

MINUTES OF THE MEETING OF THE BOARD OF CORRECTION

April 1, 1974

A regular meeting of the Board of Correction was held on April 1, 1974, in the 14th floor conference room, 100 Centre Street, New York, New York.

Present at the meeting were Mr. Lehman, Mr. Gottehrer, Mr. Jackson, Mr. Kirby, Father Rios, Mr. Schulte, Mrs. Singer, and Mr. Tufo. Present by invitation of the Board were John M. Brickman, Executive Director of the Board; Mary D. Pickman, Assistant Executive Director of the Board; Kenneth G. Nochimson, Co-Director, Investigation and Reporting Unit; Greg Harris, Director, Clergy Volunteer Program; Michael Cleary, Executive Secretary/Fiscal Officer; Sylvia Kronstadt, staff assistant; Barbara Allen, Secretary to the Executive Director; Joan Schmukler and Reggie Jones, law internes, and Douglas Eakeley, Special Counsel to the Board for the hearings.

Present from the Department of Correction were Benjamin J. Malcolm, Commissioner; Jack Birnbaum, Deputy Commissioner; Paul Dickstein, Assistant Commissioner; Alphonso Ford, Assistant Commissioner; Ronald Zweibel, Director of Legal Affairs; A. L. Castro, Director of Public Affairs and James Hickey, Assistant Director of Operations.

Messrs. Lehman and Gottehrer served as Chairmen and Ms. Allen as Secretary of the meeting.

The meeting was called to order at 2:15 p.m.

At the start of the meeting, Commissioner Malcolm through his messenger asked that Mr. Lehman come to his office for a brief meeting. Mr. Gottehrer served as Chairman and began the meeting in Mr. Lehman's absence.

Mr. Brickman introduced the members of the staff to the Board.

Mr. Brickman then introduced Douglas Eakeley, an associate of the law firm of Debevoise, Plimpton, Lyons & Gates, who will serve as Special Counsel to the Board for the hearings. Mr. Brickman noted that his services would be available on a part-time basis for the next two weeks and then full-time through the hearings.

Upon motion duly made and seconded, the minutes of the meeting of February 19, 1974 were approved as amended.

Mr. Brickman then distributed the minutes of the meeting of March 4, 1974, and other materials for information purposes to the Board.

A Board of Correction visiting day in the institutions was discussed; this was a proposal presented to the Board at its last meeting in a memorandum by Ms. Kronstadt. The discussion centered on the best way for this to operate. Mr. Gottehrer declared that the best way to begin and test the program would be to set up an office in one institution, perhaps the Tombs, on a full-time basis with one person. He stated that this might be one of the recommendations which would follow the hearings. Mr. Brickman stated that the Board now has daily visibility in the prisons, in one sense, through the Clergy Volunteer Program. Mr. Jackson declared that the Board should have more visibility. Mr. Gottehrer stated that the Department would be against having a Board person in an institution on a full-time basis. Mr. Tufo noted that the Charter does give the Board the right to do this. Mr. Schulte declared that a schedule of a specific day and time should be set up when a person from the Board would be available at the institution. Ms. Kronstadt stated that her intention was not for the program to be a full-time proposition, as the Board's role as an independent agency is lost if it is in the institution at all times.

At 2:25 p.m. Mr. Kirby arrived.

Mr. Jackson declared that at Inmate Liaison Committee meetings he had the impression that input from the Board was not desired. Mr. Schulte stated that the Board, according to its governing Charter provision, is allowed to have input at the meetings, but there may be some question as to the right of a staff member to have input at these meetings. It was stated that if a staff person is there as a representative of a Board member, that individual has a right to have input, and that the existence of the Board staff is acknowledged simply by the fact that it is paid by the City.

Mr. Jones left the meeting at 2:35 p.m.

After some discussion, the visiting day proposal was tabled until a future meeting.

Mr. Brickman then showed to the Board a copy of the Certificate of Appreciation to be presented to the Friendly Visitors.

Mr. Brickman asked Mr. Cleary to reflect on the correction officer's examination which he had taken the previous Saturday. Mr. Cleary stated that the examination did not really test whether a person could deal with the knowledge and subtlety actually required of a correction officer. Rather, he said the examination only tests whether one can read, add and subtract and count things in one's head. Mr. Cleary noted that 90% of the questions on the examination related to security -- identifying weapons and/or contraband, and counting people. He noted that candidates were given three and one-half hours to answer the 100 questions on the examination and that after two hours, three-quarters of the people were still there and appeared to be only part way through the examination.

Mr. Brickman stated that he had spoken to people who had also taken the sanitation and police examinations, and that they declared that the correction officer's examination was the most difficult.

Mr. Brickman noted that a score of 70 is needed to pass the examination; that 85 to 90 percent of the candidates were expected to pass; that to be appointed a score of over 90 appeared to be necessary; and that the list from this examination will be the list for the next two to four years. Mr. Cleary stated that the only preparation he had done for the examination was to look at the practice questions which appeared in The Chief for the eight or nine weeks prior to the examination.

Mr. Brickman stated that there was a second list for those who took the examination who also speak Spanish, and that the Department can go to that list if it desires to hire someone who speaks Spanish. Mr. Cleary stated that the Spanish examination was oral and one must apply specifically for it. Mr. Gottehrer asked if the correction officer's union had challenged the examination. Mr. Cleary replied that to the best of his knowledge, it had not. The Chairman asked Mr. Cleary to determine who has input into and responsibility for the examination. Mr. Cleary replied that Tom Binnie, Director of Personnel for the Department, had told him that no one in the Department had any input into the examination, but that the Civil Service Commission contracts for the examination.

Mr. Kirby declared there must be some way for Blacks and Puerto Ricans to get into the system and that this must be accomplished in an equal way. He noted that the Department has the best ethnic breakdown in the City.

At 2:45 p.m. Mr. Lehman returned from his meeting with the Commissioner and assumed the Chair.

The Chairman reported on his meeting with the Commissioner. He stated that the Commissioner had told him that he had no objection to Mr. Cadiz, whom the Mayor had just appointed as Deputy Commissioner of the Department of Correction, but noted that the City Charter permits the Department of Correction to have two Deputy Commissioners. In light of the Board's recommendation that the executive and middle-management levels of the Department be strengthened, the Commissioner asked that the Board recommend that there be two Deputy Commissioners. A discussion ensued and it was determined that a decision should be put off until after the Board had spoken with the Commissioner.

The Chairman stated that on Friday, February 21, Mr. Gottehrer, Mr. Tufo and Mr. Brickman had met at Mr. Tufo's office to assemble a potential list of witnesses. Mr. Brickman stated that the list had been divided into an A and a B list; those on the A list would be invited immediately and those on the B list would be invited pending response from those on the A list. Mr. Brickman proceeded to describe the lists.

A general discussion of potential witnesses then ensued, and several suggestions for additional witnesses were made.

Mr. Brickman stated that Mr. Nochimson had called Deputy Commissioner Jack Birnbaum to ask if the City Bureau of Noise Abatement could return to the Tombs to conduct another noise survey. He was told that the Department had its own people to conduct this type of survey and that it would prefer to have them to conduct the study. Mr. Brickman noted that if the Board was to prepare properly for the hearings, then it must be able to bring who it wants into the institution.

Mr. Brickman reported to the Board on the substantive preparations that the Board staff had made for the hearings. He stated that each subject area (such as noise, food, religious needs, etc.) had been assigned to one or more staff members, who were gathering all the necessary information in their areas and preparing memoranda; all of these memoranda are to be incorporated into an overall package to be sent to the Board. Mr. Brickman stated that as the pattern of witnesses becomes clear, the staff would begin to prepare questions and answers for testimony in these various areas. He continued that further research would also be conducted into various statutes and standards which were not treated in the Rhem decision but had a bearing on the Tombs.

Mr. Brickman urged that the Board members have a good working knowledge of the Tombs and suggested that they should begin visiting the institution; he asked that they try to get there at least several times within the next three weeks. Mr. Brickman stated that Mr. Gottehrer had suggested that the Board and staff have a meeting in order to prepare the Board, at some location where there would be no phones, etc., to cause disruption, perhaps on the Thursday or Friday before the hearings. Ms. Pickman declared that the meeting must take place far enough in advance of the hearings, so that the staff could have adequate time to do whatever further research or preparation was deemed necessary by the Board. A meeting was scheduled for Saturday, April 20, 1974. Mr. Gottehrer agreed to check on the availability of Automation House for that date. It was also agreed that another Board meeting was necessary before the hearings.

Mr. Brickman declared that no response had yet been received by Bruce Winick, Deputy Counsel of the Health Services Administration, from his letter to Ronald Zweibel, Director of Legal Affairs for the Department, regarding the confidentiality of mental health and medical records of inmates which are requested on occasion by various law enforcement agencies. Mr. Brickman noted that a meeting had been held between Mr. Zweibel and Mr. Winick, at which he was present, where a compromise had apparently been worked out. He added that the Department has not yet responded, stating whether it accepts the compromise, as received in writing by Mr. Winick, or if future meetings are necessary. The Chairman said he would ask the Commissioner where the response was.

The Chairman stated that a meeting had been held on Friday, March 21, 1974 to discuss implementation of the Chaplaincy Task Force recommendations, involving the Commissioner, Assistant Commissioner Ford, Father Rios and Mr. Harris. The Chairman asked Father Rios to comment on what had occurred at the meeting.

Father Rios stated that certain representatives of the religious organizations involved, as well as various other clergy, were raising some objections to these recommendations and that there appeared to be some backsliding by those who had originally agreed to and supported the recommendations. Father Rios noted that the Commissioner had said that he was not quite sure what the Administration's position was on the implementation of the recommendations and that the Commissioner's position was "flexible" at this point and depended on the Board's and City Hall's position. Father Rios noted that the report was one and a half years old and was still not implemented, and that phase two of the Task Force's work was held in abeyance pending implementation of the recommendations from the first phase.

The Board agreed that a group should talk to the parties involved. Rev. Wilson will talk to Rev. Mitchell and Rev. Turner. Mr. Brickman agreed to ask Mr. Becker, a former member of the Board, to talk to the Board of Rabbis to determine where problems with the implementation of the recommendations were; the Chairman agreed that he would also speak with the Board of Rabbis.

Mr. Schulte suggested that it might also be useful to talk to City Hall to determine its position on the subject, since if it is opposed to the implementation of these recommendations, it might be useless to try to move ahead with implementation.

Mr. Harris noted that there has never been a chaplain assigned to the Adolescent Reception and Detention Center and even at some of those institutions where chaplains have been assigned, the chaplain has not been to the institution for months and that Clergy Volunteer Program volunteers were fulfilling many of the functions which were actually the responsibility of the chaplains. He added that Assistant Commissioner Ford had sent out a letter notifying all part-time chaplains that their positions were being phased out and that they could apply for the full-time positions.

Father Rios noted that for various reasons, some of the part-time chaplains do not wish to give up their present positions or become full-time chaplains, as it would mean losing pension rights and other benefits. Father Rios stated that Assistant Commissioner Ford had requested reports from the wardens as to how well each chaplain was performing his job before sending out the letter regarding the phasing out of their positions.

The Chairman said that he, Father Rios, Mrs. Singer and Mr. Harris would meet to determine what action to take, and to talk to City Hall regarding its position. The Chairman noted that there seems to be some question as to exactly who the Board should be in contact with at City Hall, but said that he would call Deputy Mayor Cavanagh to find out.

At 3:55 p.m., Ms. Schmukler left the meeting.

Mr. Brickman passed out ballots for the Board to select a Vice-Chairman. He noted that Mr. Gottehrer and Mrs. Singer had asked not to be considered for the position. After balloting, the Chairman announced that Mr. Tufo was elected to the position of Vice-Chairman.

At 4:15 p.m., Commissioner Malcolm and his staff entered the meeting.

Mr. Brickman told the Commissioner that in order for the Board to prepare properly for the hearings, it would need the Commissioner's help in order to gather information necessary for the hearings.

Commissioner Malcolm responded that he was not happy about the Board's holding hearings. He stated that there was no Charter provision permitting the Board to hold hearings, but then that Charter did not deny the Board the right to hold hearings. The Commissioner asked the Board what the purpose of the hearings was and what it expected to accomplish. He noted that he was afraid that this would be just another "black eye" for the Department, in that the recommendations would call for changes over which the Department had no control.

The Chairman said that he did not realize that the Commissioner was opposed to the hearings until now.

The Commissioner stated that he had written to Deputy Mayor Cavanagh concerning the Department's recommendations for the Tombs and had requested the necessary funding to implement these changes, but that he had not received a response to this letter. He noted that based on one meeting with City Hall, he had the impression that the Administration did not want to spend the money. The Commissioner stated that before the hearings he wanted to know exactly where City Hall stood regarding the future of the Tombs.

Mr. Brickman stated that it was the Board's hope that the hearings would raise public awareness and support for action on the Tombs, and thereby make it easier for City Hall to go along with the Commissioner's request.

Mr. Tufo stated that the Board sees the hearings as its responsibility, and that this was a unique opportunity after Judge Lasker's decision to educate itself and the community in many different areas concerning the Tombs.

The Commissioner stated that in the past the Bureau of the Budget has not given the Department requested funds to do what it deemed necessary, such as the purchase of a building for a new training academy, and asked what the Board would do if the Bureau of the Budget would not give the Department the money for the suggested recommendations. The Commissioner stated that if the Board was convinced it can accomplish something, he would go along with the hearings.

Mr. Kirby stated that the Board can't go into the hearings knowing exactly what it was going to accomplish.

The Chairman stated that the Board hoped to get ideas and come up with recommendations for bail reform and pre-trial detention in general, not just architectural questions, and would also address what should be done with the physical structure of the Tombs, such as renovating, closing, building a new facility, etc.

The Commissioner stated that he was not now as skeptical about the hearings.

Mr. Brickman read to the Commissioner some of the witnesses who had been invited to testify at the hearings and told him of those who had accepted and what areas their testimony might cover. Mr. Brickman then asked the Commissioner for any suggestions for witnesses who should be invited to testify. The Commissioner made several suggestions, and the Board agreed to consider them.

The Commissioner stated that he had given some consideration to what he would do with the approximately 500 inmates presently housed in the Tombs during renovations, as he does not see how soundproofing and the renovation of cells can be done with anyone housed in the institution.

The Chairman told the Commissioner that he understood that the Department had received some negative responses to the planned implementation of the Chaplaincy Task Force recommendations. The Commissioner mentioned some of the telephone calls and letters he had received regarding this. He noted that a meeting had been held on Friday, March 21, to discuss the implementation of these recommendations. He stated that it was necessary to have someone in charge of religious activities at each institution, whether full- or part-time.

The Commissioner stated that a meeting should be held with the various groups involved to determine where they stand at this time in their desire to implement the Chaplaincy Task Force recommendations. Mr. Brickman stated that the Board had decided that Rev. Wilson would discuss the issue with those in the Baptist Church who had expressed misgivings about the implementation of the recommendations and Mr. Becker and the Chairman would speak to the Board of Rabbis to determine what they consider to be the problem areas.

Deputy Commissioner Birnbaum stated that the new program will cost approximately \$300,000 per year, while the old program cost \$140,000 per year.

The Commissioner stated that City Hall's position on the recommendations must be determined and asked what the Board's position was. Mr. Brickman stated that while the Board was on record in favor of implementation and still supported it strongly, it had reached no decision as to how to handle the present problem.

Father Rios asked the Commissioner if he wished to be included in the meeting with the various religious organizations the Board had discussed. The Commissioner replied that he would.

At 5:35 p.m., Deputy Commissioner Birnbaum left the meeting.

At 5:40 p.m., Mr. Jackson and Ms. Kronstadt left the meeting.

A general discussion then ensued regarding the upper-level management of the Department, focusing upon the question of whether the Department should have two deputy commissioners.

Upon motion duly made and seconded, the meeting was adjourned at 6:00 p.m.