

MINUTES OF THE MEETING OF THE BOARD OF CORRECTION

March 19, 1974

A regular meeting of the Board of Correction was held on March 19, 1974 at the offices of Mr. Tufo at 645 Madison Avenue, New York, New York.

Present from the Board were Mr. Lehman, Mr. Gottehrer, Mr. Kirby, Father Rios, Mr. Schulte, Mrs. Singer and Mr. Tufo. Also present by invitation of the Board were John M. Brickman, Executive Director; Mary D. Pickman, Director, Legal Advocate Program; Kenneth G. Nochimson, Co-Director, Legal Advocate Program; Greg Harris, Director, Clergy Volunteer Program and Stephen Fisher and Sylvia Kronstadt, staff assistants.

Mr. Lehman acted as Chairman and Mr. Fisher and Ms. Kronstadt as Secretaries of the meeting.

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

The Chairman announced that requests for excused absences had been received from Mr. Jackson and Rev. Wilson. Upon motion duly made and seconded, the requests were approved.

The minutes of the February 19th meeting were distributed. Mr. Brickman stated that the March 4 meeting minutes would be sent out sometime in the future. The Chairman suggested that the Board hold in abeyance approval of the minutes until the next meeting; the Board agreed.

The Chairman announced that Mr. Brickman had obtained a sample copy of a certificate that the Board could award to volunteers, organizations and former staff members in recognition of their service and support of the Board's effort to make New York City correctional institutions responsive to the needs of the citizens and the community. Mr. Brickman stated that the cost of printing fifty copies of the certificate would be approximately \$90 and asked for the Board's approval of the form of the certificate. Upon motion duly made and seconded, it was approved, and Mr. Brickman was asked to obtain 50 copies.

The Chairman declared that such an award would be appropriate to be given to the Friendly Visitors, Inc., a volunteer organization at the Correctional Institution for Women. He then asked Mrs. Singer, a member of the Friendly Visitors, Inc., to explain the work of the organization.

Mrs. Singer stated that the Friendly Visitors, Inc., composed of volunteer women, spend two or three days per week at

the Correctional Institution for Women. In the past few years, the Friendly Visitors have contributed \$2,300 to furnish public rooms at the institution, have given the inmates pantyhose for Christmas, plastic hangers on Valentine's Day, commissary funds totaling \$3 per week to indigent inmates, and have paid for trips back home for inmates who live out of the state. Mrs. Singer added that Superintendent Essie Murph called the Friendly Visitors "the most useful volunteer organization."

The Chairman then declared that it would be appropriate to award certificates as well to Peter Lesser and Bill Arnone, who have recently resigned from the Board staff. Upon motion duly made and seconded, the Board agreed to award certificates to the Friendly Visitors and Messrs. Lesser and Arnone.

The Chairman then discussed the purpose of the Board's hearings on the future of the Manhattan House of Detention. He stated that the hearings were for the education of the Board and the public and were not intended to be a trial. He declared that the hearings will allow the Board to prepare and submit a final written report to the Mayor and the Department of Correction on the options that are available to the City. The Chairman added that he hoped the Board could work closely with the Department in a cooperative manner. The Chairman then asked Mr. Brickman to describe the planned physical operation and organization of the hearings.

Mr. Brickman asked the Board if there was any objection to moving the hearings back one week to April 23 - 25. He stated that the room for the hearings at the New York County Lawyers' Association at 14 Vesey Street was unavailable on one of the original dates of the hearing. In addition, Mr. Brickman said that the shortage of staff and impending vacations necessitated postponing the hearings for a week.

Mr. Kirby arrived at 2:35 p.m.

Mr. Brickman then described the physical dimensions of the hearing room. He stated that the room was large enough to accommodate 200 people, that it contained a raised dais for members of the Board to sit on, that it was properly wired for radio and TV and offered the news media good camera angles and light. Mr. Brickman added that WNYC radio will broadcast most, if not all, of the hearings live and that there was a chance that WNYC-TV will televise them. However, if this fails, Mr. Brickman said that he would try to interest cable TV in televising the hearings.

The subject of publicizing the hearings was discussed. Mr. Brickman stated that a press release announcing the hearings would be issued on March 24 at 6 p.m., to seek coverage in Monday's newspapers. He added that two weeks before the

hearings, the Board would release a list of witnesses. Mr. Brickman suggested that the Chairman might wish to appear on Sunday news shows to discuss the hearings. He further stated that the New York Post will be running a series of articles on mental health in the prisons next week, and he would try to get that reporter interested in doing a piece on the Tombs.

A general discussion ensued about the direction of publicizing the hearings. The Chairman stated that the Board should be careful about TV coverage before the hearings. Mr. Gottehrer declared that the Sunday talk shows could undercut the Chairman since questions might be raised which the Chairman would not be prepared to answer at that time. Mr. Tufo advised the Chairman that he should choose the media with which he is comfortable and state what the objectives of the hearings are as they pertain to the Rhem decision.

Mr. Schulte declared that Mr. Brickman had always been able to get excellent publicity for the Board in the past, and that he would follow his recommendations for publicizing the hearings. He added, however, that if the Chairman went on TV before the hearings, he would need to know who were the scheduled witnesses.

Father Rios stated that he would like the Spanish community to know of the hearings. He stated that Channel 41 is very cooperative and would probably be willing to videotape the hearings. In addition, he suggested that Mr. Brickman speak to Mr. Gottehrer about publicity since Mr. Gottehrer has had much experience in that field. Mr. Gottehrer stated that it would not be difficult for him to get someone to do a series on the Tombs which would cover aspects that need to be publicized. In his opinion, it would be tremendously helpful and further stated that the New York Post and the Village Voice would probably be receptive to it.

Mr. Brickman announced that he and Ms. Pickman had scheduled a meeting with Leo Zeferetti, President of the Correction Officers Benevolent Association, for the purpose of obtaining his suggestions for the future of the Tombs and to invite him as a witness to the hearings.

Mr. Brickman then presented a partial list of possible witnesses which included Benjamin J. Malcolm, Commissioner of Correction; Lowell Bellin, Commissioner of Health; Raymond Gerson, Director of the Bureau of Noise Abatement; John Zuccotti, Chairman of the City Planning Commission; Benjamin Altman, Chairman of the Mayor's Criminal Justice Coordinating Council; Brendan Byrne, Governor of New Jersey or Ann Klein as his representative; Eliot Richardson, former Attorney General of the United States; and the former chairmen of the Board of Correction, Robert B. McKay and William J. vanden Heuvel. Mr. Brickman

also suggested Chief Justice Warren Burger as a possible witness who might speak about court procedures as they relate to the prisons. Mr. Tufo stated that in the long run Chief Justice Burger might have to rule on the Rhem decision. Mr. Gottehrer suggested that Attorney General William Saxbe be considered as a possible witness. He added that he might be controversial, but nevertheless would be a good witness.

Father Rios suggested that there might be a conflict of witnesses. If the hearings are to serve a fact finding and not an adversary function, then why are witnesses being suggested which make the hearings sound like an earthshaking event, he said. This paradox, he commented, needs a balance.

Mr. Kirby agreed with Father Rios, citing the need to have the victim of incarceration in the Tombs represented at the hearings.

Mr. Tufo noted that the key word is education and what can be done in the future. To this end, he stated, the Board needs to consider alternatives to the Manhattan House of Detention.

Mr. Brickman then continued with the list of possible witnesses for the hearings: Patrick Murphy, former Police Commissioner of New York City; Congressman Charles Rangel, member of the Judiciary Committee and Subcommittee on Prisons; Deputy Warden Peter Schaefer or his successor; Judge Breitel and/or Justices Bartlett or Ross; Dr. Abraham Franzblau and/or Dr. Augustus Kinzel, psychiatrists; Frank Schneiger, former Director, Prison Health Services; James Polshek, Dean of the Columbia University School of Architecture and Planning; Herbert McLaughlin, an architect who speaks from a non-traditional point of view; Professor H.H.A. Cooper, the draftsman of the Department's proposed classification system; Father John O'Leary, the Roman Catholic Chaplain at the Tombs; Albert Berkowitz, the Chairman of the State Commission of Correction; Mr. Robert Kasanof of The Legal Aid Society; Senator Ralph J. Marino, Chairman of the State Senate Committee on Crime and Correction and Senator John Dunne, the former chairman of that committee.

Mr. Tufo stated that Justice Ross would be the best judge to speak at the hearings, since he is the City Administrative Judge. Mr. Kirby declared that he thought that Judge Bruce Wright should appear at the hearings and that the inmate's point of view should be represented. He suggested that John McGruder and Herbert Blyden be considered as possible witnesses on behalf of the inmates. Mr. Gottehrer objected to the appearance of Mr. Blyden, stating that he was not a typical inmate. Mr. Schulte then raised the question of whether the Board wanted extreme points of view or a cross section of views.

Mrs. Singer suggested Austin H. MacCormick, former Commissioner of Correction, as a possible witness. Mr. Gottehrer stated that City Department witnesses cannot speak for Mayor Beame. He suggested that Mayor Beame or Deputy Mayor James Cavanagh be invited as well as George McGrath, former Commissioner of Correction; Albert Glick, the former Warden of the Tombs; and James Bennett, former Director of the federal Bureau of Prisons. Mr. Schulte noted that Mr. Bennett had wanted to abolish the Board of Correction.

Mr. Tufo stated that the hearings should cover all relevant points of view and not just pertain to people in the field of penology. He then suggested that the Chairman appoint a subcommittee to work with Mr. Brickman to devise a possible list of witnesses. The Chairman appointed Messrs. Tufo and Gottehrer to the subcommittee.

Ms. Pickman raised the question of bail reform. She stated that the Board must address itself to this issue in the course of the hearings, since bail and diversion programs are important to the future of the Tombs. Mr. Brickman reiterated Ms. Pickman's concern that the hearings address themselves to the problems of bail. Mr. Brickman then distributed copies of the report of the Temporary Commission on the New York State Court System, whose chairman was D. Clinton Dominick, III. He stated that it was very important that pre-trial detention be considered in light of the bail law and suggested that the Board take the position in favor of the recommendation of the Temporary Commission to abolish money bail and institute a system of supervised or conditional release.

Mr. Gottehrer suggested that Deputy Mayor Cavanagh or Budget Director Melvin Lechner testify as to the priorities and commitments of the administration. Mr. Gottehrer added that Comptroller Harrison J. Goldin might also be an excellent witness in terms of the City's financial situation as it relates to the Tombs. Father Rios suggested that members of the clergy be represented at the hearings, for instance, a representative from the Board of Rabbis, the Archdiocese of New York, and the New York Coalition of Churches. Mr. Gottehrer suggested Eleanor Holmes Norton, Chairman of the City Commission on Human Rights, as a possible witness.

Mr. Brickman informed the members of the Board that the staff is in the process of preparing briefing memoranda on the background of particular aspects of the Tombs, i.e., food, sanitation, medical, disciplinary hearings. As for legal assistance in preparing for the hearings, Mr. Brickman announced that an attorney with the City Planning Commission will be responsible for material relating to construction matters. In addition, he declared that a law firm will probably offer legal assistance to the Board.

Mr. Brickman announced that there was enough money in the Board's budget to cover expenses such as xeroxing and telephones. He added that he will try to arrange for a foundation to pay for the transportation and hotel accommodations of out-of-town witnesses. Mr. Brickman noted that he had spoken to Gregory Farrell of the Fund for the City of New York and that Mr. Farrell stated that he might be able to arrange a loan for the Board.

Messrs. Gottehrer and Tufo stated that a stenographer should be present at the hearings to transcribe the proceedings.

The next item discussed was the preliminary draft of the annual report. Mr. Brickman asked that comments from Board members be submitted to him by next Friday.

Mr. Gottehrer stated that the introduction and summary to the annual report had not been written and he considered them the most important components of the report. Mrs. Singer asked why recommendations were not included in the annual report. Mr. Brickman replied that the Board only submits recommendations in its agenda for each calendar year.

Mr. Brickman noted that each year since the Board was revitalized, it has issued an agenda for change. Mr. Brickman suggested that the Board use the letter that was sent to Executive Deputy Mayor James Cavanagh in November, expand it, and release it as a public report.

Mr. Schulte commented that the Board needs to become more involved in the concept of parole, especially at Rikers Island. He added that it is a brand new area and the Board should become involved in it. In addition, Mr. Schulte asked Mr. Brickman to check on the status of the Manpower Development Training Program on Rikers Island. Mr. Brickman stated that he would look into both matters.

Mrs. Singer raised a question about the recommendations for the nursery on Rikers Island. She stated that Superintendent Murph said that the recommendations were not feasible. Mrs. Singer then stated her concern that she was never consulted about the project when it was originally undertaken by the staff, nor was she advised of its recommendations. Mr. Brickman noted that the report had been undertaken at the request of the former chairman, Dean McKay, in the summer of 1973, and that a draft of the report had been distributed at the October 12, 1973 Board meeting at which time every Board member received a copy. Mrs. Singer stated that she did not have a report and Mr. Brickman agreed to supply her with one.

Father Rios raised the matter of the delay in implementing the Chaplaincy Task Force recommendations. Mr. Brickman added that the recommendations of the Task Force should be added to the annual agenda. The Chairman noted that some clergy people are upset about the recommendations because the part-time chaplains would be phased out of the institution. Mr. Harris informed the Board that Assistant Commissioner Ford has written new procedures, whereby wardens will provide an evaluation of the part-time chaplains to determine whether they were capable of filling the position of a full-time chaplain. In addition, part-time chaplains are being advised of the full-time position that will be available in each institution. Father Rios commented that the Task Force never implemented phase two of its operation and stated that it might be useful to reactivate it.

Mr. Brickman then distributed a copy of a memorandum from Sylvia Kronstadt, in which she suggested that the Board spend more time in the prisons by having office hours in an institution once a month. Ms. Kronstadt then addressed the Board and declared that in her opinion, the Board has been invisible in the prisons. She stated that inmates have a lack of knowledge of the work and function of the Board, and that it might be useful for the role of watchdog over the Department to be pursued in a more active fashion. She added that it would give staff members a chance to work more closely with Board members on a more substantive level by establishing regular Board hours in an institution. She declared that the Board and staff could inspect the institution, see inmates, and develop a rapport with correction personnel.

Mr. Tufo noted that the Board is not plugged in on a day to day basis with the workings of each institution. He stated that Ms. Kronstadt's suggestion needs a lot of thinking and questioned whether the Board's mandate covered this. He declared that he approved of the concept and said it was a logical step that the Board could take, but that it needed forethought. He stated that in his opinion, the Tombs hearings will show that there needs to be a closer basis with the Department and might demonstrate that the Board needs to be present in the institutions more than it now is. The Chairman suggested that each Board member read the memorandum and that a full discussion might then be in order.

Father Rios commented that correction personnel do not know who the Board is and that the Board should try to establish lines of communication with them. The Chairman stated that it was his opinion that the Board should invite Leo Zeferetti, President of the Correction Officers Benevolent Association, together with representatives of the other line organizations, to Board meetings from time to time.

Mr. Gottehrer stated that he was not against the idea of having Board hours in the institution and stated that if they were scheduled in the evening, he would be willing to go to an institution. Mrs. Singer declared that the Chairman should speak to Commissioner Malcolm about informing correction personnel of the functions and duties of the members of the Board of Correction. Mr. Schulte congratulated Ms. Kronstadt on her memorandum.

Father Rios raised the problem of Board access to the institutions. He questioned whether a Board member visiting an institution had to announce beforehand that he was coming. Mr. Brickman noted that members should check in with the warden or tour commander when they arrive at an institution. Father Rios stated that several times when he had gone to an institution he was challenged for his credentials.

The Chairman raised the issue of choosing a vice chairman. He stated that a majority vote of five Board members would be needed and that a secret ballot would be conducted. However, he stated the Board should discuss this at the next meeting when there is full attendance. Mr. Gottehrer stated that he did not wish to be a candidate because he does not have the necessary time to devote to the work. Mrs. Singer added that she did not wish to be a candidate.

Mr. Kirby left the meeting at 4:50 p.m.

Ms. Pickman then announced that several staff members would be visiting Ossining Correctional Facility next week and asked for Board members to go to the institution. Ms. Pickman advised them that Mr. Fisher would be calling them within the next few days to see if they could go. Father Rios stated his intention of going with the staff.

The Chairman then asked Mr. Nochimson to describe the suicide of George Eaton, which occurred in the Manhattan House of Detention. Mr. Nochimson stated that Mr. Eaton, a 77-year-old man, had been readmitted to the Tombs on March 7, 1974, after spending 11 months at the Mid-Hudson Psychiatric Facility in Beacon, New York. He had originally been admitted to the Tombs on a homicide charge, but after a finding that he was incompetent to stand trial he was sent to Mid-Hudson. When he was readmitted to the Tombs, he was housed on the 10th floor mental observation area. He was examined by a psychiatrist on March 8 and found to be mildly depressed and not suicidal. The psychiatrist found him fit for general population and was transferred to cell 8UF7, one of the most inaccessible cells on that floor and one of the furthest cells from the bridge. Neither of his court-appointed lawyers was notified of his return to the Tombs. Neither appeared at his two court appearances, on March 12 and March 14.

Ms. Pickman and Mr. Fisher left the meeting at 5:05 p.m., and Ms. Kronstadt acted as Secretary.

Mr. Brickman noted the abysmal state of the records pertaining to the inmate's arrest and subsequent history. In addition, he reiterated that despite the inmate's age and mental health record, he had been housed in the most inaccessible cell in the institution.

The Chairman and Mr. Gottehrer declared that it is not the correction officer's role to assess the amount of observation and care required by disturbed inmates; this is the proper realm of the psychiatrist. The correction officer is the least guilty party in this suicide, the Chairman added. Mr. Nochimson pointed out, however, that the decision on cell assignment is an institutional one. It was suggested that guidelines be developed by the Department to clarify the respective areas of responsibility of uniformed and medical personnel in such cases.

Father Rios stated that the Board is frequently accused of acknowledging only the negative aspects of the Department's performance. If the Board studies the most recent suicide thoroughly and determines that the Department's responsibility is minimized by various circumstances, this will provide a good opportunity for the Board to take a positive, supportive stance, he said. Father Rios added that the Board's function should be expanded generally to include publicly supporting and facilitating Department efforts with which the Board concurs.

With respect to the suicide, Mr. Tufo asked whether it would be possible to interview the psychiatrist who provided the diagnosis that permitted the Department to house the victim in general population. It was agreed that this should be part of the Board's inquiry.

Mr. Nochimson informed the Board that he may shortly be leaving his present position to accept a post as staff director of the City's Youth Board, now under the chairmanship of former Board member Jerome Becker.

Upon motion duly made and seconded, the meeting was adjourned at 5:15 p.m.