

MINUTES OF THE MEETING OF THE BOARD OF CORRECTION

August 6, 1974

A special meeting of the Board of Correction was held on Tuesday, August 6, 1974, starting in the Visiting Room of the Manhattan House of Detention, 125 White Street, New York, New York, and being adjourned to Room 1410, 100 Centre Street, New York, New York.

Present were Mr. Lehman, Mr. Gottehrer, Mr. Kirby Mrs. Singer, and Mr. Tufo. Present by invitation of the Board were John M. Brickman, Executive Director; Eileen Shanahan, Co-Director, Investigation and Reporting Unit; Michael Cleary, Executive Secretary; Barbara Allen, Secretary to the Executive Director; Charles Hamiel, Beverlyn Pledger and Erol Vural, student internes.

Present from the Department of Correction were Benjamin J. Malcolm, Commissioner; Alphonso Ford, Assistant Commissioner; William Ritholtz, Director of Legal Affairs; James Hickey, Deputy Director of Operations; and Arnett Gaston, Assistant to the Commissioner.

Mr. Lehman served as Chairman and Ms. Allen and Mr. Hamiel as Secretaries of the meeting.

The meeting was called to order at 10:10 a.m.

A press conference was held in the Visiting Room of the Manhattan House of Detention to release the Board's Report on the Future of the Manhattan House of Detention. A tour of the Tombs by the Board and some of the press followed.

At 11:15 a.m. Mr. Gottehrer and Mr. Kirby left the meeting.

At 12 noon the meeting was adjourned to Room 1410, 100 Centre Street, New York, New York.

The Chairman declared that he questioned the advisability of releasing the Board's report on Court Recordkeeping. Mr. Brickman stated that he would send a copy of the report to Judge Altman for his opinion on the matter.

Mr. Brickman explained the case of William Carroll, an inmate presently housed at the Rikers Island Hospital with a heart condition who doctors have indicated might

possibly die as a result of this before his October 11, 1974 scheduled release date. Mr. Brickman noted that the Board has tried to get Mr. Carroll released on parole, but that these efforts have been unsuccessful, and asked the Board if it would be willing to go public with the case. It was decided that more details of the case were needed before that decision could be made.

Mr. Brickman stated that inmates awaiting trial or incarcerated on a misdemeanor charge were eligible to register to vote when in prison, using their home addresses as their voting addresses. He noted that under a new statute, inmates are now eligible to vote by absentee ballot, and asked the Board's reaction to starting a voter registration project proposed in a report sent to the Board members in preparation for this meeting. He declared that the Clergy Volunteer Program would be the perfect vehicle through which to do this, and Mr. Harris agreed. It was decided an experimental project would be proposed to the Queens House of Detention, to begin as soon as possible.

At 12:25 p.m. Ms. Shanahan entered the meeting.

The Chairman asked Mr. Tufo if he had any reaction to the Wallace v. Kern amicus brief prepared by the staff. Mr. Tufo stated that as long as the Board is careful in the wording of the brief and makes no recommendations, he could see no problems.

Mr. Brickman described a situation in Block 1B at the New York City House of Detention for Men, the area where alleged BLA members and other "political" prisoners are housed. Mr. Brickman stated that there were complaints by those housed there that their mail was opened and sent to the Police Department where it was photocopied before being given to the inmates. He noted that searches were conducted in this area on a daily basis and that the inmates accepted this fact but complained that their personal property was completely ransacked and even destroyed in the conducting of these searches.

Mr. Brickman added that in connection with this, there had been a great increase in the number of complaints of brutality received by the Board, and that reports of these complaints were sent to Commissioner Scoppetta as well as Commissioner Malcolm. At the Department, he declared, they are handled by Captain Gus Mellon, who is presently in charge of the Department's Investigation Unit. He noted that the Board has no indication as to

what happens with these complaints in Captain Mellon's office. Mr. Brickman stated that the next time an allegation of brutality was reported to the Board, it would conduct its own investigation and present the facts to the District Attorney's office.

At 1:25 p.m. Mr. Vural entered the meeting.

Mr. Shanahan distributed memoranda regarding allegations of brutality which had been reported to the Board office.

At 1:40 p.m. Mr. Hamiel entered the meeting.

At 1:50 p.m. Mr. Pledger entered the meeting.

A general discussion of the issue ensued with Mr. Hamiel, Ms. Pledger and Mr. Vural citing various incidents which they had encountered.

In the course of the discussion, it was noted that all correction officers are instructed while at the academy in the proper manner of conducting a shakedown, but that these instructions were apparently not followed. Mr. Cleary stated that there was nothing in the Department Rules and Regulations concerning this, but that there is a Departmental order on the matter.

Mr. Brickman explained an order issued by Judge Judd which would prevent double celling in the Brooklyn and Queens Houses of Detention, unless a document signed by both the Commissioner of Correction and Chairman of the Board were signed certifying double celling for emergency circumstances. Mr. Brickman noted that this raised several questions. First, he asked, is this within the Board's Charter authority; next, does it involve the Board in the day-to-day administration of the prisons; and finally, since the Chairman's position is not full-time, it could take up too much of his time. The Chairman stated that he would arrange a meeting with Judge Judd when the judge returned from vacation after Labor Day.

At 2:10 p.m. Mr. Tufo left the meeting.

Mr. Lehman stated that chairs at the Brooklyn House of Detention were still a problem. He noted that the warden had told him that according to a census he had recently conducted, the institution presently had half the needed number of chairs. Ms. Shanahan stated that she had tried to get this moving, but that no one in the Department was able to give her the necessary information to check on the status of the order.

At 3:00 p.m. Commissioner Malcolm and his staff entered the meeting and Mr. Hamiel became Secretary of the meeting.

A discussion commenced of Judge Lasker's decision in Rhem v. Malcolm.

Commissioner Malcolm stated that he had originally proposed the renovation of the Tombs in January of 1974, but had altered his proposal in April 1974, when he suggested demolition rather than renovation. He stated that he felt that no detailed study of the situation had been made by the Board at this point, and that the Board's figures for the cost of renovating the Tombs were incorrect. He believed that \$30-60 million would be a more reasonable figure for the renovation project than the \$15 million proposed by the Board. He pointed out that this money would only cover the housing of 600 inmates, and that the money might be better spent for improving housing facilities on Rikers Island, which has a population of 4,000. He further suggested that an architectural study be made of the Tombs, to get some idea of the problems renovation would cause.

Mr. Brickman said that the housing of men on Rikers Island poses many problems, particularly that of transportation, as well as for the families and attorneys of the men housed there.

Commissioner Malcolm agreed, but pointed out that the Board of Correction's opposition to the recommendation of the National Commission on Criminal Justice Standards and Goals to eliminate dormitory housing made it difficult for the Department of Correction to satisfy all of the mandates of the Rhem decision.

Mr. Brickman noted that the Department was also mandated by Judge Judd's decision to have one man per cell in Brooklyn and Queens. Commissioner Malcolm said he couldn't reconcile the closing of the Tombs and the recalling of men from Sing Sing with Judge Judd's order. He said that at this point it is impossible for the Department to fill all of the mandates placed upon it.

Commissioner Malcolm then stated that he agreed with the Board's recommendation in regard to the classification of inmates, particularly the idea of a four-day diagnostic center to determine classification. He said that should the Tombs be closed, certain provisions for telephones, outdoor recreation, and counsel room for lawyers will be made when the men are transferred to Rikers Island.

Mr. Lehman asked what had happened to the \$250,000 allotted by the CJCC to study the Tombs problem.

Commissioner Malcolm said that the money was not available yet and would not be until the fall. He stated that in 1974 an architectural firm wanted to charge \$80,000 for a 13-week analysis for new institutions in an effort to avoid the creation of another Tombs.

Mr. Lehman questioned a recent search at the Bronx House of Detention and the charge made by Rev. Detrich that excessive brutality and destruction of inmate property had occurred.

Commissioner Malcolm did not reply to this, but asked for a report from the Bronx institution.

Mr. Lehman asked exactly what happened during a shakedown.

Commissioner Malcolm said a search involved a massive number of correction personnel who were employed to avoid the possibility of confrontation with the inmates. The correction officers are under the command of superior officers and conduct the search in such a way as to avoid destroying anything belonging to the inmates.

Mr. Brickman asked whether it was Department of Correction policy to prevent inmates from observing the search, as Rev. Detrich contended.

Commissioner Malcolm replied that inmates should be able to watch during the search.

Mr. Hamiel said that similar complaints about the destruction of property had come from the 1-B section of the House of Detention for Men. He noted that the instructors from the Correction Academy, who had appeared at the Board during the summer, had said that inmates were never allowed to observe a search and were always made to stand with their backs to the cells.

Mr. Harris gave some concrete examples of the effects of the search at the Bronx House of Detention.

Commissioner Malcolm said that Mr. Brickman was welcome to investigate and witness a shakedown. Mr. Lehman said the Board should be able to investigate any flagrant abuses.

Commissioner Malcolm said the Department of Correction investigations come first, but should not take longer than 24 hours.

Mr. Brickman noted that the Board had varying degrees of access to information, depending on the institution. The David Robinson case is an example, he said, citing endless delays in receiving information on an incident that had occurred on July 14. The Board has still not received the medical information requested from Deputy Commissioner Birnbaum.

Commissioner Malcolm admitted that there was a problem with delays in investigations, since there were only four people on the staff of the Investigations Unit. He said that he had personally called the State Commissioner of Correctional Services about David Robinson, who was examined at Elmira with negative results.

Mr. Brickman asked if any witnesses had been interviewed to substantiate allegations that Mr. Robinson had been beaten with a blackjack.

Commissioner Malcolm stated that in all possibility this had not been done, since it would only lead to discrepancies. Mr. Brickman questioned the status of the staff available to the Investigations Unit of the Department of Correction and wanted to know exactly what happened to the complaints forwarded by the Board.

Commissioner Malcolm said that the Unit only has four investigators at present but he hoped that the new grant would bring the staff up to 12 by October 15.

At 4:00 p.m., upon motion duly made and seconded, the meeting was adjourned.