

NEW YORK CITY  
BOARD OF CORRECTION  
MEETING OF NOVEMBER 13, 1991

Members Present

Judge William Booth, Chairman  
Rev. Irvine Bryer, Jr.  
Louis A. Cruz  
Peter J. Johnson, Jr.  
Stanley Kreitman  
David Schulte

Excused absences were noted for John R. Horan, David Lenefsky and Barbara Margolis.

Representatives of the Department of Correction

Vito A. Turso, Deputy Commissioner  
Allison Lewis-Smith, Deputy Commissioner  
Toni V. Bair, Assistant Commissioner  
John H. Shanahan, Jr., Assistant Commissioner  
Leslie Keenan, Associate Commissioner  
Roger Parris, Director/Health Services  
Ali Al-Rahman, Warden/Otis Bantum Correctional Center  
Juan Pietri, Correction Officer #10522/Health Affairs  
John Voca, Correction Officer #10700/Health Affairs

Others in Attendance

Paula Clair, Special Assistant to Director of Field Services, DOH  
Kevin McGrath, Director of Field Services, DOH  
Laura Szapiro, Deputy Director of Field Services, DOH  
Michael Tannenbaum, Deputy Assistant Commissioner, DOH  
Dale Wilker, Legal Aid Society, Prisoners' Rights Project  
David Parmet, City Council  
John Guzman, NYC Unit Supervisor, State Commission of Correction

The meeting began at 2:00 p.m. in a classroom in the Otis Bantum Correctional Center (OBCC) on Rikers Island. Chairman William Booth thanked Warden Ali Al-Rahman for inviting the Board to conduct its meeting at OBCC.

Warden Ali Al-Rahman acknowledged the Chairman's thanks and went on to say that since his appointment as Warden to OBCC, he has instituted programs that have helped to reduce violence in the jail. He described one program, the Institute for Inner Development, as being very successful in this regard. The eight week program focuses on the development of self esteem and responsibility.

Chairman Booth informed members and others in attendance that Warden Al-Rahman would lead a short tour of OBCC after the meeting.

The Chair then called for a motion to adopt the minutes of the Board Meeting of October 9, 1991. The motion was made by Board member David Schulte, seconded by Board member Peter J. Johnson, Jr., and approved by all Board members present.

Mr. Schulte suggested that members' reports should become a permanent agenda item for Board meetings. The Board members agreed to his suggestion.

Chairman Booth requested that Executive Director Richard Wolf give the staff report. Mr. Wolf began by welcoming the new Deputy Executive Director, Cathy Potler, to the Board. He said that Ms. Potler had spent her entire legal career dealing with criminal justice issues, most recently as the Director of Prison Projects at the Correctional Association for the last seven years. Mr. Wolf stated that Ms. Potler has a particular expertise in health care and women's issues.

Mr. Wolf noted that there were 22,032 people in the custody of the Department. This number brought the total system's capacity (including the upstate jails) to 99.9%. The system, exclusive of the upstate jails, was operating at slightly over 100% of capacity. He stated that the Department of Correction (DOC) would soon open the West Facility, an 800 bed Sprungs facility. The Avondale barge, with another 800 beds, is scheduled to arrive in late February.

Mr. Wolf announced that on the day of the Board meeting there were 2,062 State prisoners in City jails who should be in State custody. He explained that if the number of overdue State prisoners were multiplied by \$158 -- the cost of housing an inmate for one day -- the total cost to the City per day would be \$325,796. Even if City were reimbursed \$40 per day, per inmate, as is the current practice, the net cost of housing the

inmates would be \$240,000 per day. Mr. Wolf produced a graph prepared by Director of Information Systems James Bennett, showing the increase of overdue state prisoners from June, 1990 to November, 1991. He said that fewer and fewer state inmates were being taken into State custody.

Mr. Schulte asked if the City was receiving the \$40 per inmate. Assistant Commissioner Toni V. Bair assured Mr. Schulte that he would get information regarding the reimbursement of the City and report his findings to the Board.

Deputy Commissioner Allison Lewis-Smith informed the Board that Commissioner Sielaff had requested an audit to determine whether or not funds were being obtained. Chairman Booth requested that a report on this matter be forwarded to the Board once all of the relevant information is obtained.

Mr. Wolf began a discussion of the West Facility. He explained that on Friday, November 8, 1991 the Department of Correction and the Legal Aid Society had a meeting with Judge Lasker regarding the West Facility. He said that he had learned that the positions of Food Services Manager and Dietician would be funded by the Department. The issue that remains outstanding involves having a second tour of coverage for mental health services.

Assistant Commissioner Bair reported that the provision for the second tour coverage for medical services had been made. He explained that the provision of a Mental Health post had been discussed with the Warden and representative of Montefiore that morning and that the position would be provided on an "as needed" basis. The Warden would provide the security accordingly. Assistant Commissioner Bair stated that Montefiore was satisfied with these arrangements.

Mr. Wolf suggested that the Board impose, as it did with the other Sprung variances, a requirement that there be no cross reliefs in the housing areas at the West Facility.

Chairman Booth inquired about the projected opening date for the West Facility. Assistant Commissioner Bair stated that Monday, November 18, 1991 would be the date of opening.

Chairman Booth began the Chair's report by saying that he had called New York State Commissioner of Criminal Justice Richard Girgenti to enlist his aid in getting the State to take the overdue State inmates sooner. He stated that it was time for Mayor Dinkins to call upon Governor Cuomo to enforce what the State had originally promised to do.

The Chairman then raised the issue of Board Members' rotation of emergency readiness and stated that last month Mr.

Schulte volunteered to be on call for emergencies. Chairman Booth suggested that other members follow suit. Mr. Johnson volunteered to be on call until the next Board meeting.

Board member Stanley Kreitman commented on the issue of overdue State inmates. He suggested to Chairman Booth that if the problem is not resolved after his meeting with State Criminal Justice Commissioner Girgenti, the Board should prepare a statement of complaint about the situation and/or support a law suit against the State, as was discussed at an earlier Board meeting. The Chair asked if Mr. Kreitman would make a motion to that effect. Mr. Kreitman made the motion. The motion was seconded by Board member Reverend Irvine Bryer, Jr. and approved by all members.

The Chairman then asked for reports from the Board members. Mr. Schulte began by informing the Board that he had been assigned to the Rose M. Singer Center (RMSC) and the Manhattan Detention Complex (MDC). He said that in comparison to his last visit to MDC in March, the conditions were virtually the same, except that some areas were cleaner. The conditions of the holding pens however, remained deplorable. Mr. Schulte went on to say that the holding pens were dangerously overcrowded and unsanitary.

Mr. Schulte then described other problems with the holding

pens. He stated that the air conditioner was broken when he visited and offered that, given the configuration of the area, this amounted to inhumane treatment of both the inmates and the correction officers. He said that the food given to detainees in the pens is inadequate, noting that giving an inmate a cold sandwich every six hours is inconsistent with 20th century penal standards. He reminded the Department that he had suggested 8 or 9 months ago that inmates in the work release program be used to prepare and bring hot meals to the inmates in the holding pens.

Mr. Schulte then reported his findings from a visit to the Rose M. Singer Center (RMSC). He stated that Warden Robert Brennan had told him that the jail had run out of its supply of toothpaste for inmates. Mr. Schulte said he was told that this was because the Department had not paid the vendor who supplies the toothpaste.

Mr. Schulte said that he had spoken with Mr. Bair about Department procedures for investigating the backgrounds of individuals who are hired to fill high-level positions in the Department. He said that Mr. Bair had told him that Commissioner Sielaff had instituted a procedure to investigate the credentials of such applicants. According to Mr. Bair, the Department calls academic institutions to confirm that the applicant did in fact attend the particular institution that he/she claims to have attended.

Mr. Schulte asked why it takes the Board of Correction to find the shortcomings within the facilities when the Department could do the same. He allowed that this phenomenon was not of recent origin, but had been going on for the 30 years of his tenure at the Board. He indicated that now is the time, however, to do something about the problem.

Chairman Booth asked Mr. Bair to respond to Mr. Schulte's report. Mr. Bair stated that whenever a Board member had contacted him with inquiries he had always tried to give accurate responses at that moment or within a reasonable amount of time. With reference to Mr. Schulte's comment of the Board finding the shortcomings of the Department, Mr. Bair stated that on occasions the Department has been unable to keep track of all the problems within all of the facilities. He offered that this was one of the reasons the Department valued the oversight of the Board.

Mr. Schulte asked Mr. Bair whether new admissions receive toothpaste. Mr. Bair informed the Board that is was the position of the Department to assure that new admissions receive toothpaste. He said that the commissary director had already spoken with the vendor and that there should be toothpaste in every facility by Wednesday, November 20, 1991.



Deputy Commissioner Allison Lewis-Smith said that prospective employees of the Department should not be held to higher standards than those of other City agencies. She suggested that an arrangement should be worked out with DOI whereby investigations of individuals applying for key positions within every City agency would be handled on an expedited basis.

She informed the Board that DOC does require prospective employees to provide copies of their diplomas.

Chairman Booth requested that Annette Gordon-Reed, BOC Counsel, prepare a report for him, addressing the procedures that might be taken with regard to verification of prospective employees' background so that he may share the information with the Board members.

Mr. Kreitman reported on his findings at the Bibby Venture (MTFI) and the Adolescent Reception & Detention Center (ARDC). He informed the Board that he thought MTFI was a well-run facility. He stated that MTFI had many inmates eligible for work release and echoed Mr. Schulte suggestion that they be used to distribute hot food in the holding pens at MDC. Mr. Kreitman stated that, as he had mentioned at previous Board meetings, the conditions at ARDC, with regard to visiting procedures, were terrible. He reported that visitors have to wait up to six hours to visit an inmate. Mr. Kreitman requested that the Department prepare a report on the visiting procedures for the facilities.

Mr. Wolf informed Mr. Kreitman that the Department had recently revised the visiting procedures and constructed a new central visitor building which contained additional space. Department representatives had indicated to him that it was their hope that the new procedure would make the visiting process less difficult.

Board member Louis Cruz agreed with Mr. Kreitman's statement about the problems with the procedures for visiting, characterizing them as horrendous. He informed the Board that he was told by two separate individuals that they had witnessed sex acts occurring in the visit room, with children present and Correction Officers standing by doing nothing to stop it.

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Chairman Booth stated that if what the individuals had said to Mr. Cruz were true, not only was it morally wrong but it was criminal. He suggested that these individuals' observations should be put in an affidavit. The Chair inquired if Mr. Bair had any knowledge of the substance of Mr. Cruz's comments. Mr. Bair assured that he did not, but would look into the situation and report back to the Board.

Reverend Bryer requested that the Board receive a report on the functions of the Applicant Investigation Unit (AIU). Chairman Booth requested that Counsel Gordon-Reed prepare the

report.

Deputy Commissioner Allison Lewis-Smith informed the Board that she was presently working on a project with Commissioner Sielaff and Assistant Commissioner Marian Tsuji on expanding the Alternatives to Incarceration (ATI) programs. She explained that when Commissioner Sielaff and Chairman Booth lobbied in Albany for ATI legislation, there was a question as to whether the Department required new legislation in order to proceed with expanded ATI programs. Deputy Commissioner Lewis-Smith explained that this belief, and the failure to secure passage of new legislation, led to the Office of Budget and Management (OMB) defunding ATI programs. She informed the Board that she had prepared a legal memorandum that had helped get the funds back. Ms. Lewis-Smith indicated that the Department was looking to expand the program under the existing legislation and explained that there was some leeway to do so, in terms of the type of purposes for which the Department could have people in work release and/or utilizing electronic monitoring.

Ms. Lewis-Smith pointed out that the key issue was the time period for which a person could be outside of DOC facilities and explained that the proposed legislation was an attempt to refine that. She stated that the legislation as it existed now imposed a standard of reasonableness on the question. She said that DOC was taking the position that it would do whatever it could within

the limits of existing legislation until it could get new legislation. She explained that Assistant Commissioner Tsuji was actively working on a program, to begin in January, 1992, using electronic monitoring of inmates in work release.

Mr. Schulte asked Ms. Lewis-Smith how many inmates were participating in ATI programs. Ms. Lewis-Smith indicated that she did not have the information on hand but would report back to Mr. Schulte.

The Chair then raised the issue of variances from the Board's Health Care Minimum Standards. Associate Commissioner Leslie Keenan stated that the Department was requesting a one month limited variance from the requirement that the Department run Communicable Disease Isolation Units (CDU's). She stated that the Department did not want to operate the CDU's until further information regarding the ultra violet lights was received.

Mr. Wolf informed the Board that Board member David Lenefsky, Chair of the Health Sub-Committee, recommended that the Board approve the variance request for the CDU's.

Deputy Commissioner Lewis-Smith informed the Board that the Correction Officers Benevolent Association had challenged the safety of the CDU's over the issue of the ultra violet lights.

She stated that DOC had taken the position that rather than subjecting inmates and correction officers to any risk of damaging their eyes, that DOC would have consultants come to the facility and assess the situation. Ms. Keenan reported that DOC should have all information in two weeks, and stressed that DOC will not open the Units until the safety question has been resolved.

Reverend Bryer suggested that the Board proceed with caution on this matter. The Chair requested that Executive Director Richard Wolf assign the Deputy Executive Director Cathy Potler to get all information regarding the CDU's.

The motion to grant the one month variance for the CDU's was made by Mr. Johnson, seconded by Mr. Kreitman, and approved by all Board members except Reverend Bryer, who voted no.

Mr. Wolf, on behalf of Mr. Lenefsky, reminded the Board that the City remained out of compliance on items concerning chlamydia testing, emergency equipment, treatment equipment, and out-to-court medication. Kevin McGrath, Director of Field Services for the Department of Health announced that the funding for aforementioned issues had been received, but that several minor details were still outstanding. He stated that he would report to the Board when all issues have been settled.

Mr. Wolf stated that with regard to the Minimum Standards, the Department of Correction was requesting a renewal of existing variances. The motion to renew existing variances was made by Mr. Cruz, seconded by Mr. Kreitman, and approved by all members present.

Mr. Wolf informed the Board that he had met with Deputy Commissioner Tsuji and Assistant Commissioner Bair to discuss the STEP Program at RMSC. He explained that the STEP program was similar to the High Impact Incarceration Program in its focus on group activities and counseling, but did not have the military-style drill component. Mr. Wolf stated that Ms. Tsuji requested that the Board allow the Department to make recreation mandatory for STEP inmates and that it be allowed to bring requested law library material to the STEP inmates in lieu of allowing the inmates to go to the law library.

The motion to grant was made by Rev. Bryer, seconded by Mr. Kreitman and approved by all members present.

The meeting was adjourned 3:15 p.m.