

MINUTES OF THE MEETING OF THE BOARD OF CORRECTION

November 18, 1974

A regular meeting of the Board of Correction was held on Monday, November 18, 1974 in the 14th floor conference room at 100 Centre Street, New York, New York.

Present from the Board were Mr. Lehman, Mr. Gottehrer, Mr. Kirby, Father Rios, Mr. Schulte, Mrs. Singer, Mr. Tufo, and Reverend Wilson. Present by invitation of the Board were John M. Brickman, Executive Director; Marc Rosen, Assistant Executive Director; Eileen Shanahan, Co-Director, Investigation and Reporting Unit; and Stephen Fisher, Staff Assistant.

Present from the Department of Correction were Benjamin J. Malcolm, Commissioner; Jack Birnbaum, Deputy Commissioner; Luis Cadiz, Deputy Commissioner; Alphonso Ford, Assistant Commissioner; William Ritholtz, Director of Legal Affairs; Joseph D'Elia, Director of Operations; and Albert Jackson, Inspector General.

Mr. Lehman served as Chairman and Ms. Shanahan and Mr. Fisher as secretaries of the meeting.

The meeting was called to order at 1:00 p.m.

The Chairman discussed the Board's inability to replace staff members who had resigned. The Board agreed that projects must be finished, particularly those begun in the summer, and for this reason the order of priority for various projects must be determined by the Executive Director and Assistant Executive Director.

A discussion ensued as to whether the annual report should be issued separately for 1973 and 1974, or on a combined 1973-1974 basis. The final consensus was that the 1973 annual report should be issued immediately since it is required by charter.

The Chairman declared that he would like an ongoing staff project report distributed at each Board meeting.

Mr. Brickman informed the Board members of problems related to Mr. Cleary's possible termination of employment due to a newly issued civil service list and asked for future assistance from the Board if the problem cannot be solved by the staff.

After citing four problems regarding access to prisons encountered in the last two weeks, Mr. Brickman declared that a new teletype order from the Department is needed to ensure accessibility by Board staff as well as Board members.

Mr. Kirby described his visit to the Bronx House of Detention on Saturday, November 16, following the Friday, November 15 escape by four inmates. He declared that he believes, based on what he witnessed, that there are many questions involving incompetence, possible collusion, and a lack of leadership. Mr. Harris declared that it was "a command and control problem." The Board agreed to begin an inquiry into the matter, and Messrs. Tufo, Kirby, and Rosen agreed to go to the Bronx this evening to look into the situation.

At 1:50 p.m. Mr. Fisher began acting as Secretary of the meeting.

The Chairman stated that he had met with Judge Lasker. He said that at the meeting, Commissioner Malcolm announced that the Tombs would be closed on December 31, when renovations at the New York City House of Detention for Men ("HDM") are scheduled to be completed. The Chairman stated his belief that the Tombs will probably not be utilized for anything else or that it would be renovated.

Mr. Brickman informed the Board that Judge Lasker was disturbed to have to order the detainees held in the Tombs to Rikers Island, but that would not order the Commissioner to keep the Tombs open. In addition, Judge Lasker has asked for draft orders that would specify the conditions under which Tombs inmates must be held. The Legal Aid Society will also ask for changes at HDM that would have been required at the Tombs, he said. Mr. Brickman noted that the Board is on record urging that several of these requirements be implemented at the HDM, including telephones, contact visits, access, and one man per cell. The Board should go on record favoring increased lock-out time, he said.

Mr. Tufo suggested, and the Board agreed, that the Board file a letter with the Court outlining the Board's five recommendations contained in its August 6th report and offering to monitor conditions at HDM.

Father Rios stated that the Department intended to use the Tombs as a training academy, according to

Deputy Commissioner Birnbaum.

Mr. Schulte said that Ossining Correctional Facility might close in the future and that then the Tombs would be needed. He declared that he would rather see men detained in the Tombs than see men doubled up in cells.

The Chairman reported that he had met with the warden and inmates at the Branch Queens House of Detention last week and informed the Board of what he saw there. He stated that as far as he could ascertain from the parties involved, the decision to close Branch Queens was purely a budgetary decision.

Mr. Brickman described the new Mental Observation area at the Adolescent Detention Center. He declared that the problems, as he was told by Warden Greco and the staff of Prison Health Services, include inadequate program space, no dorm facilities, and no contact visits. Visits at the institution would have to take place at HDM's visiting facilities. Mr. Brickman stated that there was good rapport between Correction and civilian staff at Branch Queens, as well as with the inmates, and that this rapport could not be easily created at the Adolescent Detention Center. He noted that the Health Department did not want to fight the decision to move the Mental Observation unit to C-71. Mr. Brickman then described several ways in which the Department could save money. Instead of using correction officers as executive secretaries and clerical workers, he stated that the Department should employ civilians in these jobs. Sentenced inmates on Rikers Island could also replace correction officers who drive the buses on the island, he said. Mr. Brickman then urged the Board to ask the Commissioner for a thirty day moratorium on the closing of the Branch Queens House of Detention. He stated that with the additional thirty days, the Board could justify publicly what the savings would be and give other agencies a chance to respond to the arbitrary decision to close Branch Queens. If the move is going to take place, he declared, it gives Prison Health Services a chance to resolve the major problems it sees in the move. If the Board objects on a long range basis to the closing, he said, it gives it and other community groups a chance to put pressure on City Hall and also gives the Board the opportunity to hold a one day public hearing on the future of the Branch Queens House of Detention.

Mr. Gottehrer asked why the institution had not become a mental observation facility throughout, as it

was originally planned to be. Mr. Brickman responded that there had been a problem staffing the institution with mental health personnel, and that there had not been enough office space to fully service the population. Mr. Gottehrer thought the Commissioner was committed to the use of Branch Queens as a mental observation facility and noted that the decision to close Branch Queens probably came from City Hall.

Mr. Tufo stated that the concept of holding public hearings might be in the Board and the public's interest. Points could be made that would place pressure on the Department to upgrade the facility at Rikers Island, he said. Father Rios declared that a moratorium would be good, especially if the Board could present arguments to the City on ways it could save money. Upon motion duly made and seconded, it was

RESOLVED THAT the Board of Correction will ask Commissioner Malcolm for a thirty day moratorium of the closing of the Branch Queens House of Detention.

A discussion then ensued about the feasibility of asking the Commissioner for this thirty day moratorium as well as submitting affidavits on the impending suit that the Prisoners Rights Project was bringing against the City to keep this facility open. The first motion was withdrawn and then upon motion duly made and seconded, it was

RESOLVED THAT the Board of Correction request that Commissioner Malcolm declare a thirty day moratorium on the closing of Branch Queens for additional study. In the event that this request is denied, the Chairman and the Executive Director shall cooperate by submitting affidavits in Rosenthal v. Malcolm regarding rights of detainees at Branch Queens House of Detention.

At 3:25 p.m. a break in the meeting was called.

At 3:55 p.m. Deputy Commissioners Birnbaum and Cadiz, and Messrs. D'Elia and Jackson entered the meeting. Ms. Shanahan began acting as secretary of the meeting.

The Chairman asked Deputy Commissioner Birnbaum if the Tombs would be empty on the target date of December 31.

Deputy Commissioner Birnbaum explained delays to date have been due to problems with the contractors on Rikers Island who are installing new lighting fixtures and replacing window frames. Block seven at HDM had an October 31 deadline for construction which has not yet been completed, he said. However, he declared that he hoped that the December 31 deadline will be met. He responded to questions about single cell occupancy by stating that as long as Ossining Correctional Facility remains open, C-71 and HDM will have 85% occupancy with single cells even after Branch Queens and the Tombs close. As far as the Department of Correction knows, he declared, Sing-Sing will remain open, but the plumbing is a problem and for this reason the Department of Correction is sensitive to the possibility of Sing-Sing closing. Such a closing would pose a great problem for single cell occupancy in the City, he declared. If such a situation arises, he said, the Commissioner will find himself in a potential contempt of both Federal and local courts. The Commissioner then entered the meeting and stated that a recent departmental survey shows that the average stay of detainees has risen from 35 to 53 days and he predicts that it may rise to 70, thus creating more problems.

At 4:05 p.m. Messrs. Ford and Ritholtz entered the meeting.

The Chairman stated that the Board had agreed to ask the Commissioner for a thirty day stay on the closing of Branch Queens. Regarding transfer of inmates from Branch Queens to C-71, the Commissioner explained that a full medical determination would be made to decide which inmates should go to Rikers Island Hospital and which should go to C-71. A lengthy discussion then ensued about the financial cost and personnel losses which would be necessary to keep Branch Queens open. The Commissioner noted that a thirty day stay would involve inestimatable costs since the Department is operating at a deficit since the beginning of the year, and that overtime has increased 20-30%.

The Commissioner and Deputy Commissioner noted that they would probably have to fire some personnel to save money.

Commissioner Malcolm noted that the Budget Bureau wanted to close Branch Queens in 1972 but that the Department fought the move successfully at the time. However, this time the Budget Bureau did not consult the Department on the move to close the Branch Queens House of Detention,

he said. He stressed that the Department was not going to decrease services at the Adolescent Detention Center, but rather would increase services. He noted that the Department has to save money wherever possible and that he wanted to do this rather than go farther and release people from their jobs. He commented that in his 27 years of working for the City, he has never seen anything like this before.

Mr. Brickman asked the Commissioner why the Tombs was not closed in July. The Commissioner responded that he had always believed that the only way to deal with the Tombs was to close it and he advised City Hall that this was the only alternative. He stated that there were too many unknowns to make a definitive statement as to whether to rebuild.

A general discussion then ensued about the closing of Branch Queens and the restaffing of the Adolescent Detention Center. Mr. D'Elia noted that as a result of the closing of Branch Queens, 81 correction officers will be available for assignment elsewhere in the Department's institutions and that by January, 250 officers assigned to the Tombs will also be able to be reassigned. Commissioner Malcolm noted that the closing of Branch Queens is complete and that the building will be turned over to the Department of Real Estate. The Tombs will be closed and some decision will be made within the Department as to its future.

The discussion then centered around the escape at the Bronx House of Detention on Saturday. Mr. Tufo advised the Commissioner that he and several staff members will be looking into the matter. Mr. Kirby noted that several of the people who were working as sentenced help were detained on warrants. The question was raised whether this procedure was against departmental rules and regulations. Mr. D'Elia replied that at one time there was a rule prohibiting the assignment of sentenced inmates with outside warrants to work in institutions but that now there has been some difficulty in finding sentenced help so they have disregarded the rule.

The Chairman then raised several problems of staff access to institutions. A general discussion ensued about appropriate times for staff members to visit institutions and several possibilities to remedy these problems were discussed.

The question of the installation of telephones on Rikers Island was raised. Commissioner Malcolm declared that the Telephone Company has a regulation that requires every line to be in a conduit. This problem, he noted, will be looked into by the Telephone Company to determine whether it can install temporary lines. He added that the bids on the telephone building will be out by the end of the month.

Upon motion duly made and seconded, the meeting was adjourned at 5:30 p.m.