

MINUTES
BOARD OF CORRECTION
OCTOBER 22, 1985

A regular meeting of the New York City Board of Correction was held on Tuesday, October 22, 1985, at the offices of the Board of Correction, 51 Chambers Street, New York.

Members present were Chairman Peter Tufo, Vic-Chairman John Horan, William Booth, Angelo Giordani, Wilbert Kirby, David Lenefsky, Barbara Margolis, and Rose M. Singer. The meeting was called to order at 2:24 p.m.

Chairman Tufo opened the meeting by welcoming Mr. Booth to the Board, and presented Mr. Booth with his shield.

Mrs. Singer moved that the minutes of the previous meeting be accepted without modification. There was no opposition.

Executive Director Richard T. Wolf presented reports on several issues of continuing concern to the Board, beginning with the enhanced recreation program at ARDC. One of the Board's most pressing objections to the enhanced recreation program as it was implemented, was that during the time the yard was open, the dayrooms were locked. Now, as a result of new construction which will temporarily close the East yard, the Department of Correction has stated that it will leave the dayrooms open, because it must revert to more traditionally scheduled recreation periods in the West yard.

Mr. Wolf next reported on the state of construction at the Brooklyn Correctional Facility (the "Brig"). The Department of Correction has announced that the rooftop recreation area is now scheduled for completion in June 1986, and that until then, the Department plans to continue sending Brig inmates desiring outdoor recreation to the Manhattan House of Detention on a daily basis. The Department plans to request a variance extension from the Board to permit this program.

In response to questions from Chairman Tufo and Mr. Lenefsky, staff advised that only about ten inmates make the trip from Brooklyn to Manhattan every day, and that as a result of Mr. Lenefsky's suggestion, Brig inmates' time slot for recreation in Manhattan had been changed from the evening to 3:45 - 4:45 p.m. Board of Correction Counsel Barbara E. Dunkel observed that if this last variance request were granted, it would allow the Brig to have run without proper recreation for over two years, since May, 1984. Ms. Dunkel also noted that there had been 116 uses of Manhattan recreation by Brig inmates in August, and that inmates cited problems such as long waits in bullpens and frequent searches as disincentives to using the program.

Mr. Wolf next reported on law libraries. The Department has been operating its law libraries for the last 18 months under a temporary variance allowing it to close the libraries two days per week. The purpose of the experiment was to see if a five day schedule would allow for better services by making it possible to have steady officers on the post and full-time legal coordinator coverage. Board staff believe that the libraries have improved under the experiment, largely because facilities now require the libraries to be used for real research and not merely as gathering places. The staff recommends that the Department's request to have the variance turned into a permanent amendment to Minimum Standards be accepted, and that any such amendment require 1) full time legal coordinator coverage, 2) guaranteed recall, 3) extra access for inmates with court deadlines, and 4) qualified Spanish-speaking staff.

Mr. Kirby expressed concern about two issues: 1) should there be evening access to law libraries for those inmates who are on trial and thus in court on a daily basis during regular library hours; and 2) the library should be open on Saturday and Sunday, since courts are normally not in session on those days. Mr. Wolf noted that no problems connected with either of these issues had arisen during the trial period, and Ms. Dunkel added that the libraries are kept open one weekend day and for three hours in the evening on each day of operation.

Chairman Tufo summarized the discussion by saying that the choice seemed to be between real law libraries conducive to research, and playgrounds; the choice of the former was at the expense of two days a week of operation. Mr. Lenefsky asked which five days the libraries were open, and Chairman Tufo stated that, under the trial agreement, the libraries had to be open at least one weekend day. Mr. Wolf noted that this requirement also appeared in the Consent Decrees, and that the Board could include its own language on the subject in its amendment.

Mr. Lenefsky asked whether, if an inmate were on trial, he could have special access between six and ten in the evenings; it was decided that this issue would be raised with the Department.

Staff suggested adding language to the amendment requiring the Board's approval for any changes in library schedules, once set, and giving the Board authority to hear appeals for lost law library time.

Mr. Booth asked whether inmates speaking languages other than Spanish ever posed difficulties, and Chairman Tufo indicated that they did not in this context. Mr. Booth suggested that if they did in the future, court interpreters might help such inmates with legal research.

At 2:47 p.m. the following members of the Department joined the meeting: Chief of Operations Gloria Lee, Special Counsel Robert Daly, Deputy Commissioners Albert Gray, Janie Jeffers, and Sharon Keilin, Supervising Warden Joseph D'Elia, Daniel Pensabene, Sheila Vaughan, and Matthew Foreman.

Chairman Tufo asked for an explanation of the request for a permanent amendment to the Minimum Standard requiring five-day law library operations. Deputy Commissioner Jeffers stated that Department and Board staffs were now in agreement on amendment language. Mr. Kirby raised the issues of special arrangements for on-trial inmates and the desirability of weekend coverage. Deputy Commissioner Jeffers stated that the libraries were open from Tuesday through Saturday under the trial plan, and, in response to a question from Mr. Lenefsky, stated no opposition to having the requirement that the libraries be open at least one weekend day incorporated into the Minimum Standard. She also stated that on-trial inmates were given priority for law library use, and Mr. Pensabene added that if an on-trial inmate returned from court so late that it was impossible to afford him direct access to the library, the inmate could request that copies of specific materials be brought to him. Mr. Kirby stated that this procedure effectively denies such inmates the right to do research, and Mr. Lenefsky asked whether, in such situations, the library could be reopened. Deputy Commissioner Jeffers said that 24-hour coverage had never been intended for the libraries, but conceded that reopening the library in such special situations without special staff, would be considered. Chairman Tufo stated that this issue did not fall under present Minimum Standards. Mr. Booth asked if Saturday were always the best day to have the library open, and Deputy Commissioner Jeffers said it was, that Sunday was the heavy day for visits, and that she currently perceived no need to have the option of which weekend day the libraries should be open in the Standard. She went on to commend Messrs Pensabene and Foreman and Ms. Vaughn for their work on the libraries. In response to a question from Chairman Tufo, Mr. Foreman stated that there are about 12,000 uses per month of the library system.

Chairman Tufo next asked for a report on the Brig. Deputy Commissioner Keilin said that the Department had received a memo from DGS setting the expected completion date for the rooftop recreation area at June 1, 1986. Reasons for the delays include community opposition, the adoption of a more complex design to minimize impact on the community, and the difficulties of construction during the winter months. Chief Lee added, in response to a question from Chairman Tufo, that the current procedure for using the roof of the Manhattan House of Detention for Brig inmates' recreation will continue, and that while the number of inmates participating is up slightly to reflect the rising Brig population,

the percentage of Brig inmates participating in the program was dropping as the weather got colder. Chairman Tufo stated that, because of the delays suffered by inmates going to Manhattan for recreation, the program could not be considered an adequate substitute for in-house outdoor recreation, and asked whether the Brooklyn Navy Yard had any space that might be more appropriate. Chief Lee observed that busing inmates to Rikers Island would be too time-consuming, and Deputy Commissioner Keilin said that using the Navy Yard would require community approval. Mr. Lenefsky asked about using the roof at the Brooklyn House of Detention, but Chief Lee advised that the roof at that facility could only handle its current level of in-house use. A discussion of all these options followed, and staff was directed to be prepared to report at the next meeting. Chairman Tufo asked whether the June 1 completion date could be considered firm, and Deputy Commissioner Keilin answered that, in her opinion, it represented the earliest possible completion date.

Chairman Tufo asked for an explanation of the request for variance on the space standard for sentenced inmates. Special Counsel Daly said that the problem was mainly that of state inmates, and cited as example the fact that there are currently 263 State parole violators in City custody; last year, there were 63. The Department is trying to negotiate with the State to accept State prisoners more promptly, and is also preparing for possible litigation. In response to questions from Messrs Kirby and Lenefsky, Mr. Daly stated that October 22, 1985, had been set as the date for evaluation of the litigation option; that the negotiations have so far been fruitless; and that the 6 months requested in the variance request would give the Department time to evaluate its position. A discussion followed between the Board, Board staff, and Department staff, in which two other major issues were identified which affected population size: the fact that the average length of stay was up four days from the last fiscal year, an effective population increase of 700; and the possible detrimental effect that the institution of Individual Calendar Parts in the Courts (scheduled for 1/1/86) may have on length of stay. Mr. Giordani asked for a report from the Department in three months, and Deputy Commissioner Keilin, in response to a question from Board staff, indicated that new construction plans included addition of 230 beds, due for February or March, 1986, and the possibility of adding 200 cells at the North Command for next summer. Chief Lee, also in response to a question from Board staff, stated that the population at the Brig would be held to 450, exclusive of INS inmates.

Chairman Tufo asked for a report on the old North Facility. Deputy Commissioner Keilin stated that dorms A,B,D, and E had achieved a 1:10 ratio of inmates to toilets and sinks, and were aiming for a 1:8 ratio; two dorms presented problems in this area because of structural limitations. The whole facility has been painted, and the fire alarm system works. Chairman Tufo asked when the facility was to open; Chief Lee said the Department was trying not to open it, but would have to see from week to week.

Chairman Tufo asked for a report on HDM, and Deputy Commissioner Keilin stated that the current idea is to section each block into four discrete units of not more than 60 inmates. The building would be sealed and air conditioned. Mr. Kirby asked where the inmates would be housed during these renovations; Deputy Commissioner Keilin proposed no answer but said that it might be necessary to close two or three blocks at a time. She also said, in response to questions from Board members and staff, that the long range plans for the old North Facility still called for it to become an infirmary, and that DGS would hire an architect in the next 6 months. Construction on the East Facility, she said, is beginning. The members of the Department left the meet at 3:40 p.m.

Chairman Tufo suggested that, since the variance on the space standard was tied in to so many other issues, such as new construction, the North Facility, and state inmates, that a vote be deferred until later and an informal variance given now. Ms. Dunkel stated that with the detention population up, the length of stay up, and the State population rising without controls, population forecasts are impossible. Chairman Tufo directed the staff to prepare reports on new construction, the State situation, and litigation before Judge Lasker as they affect this problem.

Chairman Tufo asked whether the amendment on law libraries should specify Saturday as the weekend day the libraries had to open. Mr. Booth advocated leaving the option to the Department. Chairman Tufo also asked for discussion on 24 hour law library coverage. Mr. Kirby suggested that a memo of understanding on the subject of emergency access would suffice, and Ms. Dunkel suggested adding "on-trial inmates" to the category of inmates guaranteed privileged access to the libraries. Chairman Tufo directed Ms. Dunkel to forward prepared language on the libraries before the next meeting and directed the staff to advise as to the proper procedure to follow for implementing this language, and asked for discussion on the Brig.

Mr. Lenefsky asked the staff to look into the possibility of using recreation space at the Brooklyn House. Mr. Wolf advised that the present variance had expired, and a 60-day extension was granted, with staff to investigate alternatives to the busing of Brig inmates to Manhattan for recreation.

Chairman Tufo advised that within the next two months, plans would probably be prepared to add up to 2,000 beds to the system, and suggested deferring discussion on HDM and the North Facility until later.

The next meeting was set for 2:00 p.m. on Wednesday, November 20, 1985. The meeting was adjourned at 4:05 p.m.