

Board of Correction  
Minutes  
August 11, 1987

A regular meeting of the Board of Correction was held on August 11, 1987. Members in attendance were Chairman Robert Kasanof, Vice-Chairman John Horan, Judge William Booth, Angelo Giordani, Wilbert Kirby, David Lenefsky, Barbara Margolis, and Rose M. Singer.

Also in attendance were Annette Gordon-Reed, Legal Consultant to the Board; James Gleason, John Guzman, and Ted Swiderek, staff from the State Commission of Correction; and media representatives from The New York Times, Newsday, The Daily News, and WNBC-TV.

The meeting was called to order at 2:15 p.m. by Chairman Kasanof, who began by asking Vice-Chairman Horan to update the Board on the subcommittee's inquiry into allegations made by the Guardians Association concerning Department of Correction promotion and discipline practices.

Mr. Horan informed the Board that those involved in the inquiry had not yet finished meeting with all parties, and that a considerable amount of information had yet to be gathered. He stated that a further report would be made available in September. Judge Booth cited the fact that summer vacations had made it difficult to schedule meetings, but assured Board members that a report of the inquiry would be forthcoming.

The next order of business was the approval of the minutes of the Board meeting of July 14, 1987. Judge Booth moved the minutes be approved, and Wilbert Kirby seconded the motion which passed without opposition.

Chairman Kasanof then asked Mr. Wolf to report on recent incidents at HDM and CIFW.

Mr. Wolf first discussed developments at HDM, stating that tensions have been high for several weeks. He referred to an outbreak of violence between officers and inmates on July 26 during a cell search, to a well publicized altercation between an officer and inmate Larry Davis, and to a recent search for a gun which DOC officials believe is hidden in HDM.

Mr. Wolf also reported on an alleged rape of a female inmate by adolescent male inmates at CIFW. Mr. Wolf discussed the fact that Board staff learned of this incident from sources within CIFW, and not from the Communication Control Center, adding that he was still waiting for a

formal explanation of this deviation from established reporting procedures.

Chairman Kasanof again urged other members of the Board to visit the facilities as often as possible, stressing the importance of a constant awareness of current conditions and developments.

The Chairman called for a brief recess at 2:25 p.m..

At 2:30 p.m. the meeting was reconvened and joined by the following members of the Department: Commissioner Richard Koehler; Thomas Murray, Chief of Operations; George Vierno, Deputy Chief of Operations; Janie Jeffers, Deputy Commissioner for Program Services; Sharon Keilin, Deputy Commissioner for Capital Development/Support Services; and Robert Daly, General Counsel.

The Chairman opened discussion on the Department's requests for renewals of variances from the space standard. Noting the presence of a large number of state inmates in the city system, Chairman Kasanof asked Commissioner Koehler to review the agreement reached between the City and the State in August of 1986.

Commissioner Koehler explained the details of the agreement. He said the State had agreed to remove the following state inmates within the indicated time periods:

- a) parole violators within 14 days of final adjudication hearing;
- b) "out to courts" within 14 days of final court appearance;
- c) newly sentenced inmates within 48 hours of sentencing; and
- d) inmates with long adjournments.

Chairman Kasanof then inquired whether the State was currently in compliance with this agreement. The Commissioner informed the Board that there are 493 state inmates currently in city custody in violation of the agreement, as follows:

276 parole violators  
94 "out to courts"  
58 sentenced inmates  
65 long adjournment dates

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493

Commissioner Koehler described the efforts he has been making to expedite the removal of these inmates. The Commissioner indicated he had been in frequent contact with Thomas Coughlin, Commissioner of the New York State

Department of Correctional Services, and Lawrence Kurlander, the State Director of Criminal Justice. These officials impressed upon the Commissioner that the state was absorbing the inmates from the city system as quickly as possible, but that they were greatly hindered by the serious overcrowding of state correctional facilities. Commissioner Koehler relayed the fact that the state system is currently at 109% of capacity, and that state correctional standards do not allow for inmates to be housed at less than 60 square feet.

Chairman Kasanof asked Richard Wolf if the State Commission of Correction had granted any variances allowing state facilities to house inmates at less than 60 square feet. Mr. Wolf replied that they had not.

The Chairman observed that the state, in failing to abide by the terms of the 1986 agreement, is in effect forcing the city to house many state inmates at less than 60 square feet, while refusing to impose such living conditions on the inmate population within its facilities.

Chairman Kasanof then asked the Commissioner to quantify the extent to which the overcrowding in city facilities is caused by the presence of the state inmates.

The Commissioner explained that the 493 state inmates previously discussed represent a subset of a total of 1800 state inmates presently in city custody. The Commissioner also pointed out that the standard capacity of the variance dorms is now exceeded by 220 state inmates.

The Commissioner then advised the Board that it would be quite difficult for the Department to manage the current situation if denied the flexibility to house a portion of the state inmates at less than 60 square feet. Without such flexibility, it may become necessary to move state inmates, a group generally more difficult to manage than general population inmates, into areas occupied by less troublesome inmates.

In response, the Chairman asserted that the solution to the problem was to bring about the state's compliance with the 1986 agreement, which would result in the removal of inmates who belong in state institutions.

The Chairman then called on Mr. Wolf to provide further illustration of conditions in the city system which reflect the tensions caused by the presence of the state inmates.

Mr. Wolf cited recent discussions he and other Board staff have had with AMKC staff and inmates. Both groups confirmed that the current situation is causing significant increases in tension and frustration.

Chairman Kasanof then asked for the Commissioner's opinion whether state inmates, many of whom are facing long sentences, represent a more difficult group to control than the general inmate population.

Commissioner Koehler stated that such inmates are more difficult to control and added that the Department had taken a number of steps to ameliorate the conditions under which the state inmates are incarcerated. Specifically, the Department has increased recreational, television, commissary and visitation privileges for these inmates.

Judge Booth countered that the state facilities offer educational programs and other amenities that the city system is simply not capable of providing.

Chairman Kasanof agreed and asked the Commissioner for his opinion on the suitability of the city system for long term incarceration. The Commissioner also agreed with Judge Booth.

A motion was then made by John Horan to grant the Department a 14 day period in which to comply with the minimum standard of 60 square feet of living space for all state inmates in custody for 2 weeks or longer, allowing the Department to house state inmates at 40 square feet for the first two weeks of their incarceration in the City system.

Commissioner Koehler asserted that such a move on the part of the Board would result in the loss of 300 beds, in addition to the 1000 variance beds that the Department lost following the Board's vote at the June meeting. The Commissioner again indicated such a loss of flexibility would result in the need to house inmates in more crowded conditions elsewhere, and that in this case "the cure may be worse than the disease."

Wilbert Kirby then interjected that tension and aggression in the facilities is higher than at any time since 1975, as evidenced by a heightened combativeness between many inmates and officers.

Robert Daly, General Counsel for the Department, then expressed his feeling that it would be inappropriate for the Board to vote on Mr. Horan's motion without first allowing the Department an opportunity to analyze the impact on its present operations. To that end, Mr. Daly proposed the Board delay any action by one week.

Chairman Kasanof responded by restating the Board's obligation to maintain acceptable standards and safe conditions in the city jails, and added that it is imperative for the State to receive immediately the message

that the abandonment of their commitment to remove state inmates from the city system is intolerable.

The motion made by Mr. Horan was then seconded by Judge Booth. A vote was called by Chairman Kasanof, and the motion was unanimously passed by the Board members.

The Chairman then asked Mr. Wolf to summarize the variances which were renewed. Mr. Wolf provided the following synopsis:

The remaining existing variances are modified by the Department's reduction plan to comply with the Board's June 9, 1987 vote to reduce by 1000 the number of variance beds operating in the system.

House City-sentenced inmates at less than 60 square feet in dormitories at the CIFM, BCF and Hart Island. Also, City sentenced inmates may be housed in dormitories at CIFW at less than 60 square feet until August 31, 1987. The total population at CIFM shall not exceed 2800 for the period of the variance. A maximum of 450 parole violators may be housed at 40 square feet in CIFM's three modulars.

Thirty-three detainees may be housed in each of twelve dormitories at the Brooklyn Correctional Facility (BCF). Each detainee's stay at BCF shall be limited to 15 days, but may be extended on a voluntary basis for 15 day periods. On a daily basis, one hour of indoor recreation and one and one-half hour of off-site outdoor recreation must be provided.

Dormitories in the North Facility Annex may house detainees at 60 square feet according to the previously agreed schedule, with a detainee capacity of 283.

Dorm 18C may be used to house City-sentenced prisoners at less than 60 square feet, with a capacity of 62.

Effective September 1, 1987, new admission detainees may be housed at 40 square feet in dormitories in the North Facility for up to 15 days.

The Chairman directed Mr Wolf to notify Kenneth Schoen, Director of the Office of Compliance Consultants of the action taken. The Chairman then adjourned the meeting at 3:20 p.m..