

AGENDA  
BOARD OF CORRECTION MEETING

May 13, 1974

I. Executive Session

1. Approval of minutes of meetings of March 19, 1974, April 1, 1974 and April 16, 1974
2. Report on pending matters
3. Review of hearings
4. Discussion of bail
5. Discussion of use of volunteers
6. Discussion of mental health records issue
7. Discussion of charges against mentally disturbed inmates
8. Discussion of handling of homosexual inmates
9. Discussion of CVP access and computer printouts

II. Session with Commissioner Malcolm and his staff

1. Review of recent events
2. Discussion of use of volunteers
3. Discussion of mental health records issue
4. Discussion of charges against mentally disturbed inmates
5. Discussion of handling of homosexual inmates
6. Discussion of CVP access and computer printouts

MINUTES OF THE MEETING OF THE BOARD OF CORRECTION

May 13, 1974

A regular meeting of the Board of Correction was held on Monday, May 13, 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, Mr. Tufo, and Rev. Wilson. Present by invitation of the Board were John M. Brickman, Executive Director of the Board; Mary D. Pickman, Assistant Executive Director; Kenneth G. Nochimson, Co-Director, Investigation and Reporting Unit; Greg Harris, Director, Clergy Volunteer Program; Michael Cleary, Executive Secretary; Steven Fisher, Staff Assistant; and Barbara Allen, Secretary to the Executive Director.

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

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

The meeting was called to order at 2:05 p.m.

Upon motion duly made and seconded, the minutes of the meetings of March 19, 1974 and April 1, 1974 were approved and the minutes of April 16, 1974 were approved as amended.

Mr. Brickman stated that in connection with the mental health records issue, a memorandum had been prepared by the Health Services Administration and submitted to the Department regarding access of various law enforcement agencies to inmates' mental health records, but that the Department had never responded. It was agreed that the matter would be raised in a meeting with Commissioner Malcolm.

Mr. Nochimson stated that the handling of disciplinary charges against mentally disturbed inmates varies greatly from institution to institution within the Department. If a person is defined as a mental observation case at the Tombs, he said, there are no charges filed; if not, it is up to the

investigating officer to take appropriate action. Mr. Schulte declared that this was an issue which could not be easily solved and a matter which should be discussed with the Mayor.

At 2:35 p.m. Mr. Gottehrer entered the meeting.

Father Rios noted that the Task Force on Suicide Prevention, which is composed of representatives of the Health Services Administration, the Department of Correction and Board of Correction, had been looking into what was and what was not being done for mentally disturbed inmates. He noted that a draft report would be completed in the near future and that he would get copies of this to the Board, and added that there was a general impression that there is no treatment for mentally disturbed inmates.

At 2:40 p.m. Mr. Kirby entered the meeting.

The Chairman stated that he and Mr. Brickman had met with David Condliffe, assistant to Deputy Mayor Cavanagh, on May 1 and that Mr. Condliffe was to let Mr. Brickman know specifically which Deputy Mayor the Board was to report to, in order for the Board to have better access to the Mayor's office.

Ms. Pickman stated that Ms. Shanahan of the Board staff had recently received a number of complaints from homosexual inmates charging discrimination, such as excessive lock-in and shorter shower time. She noted that Ms. Shanahan does not feel that there are enough facts to come to any conclusions at present, but feels this is definitely something to be looked into.

Mr. Harris declared that there was a problem with access of Clergy Volunteer Program members and the computer printout lists of Clergy Volunteer Program members. He stated that he and Mr. Brickman had attended a heads of institutions meeting some time ago and had hoped that the situation had been rectified at that time. However, he declared, the problem still persists. Mr. Harris stated that the coordinators for each institution must turn in monthly reports and in order to prepare these reports they must have access to the institutional sign-in sheets. They are, however, in some cases told by correction officers that they do not need these sheets. Some correction officers are also telling Clergy Volunteer Program members that they are not permitted to go into the cell blocks to see inmates, which in fact they are permitted to do. Mr. Harris declared that all these issues

are beginning to cause morale problems with Clergy Volunteer Program members. He stated that the computer printout is issued weekly, but that he had been told that there were not a sufficient number of copies for him to receive one. He noted that it would be a great help to him in straightening out any problems if he did receive a copy. The Chairman stated that he would insist that a copy be sent to Mr. Harris. Mr. Harris declared that he felt something on paper over the Commissioner's signature was needed in order to rectify the problem, and that he hoped this could be resolved before the Clergy Volunteer Program annual meeting on June 8.

The Chairman stated that on April 26 and 27 he and Mr. Brickman had participated in a Department of Correction off-site workshop. He noted that there was some discussion of the function of the Board at this workshop and felt it might be useful for the Board to meet in executive session at the end of the next Board meeting to discuss Board members' feelings about this; this was agreed on.

The Chairman stated that he had taken the recent "blast" at the Department because many crucial things had occurred in the past several weeks of which the Board was never officially notified. He noted that a meeting had been held with the Commissioner on May 9 and that a channel of communication for notification was worked out in the event of suicide, escape or other major occurrence.

The Chairman stated that the Board was faced with a serious staffing problem at this time. He noted that Mr. Arnone's slot had never been filled; Mr. Nochimson was leaving in the near future; Ms. Pickman would be leaving around the first of July, and that Mr. Brickman might be leaving in the not too distant future. He asked that anyone with suggestions for replacements call either the Chairman or Mr. Brickman. Mr. Brickman stated that the first priority should be to find a replacement for Ms. Pickman, but with the thought in mind that this person could take over as Executive Director when he left the staff.

The Chairman stated that he had attended an Inmate Liaison Committee meeting at the Brooklyn House of Detention the previous week. He declared that the level of tension at the institution seemed to him quite high. He noted that the main problem appeared to be that the inmates were now locked into the day rooms, rather than being allowed to enter and leave the rooms at will, as previously, and that there were at present approximately 15 chairs for approximately 60 inmates.

The warden stated that he was not going to change this policy. Mr. Schulte stated that he agreed that the tension level at Brooklyn was quite high and unless something was done to rectify the situation there was going to be a riot in Brooklyn for several reasons. He declared that the Health Services Administration is not meeting the inmates needs at the Brooklyn House, and suggested that a meeting be set up with the Commissioner, the Warden, the Health Services Administration and the Board in order to try to resolve this problem; that there were some complaints which the warden can not handle which are up to the Commissioner to resolve, such as the day room situation; and finally that the supervision of the food preparation by someone from the detention population was desired by the detainees. He declared that if these demands were not met, or a reasonable explanation was not provided as to why they could not be, there was going to be a riot situation in the Brooklyn House.

A list of possible questions for the Commissioner and his staff regarding recent events in the Department was distributed and discussed. Mr. Gottehrer asked specifically what the Board knew about Mr. Scoppetta's involvement in an investigation of the Department. The Chairman stated that the Mayor had called him to say that he had received many calls in connection with the recent escapes and in light of this fact had asked Mr. Scoppetta to conduct an investigation. He continued that upon his request, Mr. Brickman had telephoned Mr. Scoppetta's office to offer the Board's cooperation in the investigation.

Mr. Brickman stated that the Board had been told that in connection with receiving the transcript of the hearings, the transcript for the first day and a half should be ready in approximately three to four weeks and the remainder in approximately four weeks. Mr. Brickman then distributed a memorandum on the factors in favor of and against each of the various options for the Tombs. He suggested that the Board must also think about what specific changes in the bail law it should recommend.

At 4:00 p.m. Mr. Tufo entered the meeting.

Mrs. Singer stated that the New York City Correctional Institution for Women must select its commissary items from the same list as the men's institutions, but the needs of the women were different and there were some items not available on the present list. She said that Superintendent Murph had asked if the Board could help in making it possible

for these unlisted items to be put into the commissary. Mr. Brickman stated that the staff would look into the matter.

Father Rios noted that the present plans for the new Bellevue Hospital call for the prison ward to be located on the 18th floor, but that officials of the ward have asked for the Board's assistance to try to have the prison ward located on the 21st floor (the top floor) in order to have access to the roof, etc. Mr. Brickman stated that he would look into the matter.

At 4:30 p.m. Commissioner Malcolm and his staff entered the meeting.

The Commissioner announced he had been informed earlier that day that Deputy Commissioner Birnbaum had been reappointed and that the Department would now function with the two Deputy Commissioners provided for under the City Charter, but that unfortunately the Department would be losing the services of Assistant Commissioner Dickstein in 30 days.

The Chairman stated that the Board had some questions it wished to ask the Commissioner regarding the recent escapes. He asked if all the inmates who had escaped had been recaptured. The Commissioner responded that in Brooklyn one inmate was still missing. In the Rikers Island escape, three inmates were still missing and he believed that there was a good possibility that one had drowned.

At 5 :00 p.m. Mr. Nochimson left the meeting.

The Chairman next asked the Commissioner if any correction officers had been formally charged by the Department with violation of specific rules and regulations by the Department. The Commissioner stated that in the case of the Tombs escape he had met with the warden and charges were drawn up. In the case of the Brooklyn escape, the Commissioner stated that he had been in touch with Mr. Nadjari;s office and that the Department had been asked not to proceed with its investigation pending completion of the one being conducted by the Special Prosecutor. The Commissioner stated that at this point, only one correction officer had been implicated in the escape. He declared that it was only fair for the officer in question "to be given a say" and that once the Department gathers all the information the matter will be discussed with him. The Commissioner stated that in the case of the Rikers Island escape, it was too early to have

any information back. He noted that there were several questions to be asked, however, such as how did the door to the day room get open and did the A officer check what he was supposed to check; as well as the question of general shortage of personnel. The Commissioner noted that a request had gone to the Bureau of the Budget for additional officers for security purposes and that according to a recent post survey conducted by the Department, and additional 281 correction officers were needed. He stated that if the Tombs were closed, the correction officers presently assigned there could be used in the other institutions to fill this gap.

At 5:05 p.m. Mr. Zweibel entered the meeting.

The Chairman then asked the Commissioner that if he had found negligence on the part of a correction officer, would he act upon this information before Mr. Scoppetta or Mr. Nadjari conducted an investigation. The Commissioner responded that in the case of the Tombs escape he has met with Mr. Scoppetta and that he would go ahead with the Departmental trials.

The Chairman then asked Commissioner Malcolm how the Department of Investigations and Special Prosecutor's investigations differed. The Commissioner responded that technically, there was not too much difference. He noted that before the Special Prosecutor's office was established, when a criminal act may have been committed by correction personnel the Department would notify the relevant District Attorney's office. He further noted that a collusive act is not necessarily criminal and in the case of an act of collusion, he would call the Department of Investigation. Now, however, Mr. Nadjari's office is notified in both cases and the Department of Investigation is involved at this time only because they have been instructed to conduct an investigation by the Mayor. The Commissioner stated that he had been informed prior to the announcement by the Mayor that Mr. Scoppetta would be coming in to conduct an investigation concerning the escapes, but it came out in the press that the investigation would focus on security procedures.

Mr. Gottehrer stated that the Commissioner seems to be having problems getting what he wants from the Bureau of the Budget, and asked the Commissioner if the Mayor or one of the Deputy Mayors was aware of this, perhaps in order to help the Department. The Commissioner stated that the matters in his letter of December 11 were now moot, but that he intended to call Mr. Lechner in a few days if he had not received a response to his letter of May 1, 1974.

The Chairman asked the Commissioner what measures had been taken to detect contraband and what is the Department's procedure when contraband is discovered on a visitor.

The Commissioner stated that purses, shopping bags, etc. are now searched, and if contraband is found there is no set procedure. The contraband is removed, but unless there is a violation of the law, no arrest or further action is taken.

The Commissioner stated that the Department has never really stopped being security conscious, although there has been some expansion of interest into other areas. He noted that the Rand Institute had conducted a survey about a year ago concerning the question of how correction officers viewed their jobs, with the results demonstrating that many were not too happy with their jobs and some felt their job was "running away" from them. The Commissioner declared that there have been security breaks, but there is the question of whether this is due to shortage of personnel or correction officers not doing their jobs.

The Commissioner noted that the Department is looking at various types of electronic detection equipment to determine which, if any, might be feasible for use in the various institutions. He declared that a grant of \$90,000 had been given to establish a technology unit, consisting of two men competent in the field to make this determination. The Commissioner stated that the Department did not want to overreact in the area of security. He noted, however, that certain precautions had been instituted as security measures, including the stressing of security at roll call and the issuing of an institutional order calling for a security inspection once a week. The Commissioner declared that on surprise visits to several of the institutions the past weekend, he had found the warden or deputy warden on the premises and in charge of the institution.

Mr. Schulte asked the Commissioner what was to prevent another escape from occurring tonight at the Tombs, and whether there is an alarm system connecting the institution directly to police headquarters should there be a similar incident.

The Commissioner stated that since the **escape from the Tombs**, there had been a doubling of staff in the visiting room area. Deputy Commissioner Birnbaum noted that on the night of the escape there was no one in the clothing area of the visiting room, from where the correction officer can



see directly into the visiting room. He stated that the procedure on Wednesday evenings was that no clothing was taken and the correction officer assigned to this area was instead assigned to the counsel room for counsel visits. He added that there is a special direct line to the police precinct in that area from the control room of each institution, as well as radio contact in case that should fail.

Mr. Brickman declared that it had taken from December to April to get a meeting with the Department regarding the installation of telephones on Rikers Island. Mr. Kirby asked the Commissioner what the reason was for the delay in installation of telephones on Rikers Island. Commissioner Birnbaum stated that the situation now rests with the Department of Public Works. He declared that a new building must be designed and built before the Telephone Company will install its equipment. He added that the Department had spoken that morning with the third architect designated to design this structure, and noted that the Department had the responsibility of selecting the sites for the boxes, etc. in the institutions and that this had been done.

At 5:55 p.m. Ms. Pickman left the meeting.

The Chairman stated that he had gone to an Inmate Liaison Committee Meeting at the Brooklyn House of Detention the past Wednesday and that he felt the tension level there was very high due to lack of adequate medical care as well as increased security measures since the escapes and complaints about the poor quality of food. Mr. Schulte noted that there were presently 60 inmates locked into a day room with 15 chairs. The Commissioner stated that several chairs had been tested by the Bureau of the Budget to determine how easily they can be broken, as well as if they could be quickly and easily repaired. He stated that a chair had finally been agreed upon, ordered and should be delivered in the near future. Mr. Schulte stated that Captain Lauro was in charge of the Inmate Liaison Committee meetings and that he did an excellent job, but he had no real authority and has to tell the inmates that he must bring specific subjects of discussion to the warden and cannot give them an answer on the spot. He noted that the inmates would be satisfied if they just had someone to give them answers, as well as if a request could not be met, a reasonable explanation as to why. Mr. Schulte suggested that in light of complaints by inmates concerning Prison Health Services, a meeting should be held with the Commissioner, the Warden, the Health Services Administration, and the Board to discuss these

problems. Deputy Commissioner Birnbaum stated that he meets weekly with the Director of Prison Health Services to discuss any problems. Commissioner Malcolm noted that Commissioner Bellin seems very willing to work with the Department and that these problems could be resolved.

Commissioner Malcolm stated that as to complaints about the quality of food Deputy Commissioner Cadiz is looking into this, but the Department has no intention of cutting down on the quantity of pork now served in the institutions.

At 6:05 Rev. Wilson left the meeting.

Problems of access by various staff members to the institutions were discussed. Commissioner Malcolm stated that the Charter does give the Board access to all records. He noted, however, that he wants the staff to look at the information already gathered by the Department or whatever else the Department may have regarding the particular subject under question, and then if they desire proceed with a further investigation. The Commissioner declared that he tried to cooperate with the Board in its investigations but that the Department could not stop in the middle of its investigation in order for the Board to investigate. The Chairman agreed with this, but stated that the staff should have unlimited access unless the Commissioner himself gives a good reason why this should be denied, and that every warden or captain should not be permitted to deny a Board staff member access. Mr. Kirby stated that the staff is an extension of the Board and is only doing what the Board is asking it to do.

The Chairman stated that various members of the Clergy Volunteer Program had had problems with access at various institutions and asked Mr. Harris to explain. Mr. Harris noted that he and Mr. Brickman had attended a heads of institutions meeting in order to resolve the problem of the computer printouts and Clergy Volunteer Program access. Mr. Harris then enumerated several problems recently encountered by members of his program in various institutions and declared that he felt it was necessary to put something on paper on order to resolve the situation. Deputy Commissioner Birnbaum stated that there is a phone number in his office where someone can call to check the computer printout. Commissioner Malcolm asked Mr. Harris if he received a copy of the weekly printouts and Mr. Harris replied that he did not. The Commissioner stated that he would see to it that Mr. Harris received a copy of the printout.

Father Rios asked the Commissioner what had happened with the Pellegrino case. Commissioner Malcolm stated that he did not know and asked Mr. Zweibel to check into this.

At 6:30 Mr. Fisher began serving as secretary of the meeting.

The next issue raised with the Commissioner was the confidentiality of mental health records. The Commissioner and Mr. Zweibel declared that they believed the best procedure to insure the confidentiality of these records was to adopt an agreement similar to the one agreed upon with Montefiore Hospital. Mr. Brickman declared that the Health Services Administration and the Department had reached an interim agreement concerning the handling of requests for psychiatric records from prosecutorial agencies pending an opinion from the Corporation Counsel, and asked why this had not been implemented. The Commissioner stated that he considered the agreement unacceptable and that he did not wish to implement it. He added that the Health Services Administration has no accountability, although it believes that the records belong to H.S.A. He noted that former Corporation Counsel Norman Redlich was of the opinion that the Commissioner of Correction had accountability for the records. The Commissioner declared that psychiatric records were not being furnished to any District Attorneys and that any such requests would be decided by a judge. Mr. Brickman expressed his hope that in the interim, such requests by prosecutors would be channeled through the Director of Legal Affairs and not made directly to institutional personnel.

Upon motion duly made and seconded, the meeting was adjourned at 6:40 p.m.