board on the State's adherence to the existing agreement which calls for the timely removal of State inmates from the City system.

Mr. Vierno stated that there are 145 inmates in the City system who rightfully belong in the State system. He also stated that the figure was down from 310 such inmates on or about December 31. He explained that the State has recently increased the rate at which Parole Violators are picked up, adding that the number of newly-sentenced State-ready inmates had been rather low during the holiday season.

The Chairman noted the seriousness of the problem of State inmates wrongfully left in the City system, and asserted that the situation is likely to worsen in the coming months. He also inquired as to whether the Department plans to seek the approval of legislation which would allow the establishment of work release programs for detainees.

Mr. Prager stated that though such legislation had not been adopted in the last legislative session, the Department is lobbying for its approval in the next session.

The Chairman expressed his belief that detainees certainly should be afforded opportunities at least equal to those offered sentenced inmates, and suggested that the Board lend its support to the approval of the pending legislation. He then asked the Department's representatives

to update the Board on recent trends in the rates reflecting the use of force within the system.

Mr. Prager responded by stating that there are three jails in which the rates are still rather high. They are the Correctional Institution for Women/(CIFW), AMKC and the House of Detention for Men/(HDM). He stated that he had discussed the issue with Commissioner Koehler on a number of occasions, and described a few proposed modifications currently under study. Specifically, he stated an attempt is being made to assign officers and captains to steady posts in housing areas and receiving rooms, though not in steady tours. He also said that DOC is making an effort to prevent any inmate from spending an inordinate amount of time housed in any one facility, thereby weakening any networks or alliances that may develop within the inmate population. He cited HDM as a facility with a strong inmate subculture.

Mr. Kasanof noted the fact that serious incidents have been occurring more frequently in HDM, despite the fact that the facility is not subject to the pressures of overcrowding. He asserted that subcultures also frequently develop among correctional staff in a given facility.

Mr. Prager agreed, and stated that an attempt is being made to insure that any officer involved in an excessive number of incidents involving the use of force is not assigned to one of the three "troubled" facilities, but instead is assigned to a smaller facility where he can be monitored more closely.

Mr. Prager stated that in the coming months a number of housing areas will be taken "off-line" in order to make repairs. These will be scheduled in a way which will not impair DOC's ability to maintain other housing areas at standard. He stressed that the repairs are being prioritized so that those facilities in the most urgent need of repair are attended to first.

Mr. Kasanof asked whether the Department was considering the systemwide implementation of Unit Management, as had been suggested by the Board and outside consultants.

Mr. Prager responded that the Department would like to implement Unit Management wherever possible, adding that a number of proposals have been sent to the Office of Management and Budget(OMB), and that discussions with OMB about staffing are underway.

Mr. Kasanof requested that the Board be allowed to review the proposals. He then returned to the discussion of the Department's request for the renewal of variances. The

Chairman reiterated Mr. Wolf's point concerning the detainee dorms at BCF. Specifically, the Chairman stated that the Department has not used either of the two additional detainee dorms granted at the December meeting. He also stated that the variance permitting sentenced females to be housed at 40 square feet in two dorms at CIFW has not been utilized in the past month. In light of this development, as well as the recent decrease in the overall census figures, Mr. Kasanof asked the Department's representatives to justify their request for the renewal of existing variances.

Mr. Prager acknowledged that the Department's earlier census projections had been high, but asserted that DOC's policy is to request only those variances which are considered necessary. He added, however, that DOC does not want to give up existing variances which may become necessary in the near future.

Mr. Kasanof responded that the contention that DOC is entitled to variances that may be needed is in conflict with the Minimum Standards, which clearly state that variances can be granted only in response to demonstrated needs. The Chairman asked Mr. Wolf to repeat the Board staff's recommendation for reducing the number of variance beds in the system.

Mr. Wolf made the following recommendations:

- i) AMKC - Not renew variance allowing for 87 State inmates, instead of 50, in "One Top" during their first fourteen days in City custody.
- ii) CIFW - Not renew variance allowing for 150 City-sentenced females, instead of 100, to be housed in both Mod 1 and Mod 2.
- iii) BCF - Reduce from 22 back to 20 the number of dorms allowed to house detainees.
- Eliminate 140 City-sentenced variance beds by not renewing permission to squeeze inmates at 40 square feet in 10 dorms.

Mr. Vierno expressed his belief that the Department should not be penalized simply because a certain variance was not utilized. He asserted that an emergency may arise which would require the use of nearly all of the existing variance beds, citing recent heating and plumbing problems as examples of such emergencies.

Mr. Horan assured Mr. Vierno that the Department would be able to approach the Board at any time with a request for emergency assistance.

Mr. Kasanof stated that the Department's representatives have been claiming for the past two years that they are facing an "emergency situation", and expressed his belief that the time has come to eliminate those variance beds which are no longer truly needed.

The Chairman stated that attempts will be made to convince the courts to send a number of judges to Rikers Island for the purpose of speeding up the bail review process. Judge Booth stated that in past years, judges went to Rikers Island once per week to review cases involving bails of \$250 or less. He suggested that cases with bail amounts less than or equal to \$1500 should now be subject to review.

Mrs. Margolis asserted that, prior to the release of several hundred inmates in October of 1983, judges had reviewed such cases and found that only a small number of inmates were eligible for bail reduction or ROR.

Mr. Kasanof responded by urging the Department to make every effort to enhance the bail review process, and stated that he would meet later with Administrative Judge Keating and Commissioner Koehler to discuss possible improvements.

Judge Booth stated that although judicial law requires judges to go to Rikers Island once every three to four months, administrative judges are not following through with this responsibility. He stressed the importance of demonstrating to prisoners that they can have a bail review process within a reasonable period of time, even without being produced in a courtroom. He expressed his belief that either Judge Keating or Judge Rosenblatt should begin to implement the existing program.

Mr. Kasanof asked Annette Gordon-Reed, Board Counsel, to make arrangements for a bus tour of the Island by the judges.

Mr. Horan suggested that Judge Keating send a letter of invitation to the judges, with mention of the fact that the Board will provide the tour.

Mrs. Singer recommended that a log book be established for the purpose of recording the names of judges who visit facilities, the name of the facility visited, and the date of the visit.

Mr. Lenefsky inquired as to why a court facility has not been constructed on the Island, adding that an inmate could legally waive his right to be present at a bail reduction hearing held in a courtroom not located on Rikers Island.

Mr. Kasanof responded by stating that the problem of limited access to the general public has discouraged the City from holding court proceedings on Rikers Island.

Mr. Schulte expressed his concern about the failure of the State Parole Commission to conduct weekly hearings at CIFM, and asserted that such hearings could rapidly reduce the large population of parole violators. He stated that the small parole staff at CIFM is normally forced to write to the Parole Commissioner in Albany to request information on the status of individual inmates, with several months usually passing before a response is returned. He added that, quite often, an inmate reaches his original parole eligibility and is paroled before the arrival of information from Albany.

Mr. Lenefsky then expressed his concern about the conditions which confront individuals who visit inmates in the City's jails. He asked DOC representatives to comment on a letter which had recently appeared in the New York Times in which such an individual succinctly described the deplorable conditions she had encountered on her last visit.

Mr. Prager responded by stating that the Department has been working with Legal Aid in an attempt to redress many of the complaints frequently voiced by visitors, and promised that the new visit procedures will be far more agreeable to all concerned. He explained that current plans call for the screening of all visitors at a central point on Rikers Island, thus reducing the amount time each visitor spends waiting at individual jails.

Mr. Kasanof requested that the Department supply the Board with the details of plans to improve the visitation process.

Mr. Lenefsky requested that the Department's plans include a specific response to the complaints about physical conditions described in the letter.

The Board voted to renew the existing variances on an emergency basis, with the exception of those recommended by Board staff to be reduced or not renewed.

The meeting was adjourned at 3:10 p.m..