

Report
of the Board of Correction
of the City of New York
on the
Proposed Rikers Island Transfer

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SUMMARY

BACKGROUND

On October 9 and 10, 1979, the New York City Board of Correction conducted the first public hearing on the proposed transfer of the City's prison facilities on Rikers Island to the State and the construction of a new detention system for New York City. Twenty-six witnesses, including City and State officials, criminal justice professionals, correction officers and court administrators, testified. Their testimony addressed the inadequacies of the present system as well as all facets of the proposed transaction, including the security of replacement facilities, cost implications of the transfer and the impact of the plan on working and living conditions within the prisons.

This report presents the Board of Correction's position on the Rikers Island transfer proposal.

Since its creation in 1957 as an independent agency, the Board of Correction has overseen and evaluated the New York City Department of Correction. Its original mandate was to inspect all Department facilities, evaluate the Department's performance, make recommendations for capital and program planning and prepare annual and special reports to the Mayor and Commissioner of Correction. The Board's powers were greatly expanded by the adoption of a revised City Charter in 1977. Under the new Charter, the Board of Correction is required to establish Minimum Standards for the treatment and custody of all persons in confinement, to establish grievance procedures and to

conduct public hearings on any matter within the jurisdiction of the Department and make recommendations based on its hearings.

Over the years, the Board's efforts to improve conditions within the City jails have included responding to and investigating all escapes and inmate deaths, mediating disturbances, and recommending improvements in security, living and working conditions and the delivery of prison services. Since February 1978, when the Board's Minimum Standards of Confinement were adopted, it has added to its responsibilities the enforcement of those Standards and monitoring the Department's compliance efforts.

In its role as watchdog agency and most particularly in the fulfillment of its mandate to develop and enforce Minimum Standards, the Board has gained a unique perspective on the problems, frustrations and potential of the City's correction system.

WHY RIKERS ISLAND IS AN UNSUITABLE DETENTION CENTER

Since the initial proposal to transfer Rikers Island to the State, the Board has been assessing the desirability of the transfer and the adequacy of the plans which have been developed for a replacement system. What has emerged from this experience is a keen awareness of the deficiencies of the existing system and the conclusion that Rikers Island is unsuitable as a pre-trial detention center.

Remote and Inaccessible Location

At the heart of this fundamental unsuitability is Rikers Island's remote and inaccessible location. The diffi-

culties which can be attributed to location alone have been well documented.

Long Distances to Courts

Expensive court delays are caused by the need to transport detainees long distances from the Island to the borough court houses. District Attorneys Mario Merola, Eugene Gold and Robert Morgenthau, Presiding Justice Milton Mollen of the Appellate Division, 2nd Judicial Department and Administrative Judge E. Leo Milonas all cited in their testimony before the Board the enormous waste of judicial, prosecutorial and police manpower and resources which results from these delays.

Hampered Attorney Access

On Rikers Island, inmates are not readily accessible to their attorneys. This interferes with the attorney-client relationship and hampers the attorney's ability to prepare the inmate's defense. It is because the Rikers Island inmate is, in most instances, a detainee who is preoccupied with the status of his case that the lack of attorney-client contact becomes so critical. As a result, some detainees believe their right to counsel is illusory. This complaint has been high on the agenda of inmate councils over the years and was one of the bases for a recent court boycott by inmates.

Limited Family Visits

The location of the Island also substantially limits inmates' contact with their families and friends. The difficulties in reaching Rikers Island are exacerbated by the cumbersome visitor processing system on the Island and the unsuitable visitor

processing space. In practical terms, a one-hour visit on Rikers Island becomes an ordeal that often consumes six hours of the visitor's time. Cramped space, inordinate delays and the unavailability of rest rooms characterize a visit. The inaccessibility of the Island and the inefficient processing system combine to make a visit to a Rikers Island jail an arduous and frustrating experience.

The record in Benjamin v. Malcolm (litigation in Federal Court challenging conditions at the House of Detention for Men) documented that as a result of these factors, detainees on Rikers Island received substantially fewer visits from attorneys, relatives and friends than detainees confined in detention facilities on the mainland. In 1978, an average Rikers Island inmate received one visitor every two weeks, which is less than fifty percent of the average at the borough houses. A system that deters such visits only heightens the tensions that permeate the City's jails and adds to the dangers faced every day by correction officers.

Outmoded and Unmanageable Structures

The suitability of the Rikers Island complex for pre-trial detention is further impaired by the inadequacies of the institutions themselves. The House of Detention for Men ("HDM") was built nearly fifty years ago to house sentenced prisoners and was designed according to a now outmoded philosophy. By any standard, HDM is a structure which is ill-suited to its present purpose. The inhumane cells, unsanitary facilities and unmanageable layout provide a barbaric setting to house detainees who

have not yet been convicted of the crime for which they have been arrested, and confronts correction officers with inadequate security and sub-standard working conditions. This multi-tiered institution with its long stark corridors and depressingly small cells, has historically been the scene of tragedy and violence. The HDM riot and hostage taking of 1975 as well as numerous escapes and deaths have left an indelible mark on the New York City criminal justice system.

Although the Adolescent Reception and Detention Center ("ARDC") was constructed less than ten years ago, serious structural deficiencies characterize this institution as well. For example, the expanded metal ceiling of ARDC has provided an arsenal of home-made weapons to inmates.

Moreover, the layout of both facilities necessitates an inefficient deployment of staff. These institutions were constructed in a way that permits only limited visual access to cells and provides numerous barriers to effective monitoring. At the same time, the size of the institutions inhibits efficient service delivery and constructive correction officer-inmate contact. Enormous distances necessarily separate food preparation, recreation areas, law libraries and visiting areas from inmates. The difficulties involved in meeting activity or feeding schedules that do not conflict for 2,400 inmates in the HDM complex and 1,000 inmates in ARDC are staggering, and are only exacerbated by the distances between living and activity areas. When essential services are delayed, as is often the case, the tension that already permeates the atmosphere in these

institutions is heightened. The HDM complex is also burdened by having to house a constant turnover of hundreds of sentenced prisoners and parole violators for whom the State asserts it has no room.

After the HDM riot in 1975, the Board of Correction recommended that HDM house not more than 1,000 inmates and the State Commission of Correction ordered that not more than 1,200 detainees be housed at HDM. Nevertheless, the population of HDM proper currently hovers around 1,500, while that for the entire HDM complex is approximately 2,400.

Safety Hazards

We are also greatly concerned about the hazards to the safety of correction officers and inmates that exist on Rikers Island.

Those who argue against the construction of smaller new jails should know that homicides, suicides, escapes, disturbances and attacks on officers have occurred with greater frequency on the Rikers Island facilities they seek to preserve than in the smaller borough facilities. Twenty five prisoners escaped from Rikers Island in 1979. Further, in 1979 there were seven suicides on Rikers Island and none in the smaller borough facilities. The relationship between environmental conditions within jails and suicidal behavior has been well documented.

Non-Compliance with Board Standards

Another telling indication of the deficiencies of the existing facilities is the difficulty the Department has faced in

trying to bring the system into full compliance with the Board of Correction Minimum Standards. Although there has been considerable progress toward attaining the status of full compliance, serious structural deficiencies have contributed significantly to delays of almost two years in implementing certain Standards at individual institutions. After expenditures of substantial amounts of time, energy and money, the City has not yet fully met minimal acceptable Standards system-wide.

Costly Capital Construction Required

As is discussed more fully below, the expenditures necessary to bring the present system into compliance with current Standards and consent decrees will be considerable. In addition to the capital construction necessary on the Island, the older borough facilities off-Island will also require extensive renovation if the City is to continue to use them to house long-term detainees. The inadequate living and recreation space, excessive noise levels, improper ventilation systems, inefficient heating systems and insufficient windows all suggest that these facilities need massive overhauling unless, as planned under the transfer proposal, their use is limited to short-term detention.

The Department of Correction has estimated that at least \$192.25 million (in September, 1980 dollars) in City capital expenditures on Rikers Island would be required over a five-year period if Rikers Island is not transferred to the State. This figure includes only a small part of the extensive expenditures to renovate the existing borough facilities which the Federal Courts and evolving standards are likely to require.

Excessive Operating Costs

Additionally, the City's expense budget is burdened by the waste of court, prosecutorial and police services caused by transportation delays and the unnecessary transportation costs which are directly attributable to Rikers' remote location. The City is also spending an estimated \$10 million per year housing the daily census of over five hundred state-ready cases and parole violators for whom the State now has no room.

The existing system, therefore, burdens the City with excessive costs that will grow with time. Most critically, even if the required capital and expense budget expenditures are made, they will not eliminate the problems caused by the remoteness and inaccessibility of Rikers Island. Only by constructing off-Island facilities located close to the borough court houses will the City be able to operate a rational correctional system responsive not only to the needs of the detainees and correction officers but to the criminal justice system as well. A decentralized system which would facilitate family visits and attorney-client contact and ease court scheduling would necessarily eliminate several of the most vexing problems facing the New York City criminal justice system today.

THE TRANSFER PROPOSAL

The Board supports the Rikers Island transfer as providing the unique opportunity to decentralize the City's correction system with substantial financial assistance from the State.

As proposed, the City would receive \$200 million from the State to be used to construct eight borough facilities. According to an independent cost estimation let through the Board of Estimate, the City's contribution to capital construction costs would be \$110.95 million in 1980 dollars, less than the estimated \$192.25 million cost of upgrading the existing system to meet legal requirements. Assuming, under a "worst case" analysis, an inflation rate of almost 18%, the City's share of transfer construction costs would rise to \$204.3 million. If similarly escalated, no-transfer capital costs would rise to \$273 million.

The Department has stated its commitment to creating replacement facilities which are safe, secure and humane - facilities which provide a far more salutary and safe working and living environment within the institutions. New structures could be built which would permit effective management and efficient use of staff and support adequate programs and improved service delivery. Construction of new borough facilities would permit the City to discontinue the use of the old borough facilities for long-term detainees and restrict their use to short-term housing. As part of the plan, the City would also end its practice of housing pre-arraignment prisoners in borough precinct houses, which have always been ill-suited for that purpose, and instead house them in detention facilities.

The State, in return, would require correction beds appropriately located for a population of which 70% is from the New York City area. Use of this bed space to house inmates from

the New York City area would, as the State Commission of Correction has noted, make family visits easier and encourage realistic preparations for the return of inmates to civilian life. Perimeter security on the Island would be improved substantially. Further, the acquisition of these beds would permit the State to assume its proper responsibility for State ready inmates and parole violators, thereby relieving the City of this fiscal burden.

CRITERIA FOR A NEW SYSTEM

However, if the new City system is to be an improvement over the existing one, the mistakes of the past must not be repeated. The Board's identification of the deficiencies in the present system provides a clear sense of the essential elements of a new system: facilities must be secure and cost-effective, not only habitable for persons awaiting trial but hygienic and environmentally secure for the men and women who work there. Further, the system must conform to both existing and anticipated standards and consent decrees.

The Board's Charter responsibility has required that it seek demonstrable proof that these are realistic goals. Toward that end, the Board has studied plans for the replacement system to determine whether they conform with standards set by the Board and Federal Courts, and whether they adequately provide for the safety of the correction officers who will work within the prisons and the communities in which they will be located. Transition plans were also examined to determine whether the transfer could be accomplished without jeopardizing recent improvements in working and living conditions within New York City jails. The

analysis focused, too, on the question of whether it can be demonstrated that the new system would be cost-effective and would justify the substantial commitment of public funds which would be required.

The analysis which follows is based in part on the testimony at the Board's hearing*, on discussions with persons involved in the planning process and on an extensive review of documents, including the Memorandum of Understanding between the City and State (MOU), the Rikers Island Project Working Document submitted by then Criminal Justice Coordinator Herbert J. Sturz and Correction Commission Benjamin Ward on October 1, 1979 and the State Informational Document. The analysis expresses the Board's recommendations and concerns based on the plans as developed at this time. Some unresolved problems remain which must be resolved prior to construction of the proposed facilities. Many of the Board of Correction's concerns, however, can be addressed during the planning process.

The Board believes that the Department is committed to achieving the Board's essential goals for a replacement system, and that through a cooperative planning effort these goals can be achieved.

It is our view that a workable plan has been presented that affords New York City its last opportunity in this century to rationally restructure its correction system. Therefore, the Board recommends that the proposed lease of Rikers Island be approved.

* Throughout this report, references to testimony at the Board's hearing will be cited as Transcript, p. ____.

REPLACEMENT ISSUE I

REPLACEMENT FACILITIES MUST PROVIDE A SAFE AND SECURE WORKING ENVIRONMENT FOR CORRECTION OFFICERS.

The design deficiencies that create unsafe working conditions for correction officers and inadequate security at Rikers Island detention facilities must not reappear in the replacement facilities. The following elements of the plan for the new detention facilities presented by the Department appear to address major inadequacies of the Rikers Island facilities and would therefore produce a higher degree of security than currently exists:

(1) Maximum facility capacity of 500 beds:

Smaller, properly staffed facilities would promote a safer working environment for correction officers. It is the Board's experience that serious assaults and escapes occur with far greater frequency in the larger Rikers Island facilities than in the smaller borough facilities. In particular, there were 25 escapes from Rikers Island facilities in 1979, while there was only one escape from the borough facilities. Additionally, construction of facilities with capacities of 500 beds or less would finally bring the New York City detention system into compliance with national standards.

(2) Modular housing area design:

The internal subdivision of the replacement facilities into partially self-contained mini-jails as proposed by the plan would reduce the amount of inmate movement throughout.

the facility and contribute to institutional control and security. The further division of the total institutional population into small, separated housing units within mini-jails, will allow correction officers a much higher degree of control and supervision of prisoners within housing areas than is now the case on Rikers Island.

This facility^x design will make possible implementation of the unit management concept. It appears that the integration of security and program functions inherent in this concept could significantly contribute to the professional development of correction officers and permit a fuller utilization of the skills and talents of the uniformed force.

However, if the unit management concept is to be successfully utilized within these new facilities, it is essential that the Department provide correction officers with the training necessary to implement this approach effectively.

(3) Improved Classification:

The existence of small, totally separable housing units will also provide greater internal institutional security by allowing for the classification and separation of prisoners by security risk. While the monolithic maximum security housing areas of the Rikers Island detention facilities have made it difficult to implement a classification system, the flexibility of the modular design would appear to make practicable the assignment of more assaultive inmates to separated units where appropriate security precautions can be taken.

(4) Enhanced Visibility:

It appears that the housing area design proposed for the replacement facilities will increase internal institutional security by providing unobstructed lines of vision for correction officers to all areas of the housing unit from a central control point.

(5) Modern Security Equipment and Construction

Techniques:

The Department has asserted that all facilities will be built with maximum security envelopes and that modern construction techniques will be utilized to ensure that the external facades will withstand rigorous and persistent efforts to breach the external security of the building.

It is the Board's opinion that the proposed use of the outside cell configuration is consistent with professional standards and that with proper design and materials, its use will not compromise the security of the facilities. In the renovated Tombs, for example, window frames are to consist of 12 gauge steel and, according to the Department, will be anchored into the wall through attachment to the structural steel in the exterior concrete wall.

The security glass which is utilized must be tested to the satisfaction of the Board and the Department prior to installation. The Board is concerned that the materials used be adequate to prevent breaches of security and also that frequent and costly replacement of the glass can be avoided.

Since the Tombs is expected to be in operation before construction of any of the replacement facilities is completed, the operation of the Tombs will give the Department the direct experience which can serve as a basis for determining the window design and materials to be used in the replacement system. The Board will closely monitor the construction and operation of the Tombs to ensure that any problems relating to the outside cell design are promptly detected and addressed, both in the Tombs and in the planning for the new facilities.

In the event that the present outside cell configuration does not prove to be adequate after the initial testing and monitoring period, the Department must have in place an alternative design that will insure the external security of the buildings.

The modern security equipment that would be installed in the replacement facilities, such as closed circuit TV, will further enhance the safety of the working environment.

Of course, the external integrity of a jail cannot be maintained by placing sole reliance on heavy duty construction materials and physical security devices. Physical structures must be augmented by sufficient staff and proper staff surveillance techniques. Careful consideration must be given to providing an adequate uniformed staffing pattern for replacement facilities in the most cost effective manner possible.

REPLACEMENT ISSUE II

REPLACEMENT FACILITIES MUST PROVIDE A SAFE AND HUMANE LIVING ENVIRONMENT FOR PRISONERS AND COMPLY FULLY WITH ALL BOARD OF CORRECTION MINIMUM STANDARDS, OTHER PROFESSIONAL STANDARDS AND COURT MANDATES.

Many of the design elements which have been proposed for the new facilities should contribute to a more normal, stable living environment within the prisons and promote attention to the needs of the individual detainees.

Limitation of facility size and the creation of small housing units should, as discussed above, reduce tensions within the institutions and in particular may produce more meaningful inmate-staff contact.

Use of the outside cell configuration will satisfy professional and judicial standards by ensuring that all cells have a natural light source and provide the prisoner with orientation to the outside world.

Further, the design will permit compliance with the Board of Correction mandate that detainees be housed in the least restrictive security classification required.

It is, of course, of critical importance that all new detention facilities provide such mandated essentials as adequate space for recreation, visiting, counseling, religious services and vocational and educational programs, as well as adequate telephones, law libraries, showers, laundry facilities, kitchen and dining facilities and medical and mental health services. Individual cells must be designed to provided adequate space, light and privacy. Proper levels of light, heat and ventilation

must be constantly maintained throughout the facility and facility design must lend itself to the maintenance of noise levels within acceptable limits.

It is the Board's opinion that plans for the renovated Tombs demonstrate the Departments's commitment to meeting all minimum requirements in new or renovated facilities and, in fact, to exceed these standards wherever that can be accomplished without excessive cost or reduction in security.

Much is dependent, however, on the plans to be developed for operating these physical plants. The way that the institutions are staffed and the programming done are of critical importance. At the time of this report, major issues in planning the prototypical program for replacement facilities are being addressed. These include medical and mental health service, security considerations, educational space, age and sex classification, recreation and food service. Decisions on these and other "master planning" issues will ultimately determine whether the replacement system would in fact be an improvement over the existing system. For example, since it is probable that the opportunity for on-grade recreation will be eliminated in new facilities, creative use of rooftop space must be made in order to provide inmates with necessary outdoor recreation.

The Board believes that through a cooperative planning effort these issues can be resolved, and that it is possible to create a system which is responsive both to security concerns and the welfare of the inmates. If Board of Estimate approval is given to the transfer, the Board intends to continue its partici-

pation in all aspects of the planning process, including the development of a prototype design, to ensure that the plans for the new system continue to be consistent with the goals expressed by the Department.

REPLACEMENT ISSUE III

SATISFACTORY PLANS MUST BE DEVELOPED FOR THE SENTENCED POPULATION NOW HOUSED ON RIKERS ISLAND.

In the City Working Document, the Department estimated that the inmate population would include 2,000 sentenced misdemeanants, 600 of whom would be housed in existing and new borough facilities as the sentenced help. The State had pledged that it would provide bed space for the remaining 1,400.

The Department has subsequently reviewed its projected needs and now asserts that the number of sentenced inmates has been declining annually and will continue to decline, and that it therefore appears that it would not need the full 1,400 beds. As a result, the State and City have agreed that:

1. The state will provide custody for 1,000 City sentenced inmates within existing State correctional facilities in the City.
2. The City will reimburse the State for the cost of services for each City inmate based on demonstrable actual cost. According to the Department, the amount will not exceed City per capita costs for this population.
3. If the City sentenced inmate population should exceed 1,000 beyond sentenced work force needs, New York City would assume responsibility for the surplus within existing facilities.

The Board believes that for both fiscal and programmatic reasons, the preferable resolution of this issue would be for the State to assume permanent responsibility for all sentenced inmates.

REPLACEMENT ISSUE IV

THE REPLACEMENT SYSTEM MUST PROVIDE SUFFICIENT
BED SPACE TO HOUSE THE CITY'S DETENTION
POPULATION SECURELY AND HUMANELY.

The deteriorating conditions caused by overcrowding at the House of Detention for Men underscore the importance of attempting to accurately project the City's space needs so that an adequate number of beds are built. Plans currently call for construction of 3161 new beds. According to the City Working Document, this would permit the City to house the anticipated detention population at 87% capacity system-wide. This figure also includes housing for sentenced help and 114 court-ready pre-arraignment prisoners and assumes that State ready prisoners and parole violators now housed in the City system would, as agreed, be absorbed by the State.

A 7% "swing space" to accomodate periodic fluctuations in census has been built into the 87% capacity figure. Thus, although according to the Department the current census is at a three year high, it could be housed within the proposed new system, but only at the higher occupancy rate of approximately 92%. The replacement system could not accomodate any substantial long-term increase in detention population. It should also be noted that almost a one-for-one replacement of beds is planned; according to the Board's calculations, the transfer plan would reduce the number of usable detention beds now available by approximately 20 beds.

The calculation of the detention replacement bed figure has been based on the assumption that the current census will remain stable. One member of the Board is of the opinion that this system therefore may not meet the needs of the City in an era of apparent rising crime and that therefore the cost estimates for the replacement system should include a contingency amount for adequate additional bed space.

However, an increasing crime rate does not necessarily result in a significant increase in the number of defendants who are unable to post bail and are therefore confined to jail prior to trial. According to the Department, the detention system is continuing to experience a decrease in yearly admissions. It asserts that the current population peak is attributable to an increase in average length of stay. If so, the detention level may be reduced as a result of decentralizing the detention system: closer proximity to borough court houses and attorneys may minimize court delays and speed the judicial process. Further, the detention census may also be reduced through the Department's current and planned efforts to provide earlier, more appropriate release for those defendants who are in the system for one week or less (currently constituting over 50% of admissions).

Nevertheless, as the Department has recognized, the size of the detention population is "inextricably related to many unpredictable factors" and is difficult to estimate with complete confidence. (City Working Document p. 9.)

The Board of Correction will closely and carefully monitor population trends. If there is an increase which cannot

be offset by the Department's bail expediting project with the Criminal Justice Agency and other concurrent efforts, additional beds or perhaps even an additional institution may have to be built. Of course, this would significantly increase the cost of the replacement system. However, such construction would be necessary even in a no-transfer situation.

According to the City Working Document, the construction plans are based not only on the assumption that the census will remain stable, but also on the premise that the distribution of that population by borough of jurisdiction (i.e., the borough in which the individual will be tried) will continue along present patterns. The calculation of the number of new beds needed per borough has been based on the current population distribution and construction plans allow little or no cushion for increase resulting from a shift in distribution by borough.

Thus, even if the City-wide population does remain stable, or, in fact, decreases it is still possible that a shift in distribution by borough could force a choice between overcrowding an individual facility or requiring detainees to be housed in boroughs other than their borough of jurisdiction. The Department has stated that this distribution has remained stable over time, and that there are no indications that a shift will occur. It is nevertheless important that as population indicators are evaluated during the construction phase, particular attention be paid to those demographic and political policy factors which could affect borough distribution.

TRANSITION ISSUE I

THE STATE TAKEOVER OF THE RIKERS ISLAND COMPLEX MUST OCCUR WITH MINIMAL DISRUPTION AND EXPENSE: TEMPORARY HOUSING FOR INMATES DISPLACED BY TRANSFER OF AN INSTITUTION TO THE STATE MUST BE SECURE AND IN FULL COMPLIANCE WITH MINIMUM STANDARDS AND CONSENT DECREES.

The plans which have been developed thus far indicate that both the State and the Department are committed to an orderly transfer of the complex at minimal cost to the City and with the least possible disruption of security or living conditions.

1. Correctional Institution for Women (C-73)

The proposal calls for the transfer of the Complex to occur in phases over a five-year period. The first transfer called for in the Memorandum of Understanding (that of the Correctional Institution for Women (C-73)), will occur before the completion of any off-Island replacement facilities. Providing the State with all the bed space in this facility therefore would have required the relocation of the City female prisoners to some interim facility. After evaluating the facilities available for use for such temporary housing, the Department concluded, as did the Board, that it would be difficult to provide secure, habitable interim bed space for these women without expensive and lengthy renovations. The Department had therefore committed itself to structuring an alternative arrangement which would provide the State with some bed space in C-73 without displacing the City prisoners.

Under the most recent plan, legislation is being sought which would permit the State to temporarily assume custody of the City female prisoners. If this legislation is enacted, the

facility would be transferred to the State, which would house the City female inmates, presumably at nominal cost. This appears to be a reasonable and workable plan. We believe it is preferable to a shared City-State operation of the facility, for it could minimize administrative problems and permit City staff to be used elsewhere. However, the Board will be monitoring the development of this arrangement to ensure that the privileges afforded City female inmates through Minimum Standards and consent decrees will not be diminished during any period of joint operation of C-73 or temporary State custody of the City inmates. Further, the security of the facility must be maintained throughout this period. Satisfactory plans also must be developed for the reassignment of women officers currently at C-73 after the State takes over the institution. It is also necessary that adequate plans be made for the relocation of those adolescent males who have recently been moved into C-73.

2. Adolescent Reception and Detention Center (ARDC)

Planning for the second phase of the transition, the transfer of the Adolescent Reception and Detention Center (ARDC) to the State, also indicates a concern for security and consideration of the Standards. Under the current plans, the displaced adolescents from ARDC would be relocated to the Anna M. Kross Center (C-95/71). It is clear that before this facility is used it must be secure as well as acceptable to the Board in terms of Standards compliance. There also must be adequate support and program space. An early Department analysis dated June 1979 had cited several problems which would have to be overcome if C-95/71

were to be used for housing an adolescent detention population, including non-existent perimeter security, long corridors, inadequate program and recreation space and susceptibility to vandalism and contraband.

The Department has been working with the State to identify those renovations which must be completed before the institution can be considered acceptable. Among those items are the construction of perimeter security fencing and lighting, a control room and a gymnasium, and adaptation of existing space for use as a school. It is the Board's understanding that the State has thus far committed itself to paying for certain essential capital construction, but that the extent of its payment for renovation is an open matter.

The Board has been reviewing Department plans for use of C-95/71 as they have been developed. These include the use of dormitory space in C-95 to house certain new admissions and short-term detainees. The Board is concerned that some of those adolescents who will be housed there may be victimized by other youths in the dormitory. The Department asserts that any assaultive behavior can be minimized by effective supervision and by screening the population to be housed. This remains a matter of Board concern which it will continue to review with representatives of the Department.

The shift of the ARDC population to C-95/71 requires that the Mental Health Unit be moved from its current location at C-71. The most recent plan is to relocate the unit to the Fifth Quad of C-71, which, though built to house mental patients, has

never been used. Because of the current configuration of the building, renovations will be necessary. However, it has not been decided whether those prisoners in the Mental Health Unit will be housed in single cells or dormitories.

In restructuring the Mental Health Unit, both in terms of its physical configuration and the services it provides, the Department must consult those with expertise and responsibility in this area. In this regard, a task force including representatives from the Board, the Department of Correction, the Department of Health, the Department of Mental Health, Mental Retardation and Alcoholism Services, Health and Hospitals Corporation, and Bellevue, Montefiore and Kings County Hospitals has been formed to share information and define the goals and nature of a restructured mental health system. Among the initial short-term planning issues to be considered by this group will be the cell configuration of the Fifth Quad.*

The Board is very much encouraged by the Department's assurances that in its planning effort it will be relying on the input of this group and on the Board's Recommendations on Mental Health Services. Concern for the safety of the officers working with disturbed prisoners and for the welfare of those inmates must continue to be a priority planning issue, and the City must be willing to commit the resources to implement the proposals generated by this group.

* Although Commissioner Thomas Coughlin of the State Department of Correctional Services has said that the State would pay for conversion to single cells (Transcript p. 182) we appreciate the Department's indications that this would not be the determinative factor in deciding which configuration is most desirable.

If the adolescents are to be moved to C-95/71, execution of the ARDC transfer will also require the relocation of the adult male population currently housed in C-95/71 to relieve the overpopulation at HDM. In order that the transfer not raise the population level of HDM, the State must meet its obligation to assume responsibility for housing parole violators and State readies prior to the turnover of ARDC. It would probably also be necessary to make the turnover of ARDC contingent on the completion of the new Tombs, so that the 400-plus new beds can be used to absorb the C-95/71 population.

3. C-95/71

Pursuant to the Memorandum of Understanding, the next transition phase would be the transfer of C-95/71. Commissioner Coughlin has testified that the timing of the C-95/71 transfer could depend on the City's progress in the construction of new sites and that the State could comfortably operate the Correctional Institution for Women and ARDC as an isolated State operation on Rikers Island for six to ten months longer than anticipated if the City had construction problems. (Transcript, pp. 177-179)

4. Lease Provisions

According to Commissioner Coughlin, the timing of the final phase is also dependent on the ability of the City to construct alternative facilities. (Transcript, p. 177) Since the City's construction schedule is tight, providing only six months leeway for completion of a replacement system (City Working Document, p. 23), this flexibility is critical if the transfer is to occur without compromise to security and habitability. The

agreement between the City and State must specifically provide that the City should not be required to vacate any facility until adequate replacement facilities exist, whether they be new borough facilities or interim buildings to be used until the borough facilities are completed. It is essential, too, that contingency planning be initiated at this time to ensure that livable and secure interim facilities are available if the construction deadline is not met. Further, in the event that the City is unable to construct a replacement system, it must be able to regain control of those facilities previously transferred after agreeing to make appropriate payments to the State. The lease must carefully spell out the responsibilities of both parties in such circumstances, including financial arrangements to be made. Otherwise, the City and State may suffer the worst of both worlds in the administrative nightmare of a Rikers Island permanently split between City and State control.

TRANSITION ISSUE II

DURING THE FIVE-YEAR TRANSITION PERIOD THE CITY MUST CONTINUE ITS COMMITMENT TO MINIMUM STANDARDS AND CONSENT DECREE COMPLIANCE IN THOSE INSTITUTIONS REMAINING UNDER CITY CONTROL.

The City Working Document identifies 4.8 million dollars in Minimum Standards compliance expenditures for Rikers Island which the Department states would be unnecessary if the proposal were approved. While the Board agrees that it would be inadvisable to make extensive capital improvements in facilities which would soon be turned over to the State, this fact would not excuse non-compliance with Standards during the lengthy transition period. In the event of a transfer, the Board and the Department

will have to work together to develop interim arrangements which would satisfy the Standards without major capital construction.

Further, the proposed transfer would clearly not be a justification for failure to meet Minimum Standards or conform with consent decrees in the existing borough facilities. Such basic deficiencies as excessive noise, absence of windows, and poor heating and ventilation must be corrected regardless of whether those facilities are to be used for short or long-term detention.

TRANSITION ISSUE III

SECURITY ON RIKERS ISLAND MUST BE IMPROVED DURING THE TRANSITION.

According to the Memorandum of Understanding (Section C), the City will provide perimeter security and initial visitor screening on Rikers Island during the transition, while the State will be responsible for security matters within the perimeter of the land and buildings leased to the State. Some witnesses at the Board's hearing cited the disparity of job benefits for State and City correction officers as a possible source of friction during the shared operation of the Island. While the Board agrees that there may be some dissatisfaction among State officers, it does not feel that this alone would hamper security. However, efforts must be made to effectively coordinate the two forces so that neither accountability nor the ability to respond in an emergency situation is diminished.

The State has represented that it intends to spend \$106 million in renovating the Island, including extensive expenditures to upgrade security to Department of Correctional Services standards.

Among these renovations would be the installation of double fence security around each facility prior to the transfer of any State inmates.

Further, in an agreement with the Queens Citizens Organization, dated October 15, 1979, the State Department of Correctional Services stated that all male inmates will have earned the privilege to transfer to Rikers Island by exhibiting satisfactory conduct in upstate prisons, and would be returned upstate if they do not "satisfactorily abide by the rules and regulations" during their stay at Rikers. These conditions would not apply to female inmates, presumably due to the limited alternative housing available.

Testimony elicited at the Board's hearing indicates that the State would recognize its obligation to improve Rikers Island security. It is the Board's opinion that utilization of rigid selection criteria for inmates, maintenance of standards of inmate behavior and implementation of the construction plan which has been outlined would in fact produce a higher degree of security than currently exists on the Island.

COST ISSUE I

CAPITAL CONSTRUCTION COSTS MUST BE REVIEWED AGAINST THE SUBSTANTIAL EXPENDITURES WHICH WOULD BE REQUIRED IN THE EVENT OF NO TRANSFER.

In the event that Rikers Island is not transferred to the State, extensive construction will be required both on and off the Island, to improve security, repair deteriorating facilities and bring the City detention system into compliance with the Board's Minimum Standards, existing consent decrees and national professional standards.

The Department has estimated that capital construction expenditures of \$192.25 million (in September, 1980 dollars) would be required within five years if the proposed transfer does not occur. This number must be compared to the \$110.95 million in unescalated dollars which has been estimated as the City's contribution to capital construction costs in the event of a transfer. (See Cost Issue II, below). Under a "worst case" analysis, escalating costs at an inflation rate of 1.4% a month to the mid-point of construction, no-transfer capital costs would rise to \$273 million as compared to a transfer capital cost to the City of \$204.3 million.

The Department's cost estimate includes \$38 million for renovation of the Rikers Island House of Detention for Men (HDM). The Board agrees that massive renovations are needed to make HDM habitable and secure, including the conversion of three cells into two to meet national standards for cell size, providing adequate recreation and program space, and upgrading sanitation, acoustics, heating and ventilation. Further, there is a substantial probability that as a result of litigation now pending, the City will be required to make these renovations.*

Additionally, major capital construction is required to bring Rikers Island facilities into compliance with the Minimum Standards, including the construction of package rooms, gymnasium additions and contact visiting areas in several of the institutions.

* The City has acknowledged in litigation that the record in Benjamin v. Malcolm established the unsuitability of HDM for pre-trial detention. The court-ordered stipulation provides that the court will proceed to fashion a remedy if the transfer is not approved.

The Department's no-transfer cost estimate also includes \$42 million for the renovation of the existing borough facilities, including enlargement of cell size and the provision of adequate recreation space. Present cell size is significantly below national standards and recreation at these facilities is severely limited.

If the transfer does not occur, far more extensive and costly renovations to the three borough facilities may be required as a result of litigation currently being pursued by the Legal Aid Society on behalf of the prisoners of the borough houses. Under the transfer model, these borough houses would be used solely for short-term detainees. Michael Mushlin, Director of the Legal Aid Society's Prisoner's Rights Project, has indicated that if these facilities were used exclusively for this purpose, it would reconsider its position concerning the extent of necessary renovations. Mr. Mushlin testified before the Board that if, on the other hand, the City continues to use those institutions for long-term detainees, he believed that Legal Aid would have no choice but to pursue the litigation, seeking renovations at all houses similar to the renovations for the Tombs (Transcript, pp. 254, 255) That renovation is now budgeted at over \$25 million.*

The reduction of cell capacity at HDM and the borough facilities which would result from the necessary renovations

* Using this \$25 million figure as an estimate of the cost for renovating each of the three existing borough facilities, the total cost of borough house renovations in the no-transfer option may reach \$75 million as compared to the \$4.2 million projected in the transfer option. This \$75 million figure may be significantly higher as a result of later construction start dates and inflation.

would require construction of additional facilities to replace the space lost. The Department has calculated the cost of one eight-hundred bed double facility and the opening of additional space in C71/95 at approximately \$78.5 million.

Costly perimeter security measures, similar to that planned by the State, and significant rehabilitation of the physical plant also would be required if the City is to remain on Rikers Island.

COST ISSUE II

A TRANSFER CAPITAL CONSTRUCTION COST ESTIMATE HAS BEEN PRODUCED WHICH IS REASONABLE AND CAN BE ADHERED TO, ABSENT EXTENSIVE DELAYS IN THE PROJECTED SITE APPROVAL AND CONSTRUCTION SCHEDULE.

In the City Working Document, the Department had estimated the capital costs of the Rikers Island Replacement System at \$351.3 million. An independent cost estimation performed by Neilsen, Wurster & Associates, Inc. has placed the total cost at \$310.95 million in September, 1980 dollars. Under a "worst case" analysis, escalating costs at 1.4% a month to the mid-point of construction, the costs rise to \$404.3 million. Assuming a State lease payment of \$200 million, the City's share would then be \$204.3 million. This estimate includes a contingency fund equal to ten percent of the estimated development cost.

The independent Neilsen, Wurster estimation confirmed basic assumptions made by the Department in its cost estimate, but utilized an even more conservative approach to arrive at what the Board believes to be a reasonable projection.

Additional information is necessary, however, before a final assessment of cost can be made. Only after site selec-

tion for the borough facilities and central services (including a training academy) has been finalized can the cost of site acquisition (including the cost of foregoing alternative uses of the land) be measured. This information is also needed to determine the extent to which the City may be rehabilitating existing structures instead of constructing new ones. Site identification will also affect the calculation of project start dates; a change in the order of construction could result in altered construction costs.

There may be additional expenditures associated with the renovation of the Anna M. Kross Center (C-95/71), the Mental Health Unit, and with State facilities to be used for housing City sentenced inmates, depending on the degree to which the State is willing to finance this construction. "Master planning" decisions concerning the provision of medical and mental health care could require additional capital construction.

Further, despite the Department's efforts to produce a conservative cost estimate, extensive delays in the design and site acquisition process could result in costs escalating above the current projection. A key factor in the Department's ability to adhere to its projected schedule is the time which will be required to move through the Charter-mandated Uniform Land Use Review Procedure (ULURP).

COST ISSUE III

THE CITY'S ABILITY TO ADHERE TO ITS CONSTRUCTION SCHEDULE, AS WELL AS TO PRODUCE STATE-OF-THE ART FACILITIES WITHIN THE COST PROJECTIONS, WILL DEPEND ON THE EFFECTIVENESS OF THE DEVELOPMENT MECHANISM UTILIZED AND THE CITY'S ABILITY TO CONTROL ITS PERFORMANCE.

According to present plans, the Facilities Development Corporation ("FDC"), a public benefit corporation, would act as the City's agent in overseeing the planning, design, site acquisition and construction of a new system. By using a public benefit corporation, which has the potential to operate more expeditiously than City agencies, the Department hopes to avoid the delays experienced on past City construction projects. However, it is obvious that any advantage to be gained from using this mechanism will be lost unless the individual entity selected is able to operate without cost overruns and delays.

According to Commissioner Coughlin, who had extensive experience with FDC in his previous position as Commissioner of the State Office of Mental Retardation, FDC has the professional ability to do the job. He has stated, however, that it is essential to "keep them in line" (Transcript, p. 202), and that "unless you keep their noses to the grindstone you are going to have a problem." (p.203). Therefore, if the City is to use FDC, it must ensure that it will be responsive to the City's needs and capable of meeting the timetables for construction.

As suggested by Herbert Tessler of Domus Group (who may function as the City's liaison to FDC if the transfer is approved) a reasonable budget and time schedule must be set in advance and then constantly monitored. (Transcript, p. 403). On the City's

part, one supervising agency must be responsible for making decisions for all agencies involved, within the predetermined budget and program.

The Board is aware of the substantial effort being expended to develop the necessary program, budget and schedule controls, such as requiring City approval of all consultants and contractors retained by FDC. According to Corporation Counsel Allen Schwartz, adequate safeguards will be built into the arrangement with FDC which "should eliminate or at least minimize the problems that have been experienced in the past." (Transcript, pp. 297-298). Certainly the successful execution of this project, including the adherence to cost estimates and construction schedules, is dependent on incorporation of these safeguards into a final agreement with FDC and their implementation.

COST ISSUE IV

THE TRANSFER PRESENTS AN OPPORTUNITY TO CREATE AN EFFICIENT, COST-EFFECTIVE REPLACEMENT SYSTEM.

According to the City Working Document, the transfer would result in annual expense budget savings of \$13.65 million. This is based on an estimate that the total expense budget costs of a replacement system would be \$81.85 million per annum, compared to a cost of \$95.50 million per annum in the event of no transfer. (City Working Document, p. 40)* These reductions are attributed in part to modern facility design, lower staffing needs, pairing of facilities, contracting out and centralization of services.

* The calculations do not reflect reductions in no-transfer expense costs which may result from projected PEG cuts.

Based on the information presented, the Board concurs that the replacement system will present an opportunity to design facilities which can be operated more efficiently than the existing prisons. Additionally, there should be substantial savings attributable to reduced transportation costs and elimination of Rikers Island support functions such as perimeter security and groundskeeping. However, until sites have been selected and planning has progressed, the actual cost of operating a new system cannot be accurately assessed.

The method by which personal services costs were calculated underscores this point. These costs were based on a projected staffing level of 275 for each single (non-paired) institution. Cited in support of this estimate is a study by the National Institute of Correction which concluded that using traditional staffing patterns, the renovated Tombs could be operated at a staffing level of 300, and an analysis by former Minnesota Correction Commissioner Kenneth Schoen which arrived at a 270 staffing estimate based on the unit management approach. The projection is further based on the assumption that the replacement borough facilities can be staffed at a lower level than the renovated Tombs.

The Board concurs that a new facility design which maximizes visibility and communication and provides smaller, more manageable units, permits a more efficient use of staff than does the present system. However, the 275 staffing figure is clearly no more than an estimated cost element which cannot be determined until buildings are designed, population determined and program needs evaluated.

Similarly, until site selection for the borough facilities is finalized, the savings to be realized from reduction of transportation costs cannot be assessed. The City Working Document is based on a projected 80 percent reduction in expenditures related to transportation. The Department has since revised this estimate, reducing projected savings by \$633,000. The Board recognizes that reductions in the cost of transporting inmates to and from the court cannot be computed until we know how far from the court the institutions will be located. Further, the degree to which certain programs and services are centralized will affect the volume of transportation required by the Department.

It is indisputable, however, that decentralization will reduce transportation costs to a significant extent. The Department's preferred sites are located adjacent to or near borough court houses. Approval of these or similarly located sites will ensure that current costs are substantially decreased.

Similarly, in the City Working Document it is projected that paired facilities can be operated with 109 less personnel than two single facilities. Although the Board feels that the precise amount of savings cannot be calculated at this time, we do concur that savings will result from the ability to share some support services and some management, maintenance and other support personnel. Further, the City Working Document figures are based on only one pairing, while the preferred sites identified by the Department would accommodate three paired facilities, with resulting savings beyond those projected.

The City Working Document calculations also do not reflect the substantial savings in court costs which could result from a reduction of delays due to transportation problems. Extensive savings will also result from the Police Department's being relieved of responsibility for temporary overnight detention of defendants awaiting arraignment. A recent report by the Criminal Justice Bureau of the Police Department estimates that the planned housing of pre-arraignment prisoners in correction facilities would effect annual savings of over \$2,580,000. As Police Commissioner Robert McGuire has noted in a letter to Peter Tufo dated November 12, 1979, reduced arrest/arraignment time spans, with concomitant savings to other criminal justice agencies, are also anticipated.

COST ISSUE V

THE RESULTS OF CITY COMMISSIONED APPRAISALS SUPPORT THE ORIGINAL VALUATION OF RIKERS ISLAND AND ITS FACILITIES.

The State is to reimburse the City for costs of construction up to \$200 million for the lease of Rikers Island and its facilities. This expenditure must be considered together with the cost of the renovations that the State will be required to undertake if it is to use the Island. According to information provided by the State Department of Correctional Services, \$106 million in capital expenditures are planned over a ten-year period. (Cost estimates are reportedly based on an April 1980 bid date and therefore do not include subsequent inflationary increases.)

In addition to the \$200 million lease payment, the State will be providing other direct benefits to the City,

including bed space for up to 1,000 sentenced inmates and extensive renovations to C-95/71 prior to its use by City adolescent detainees. The State and City are also negotiating the turn-over of the State Office Building at 80 Centre Street to the City as the site for a twin replacement facility.

When questioned by the Board, Commissioner Ward cited as primary justification for the \$200 million compensation the two independent appraisals conducted for the State which determined the approximate valuation of the Island and its facilities to be \$209 and \$213 million. These appraisals have been criticized for failing to reflect the value of equipment to be turned over to the State as part of the lease. In light of this criticism and other questions which have been raised, the City commissioned two appraisals to provide further data with which to evaluate the adequacy of the \$200 million ceiling. The results of these two appraisals placed the market value of the Rikers Island complex at \$195 and \$213.6 million, well within the range of the original valuations.

CONCLUSION

Rikers Island is the wrong place to house the City's pre-trial detention population. Its proposed transfer to the state offers the City an unprecedented opportunity to modernize and decentralize its detention system and to use State funds to finance a new system of secure, habitable and rationally located facilities. It's an opportunity that must not be missed.

We are convinced that the new borough jails, complying fully with the Board of Correction's minimum standards, court mandates and all professional standards, can be built within the proposed budget. A new system, in fact, can be built at less cost than the existing system can be upgraded and new facilities, with proper staffing, will provide greater security and an improved working environment for correction personnel.