

MINUTES

FEBRUARY 27, 1979 MEETING

BOARD OF CORRECTION

An adjourned meeting of the Board of Correction was held on Tuesday, February 27, 1979, in the 14th floor conference room (room 1410), 100 Centre Street, New York, New York.

Present from the Board were Peter Tufo, Chairman; John Horan, Vice-Chairman; Wilbert Kirby, Angelo Giordani, and Rose Singer.

Board staff present by invitation of the Board were Michael Austin, Arden Culver, Sherry Goldstein, and Joseph V. Smith.

Peter Tufo served as Chairman of the meeting and Arden Culver served as Secretary.

The Chairman called the meeting to order at 2:50 P.M.

The Chairman announced that the meeting was an adjourned meeting called to consider the Tombs proposal and the variance requests by the Department of Correction concerning minimum standards due to take effect on March 1, 1979.

The Chairman stated that now that the Board had had an opportunity to review the staff analysis of the Gruzen proposal, he would like to get a consensus of the Board on the Gruzen proposal in order to formally convey the Board's position. He further stated that he had just received the Department of Correction response and would summarize it for the Board.

Mrs. Singer expressed concern with considering the proposal a real plan since it provided no detail for laundry, kitchen, and other necessary facilities.

Mr. Tufo stated that the plan was to be looked at as a conceptual plan with detail to be provided at a later stage in the process. Mike Austin stated that information from Ken Schoen's Office indicated that they were now in the process of developing detailed schematics and making a number of revisions in the original Gruzen plan. The Chairman indicated that the Board's conditional endorsement would constitute only a preliminary approval.

Mr. Giordani stated that he would like to see specific statements concerning the minimum standards in the planning document. Mr. Tufo stated that Gruzen's contract specifies that requirements of the minimum standards be met. The report should make a point-by-point demonstration of how they intend to comply with the standards.

Mrs. Singer said she was not ready to accept the plan as is and wanted more detail. Mike Austin stated that the Board could make its approval of the concept subject to the provision of additional information. The Chairman proceeded to summarize the Department's response to the Gruzen proposal and indicated that the Department's report would be distributed to the Board. He suggested that the Board inform Ken Schoen that it approves of the general design concept but that this endorsement is subject to reviewing the more detailed and revised schematics and, specifically, the Board wants to see the minimum standards addressed and a response to the Department's analysis of the plan.

Mrs. Singer moved to adopt this approach. The motion was seconded by Mr. Giordani. Peter Tufo suggested in the interim that the Board review the Department's report.

Mike Austin suggested that despite the fact that no variance has been requested, staff recommends that we continue to monitor compliance with the overtime standard to ascertain the impact on the standard of the most recent Departmental order issued on this subject.

Mr. Tufo stated there is no action necessary in response to their submission since they do not request a variance, but staff should prepare a report on the Department's compliance. We will take whatever action is necessary after the staff report is completed.

Mike Austin stated that the Department had requested a variance from section 4.8, personal hygiene, to permit installation of laundry machines. Staff is concerned by this request since a similar request had been made 6 months prior. A pilot program was to have been instituted but the Department has said that the pilot program will begin by April 2, 1979 at HDM. The Department has not explained why the pilot program has not already begun. However, it is the staff's view that the variance request has legitimacy because of difficulties in obtaining and installing machines. Therefore, staff recommends that the variance be granted with the understanding that the pilot project at HDM provide for a clean change of clothing twice a week as required by the standard, and the Department submit to the Board by June 1, 1979, the results of this experiment and its plan for system-wide implementation. Staff also suggests reduced reporting requirements allowing time for higher quality reports.

The Chairman questioned the granting of six-month variances as a matter of course. A discussion followed on the options of granting four-month variances instead, thereby stepping up the compliance process and ending continuing variances.

Mr. Giordani stressed the need for field staff to do a thorough job of monitoring. He pointed out the importance of monitoring since it would allow staff to do trend analysis, track and target problems, and provide feedback to the Department on their compliance with the standards.

Mr. Kirby agreed and gave construction start-up times as an example of an area that should be monitored closely. The Chairman stated that our method of monitoring must be different than in the past. It was decided to grant a 4-month variance until July 1, 1979, with the condition that during the variance period a pilot project at HDM provide for a clean change of clothing twice a week as required by the standard.

The Chairman questioned the need for a 6-month variance on section 5.2(b)(1), overcrowding, for the Brooklyn House of Detention. The Board agreed to grant a 4-month variance until July 1, 1979 for both HDM and the Brooklyn House. Regarding section 5.2(b)(ii), Mike Austin explained that the Department is now selecting a vendor to provide the lockers. Staff recommends the variance be granted (because logistical problems were legitimate) with the proviso that a detailed plan for phased installation of these lockers system-wide be submitted by June 1, 1979. The Chairman proposed the additional requirement that a selection of the locker and a purchase order be submitted within four months (by July 1, 1979). Joe Smith suggested that the Board be given the opportunity to examine the model locker to make sure it complies with the minimum standard requirements. The variance was granted until September 1, 1979, except at the Correctional Institution for Women. Mike Austin stated that the request for a variance from section 5.3(a) is consistent with previous Departmental statements concerning hiring delays and therefore staff would recommend that this request be granted. The variance was granted for four months, until July 1, 1979, at the Correctional Institution for Men.

Mike Austin stated that the staff recommends that a variance be granted on section 6.2, lock-in, on the condition that the Department provide the Board by April 1, 1979 with a schedule for phased implementation by institution. Mr. Tufo stated that this was another question of hiring. This variance was granted system-wide to July 1, 1979, except at the Bronx, Queens, the Correctional Institution for Men and the Correctional Institution for Women. Concerning, section 6.3, Mike Austin stated that the request does not have to be dealt with today since the previous variance was granted until April 1. The request should be decided at our March meeting.

Mike Austin stated that staff recommends that a variance be granted for section 7.3, recreation, for all institutions except the Queens House of Detention until June 1, with the proviso that the Department of Correction be in compliance with the stipulation in the September variance that recreation must be available to all prisoners on at least one weekend day; that if the Department submits to the Board by April 15, 1979, an additional variance request that it contain a detailed plan for phased implementation by institution through August 31, 1979, and that the Department report to the Board on a monthly basis the status of all new construction and renovations. Mr. Horan questioned whether outdoor recreation could be provided for. Mr. Tufo said that if the Board is going to agree to the June 1 date, it must give some rationale. A discussion followed on the importance of outdoor recreation during the warmer months. The Chairman suggested that the Board tell the Department that recreation is our highest priority. The variance was granted system-wide until June 1, 1979, except at the Queens House.

Mike Austin stated that staff recommends that a permanent amendment be denied to section 7.6 of the recreation standard, and that the variance granted on September 1, 1978 be continued until May 1, 1979 so that staff can seek clarification from the Department concerning the facts of this request. A discussion followed on the situation in punitive segregation and whether or not recreation was being denied as a matter of course by the institution or whether the hearing officer was using his own discretion. Mr. Horan stated that staff should monitor this situation. The Department's requested amendment to section 7.6 was denied and a variance was granted system-wide until June 1, 1979 with the proviso that the Department come into immediate compliance with existing recreation requirements for inmates in punitive segregation. Mr. Kirby voted against the variance being granted because a person should not lose constitutional rights because he/she is in punitive segregation and anyone who is locked-in surely deserves one hour of recreation.

Mike Austin stated that with regard to section 9.6(a), of the access to courts standard, the Department is requesting an additional delay of four months at all institutions except the Queens House. Mr. Kirby stated that he is against granting any variance since that is a denial of constitutional rights. A discussion followed on the present hours of the law libraries. The Chairman stated that the Board should insist on immediate compliance with the previous proviso: at all institutions each law library must be opened 40 hours per week including at least 8 hours during the weekend at at least 3 hours on each of 2 weekday evenings, and should grant a 4-month extension for phase-in of final hiring. The variance was granted system-wide until July 1, 1979, except at the Queens House. Mr. Kirby voted against the variance being granted.

Mike Austin stated that staff recommends a variance on sections 10.3 (a), (b), (e) of the visiting standard, with the understanding that the existing proviso that all prisoners be entitled to at least two visits per week with at least one visit on an evening or weekend as the prisoner wishes be complied with immediately and a detailed plan for phased implementation be submitted by the Department. Mr. Tufo stated that the Board is faced with the reality that the Department has stated it will not complete hiring by August. A discussion followed on whether or not hiring impacted on the visiting problem and how staff had arrived at the June 1 date. Mike Austin explained that staff felt it was important to have visiting in place by the summer. The variance was granted until June 1, 1979, except at the Queens House. Mr. Kirby voted against the variance, stating that staffing for visiting should be the Department's priority. Concerning sections 10.3(h), (i), (j), Mike Austin stated that staff recommends a six-month variance be granted and the Department come into compliance with the Board's previous proviso that all prisoners including those receiving non-contact visits should be permitted to visit with at least two visitors at the same time, with the maximum number to be determined by the institution. A total of three visitors shall be permitted if at least one of them is a child small enough to be carried by or share a seat with an adult. Mr. Kirby questioned why Queens could not be in compliance if the Bronx and Brooklyn were. It was explained that the trailer at Queens had a capacity for 24, while the Bronx House visiting area holds between 40 and 48. The variance was granted until September 1, 1979, at the Queens House.

With regard to section 11.4 of the telephone standard, a variance was granted until July 1, 1979 at the Correctional Institution for Men.

Mike Austin explained that the Department's six-month request on section 12.5 of the correspondence standard was inconsistent with the consent decess and that staff therefore recommended a four-month variance to July 1, 1979, except at Brooklyn and Queens. Further, that by April 1, 1979, the Department should submit phased institution-by-institution plan for implementation.

With regard to standard 13, packages, Mike Austin stated that a pilot program was beginning in Brooklyn. Staff recommends that this variance request be granted until September 1, 1979, on the condition that by June 1, 1979, the Board be provided with specific results of the Brooklyn pilot package program. The variance request was granted until September 1, 1979.

The Chairman stressed that in our covering letter it should be strongly indicated that Board of Correction priorities are recreation and visiting. June 1979 should be the target date for compliance with respect to these standards.

The next meeting was tentatively scheduled for March 20, 1979.

Meeting was adjourned at 4:37 P.M.