

Board of Correction
Minutes
December 8, 1987

A meeting of the Board of Correction was held on December 8, 1987. Members in attendance were Chairman Robert Kasanof, Judge William Booth, David Lenefsky, Barbara Margolis, David Schulte, and Rose M. Singer.

Chairman Kasanof called for an Executive Session of the Board at 2:15 p.m., which concluded at 2:25 p.m.. The regular meeting was attended by Board staff, representatives from Newsday and The Daily News, and the following representatives of the Department of Correction: Thomas Murray, Chief of Operations; Julian Prager, Deputy Commissioner; Sharon Keilin, Deputy Commissioner for Capital Development/Support Services; Robert Daly, General Counsel; and Michael Cleary, Executive Director of the Management Evaluation Division.

The Chairman began by addressing allegations made by inmate Larry Davis against DOC staff at the Bronx House of Detention for Men (BxHDM). Mr. Kasanof stated that he finds Mr. Davis' allegations to be highly implausible.

Mr. Kasanof then discussed the status of the Board's negotiations with the Department concerning the Bibby Venture. He stated that several Board members had visited the Bibby and expressed their concerns about its suitability as a correctional facility. The Chairman declared that the Board considers the public safety to be its primary concern, followed by the safety of the officers and the inmates.

The Chairman then addressed the issue of inmate escapes, stating that the rate of escapes had recently increased dramatically. He expressed his belief that this is due to laxity and corruption within the Department, and stated that he intends to ask State Special Prosecutor Charles Hynes to conduct an investigation. He also stated that the Board is currently seeking to add an experienced investigator to its staff, and has begun interviewing applicants for the position.

The next topic of discussion was the Department's request for the renewal of the existing variances, as well as its request for additional variances.

Mr. Kasanof stated that the Department had requested permission to house work release inmates at 40 square feet in two dorms at the North Facility Annex. The inmates had been housed on the ferry at Rikers Island, which was taken out of service to ready it for the arrival of a second ferry. The Chairman expressed his belief that this need for

space should have been anticipated, and for that reason believes this request is not based upon an "emergency". He stated that with the renewal of the existing variances alone, the Department would have a total of 1600 variance beds. The Chairman reiterated his conviction that the Department should not consider variances to be "inventory items". He stated that the Department has been claiming for the past two years that it is faced with an "emergency situation", and asserted that by now the Department should have come up with sufficient capacity to allow for the confinement of inmates under conditions which are consistent with the Board's minimum standards. The Chairman informed the representatives of the Department that, by March of 1988, they must present the Board with a comprehensive, realistic assessment of their need for "emergency variances".

Mr. Schulte then asserted that there seems to be an ongoing discrepancy between the Board and the Department on the issue of the need for variance beds. Mr. Wolf stated that the Board staff had met with DOC staff on November 27 to learn why DOC was claiming it could not use its variance beds. He said DOC agreed to provide a written explanation, which Board staff had not yet received.

The Chairman then addressed the recent rise in incidents involving the use of force. He stated that the Board staff has compiled statistics on such incidents by reviewing the daily Communication Control Center (CCC) reports from January, 1986 through November, 1987. The Chairman asserted that the rate per 100 inmates rose 50% from April through November, 1987, and noted that this finding was statistically significant.

Mr. Kasanof stated that the Department had urged the Board not to be "mesmerized" by the issue of space, and had assured the Board that the overcrowding which exists would not have a deleterious impact on the Department's ability to maintain safe and secure conditions in its facilities. He added that though he believes Commissioner Koehler is doing an outstanding job, it is becoming clear that the strain caused by overcrowding has resulted in an unmanageable situation. He asserted that the Department has exhausted the managerial options available for dealing with the current census and capacity, and must now look to reduce the extent of the overcrowding.

Mr. Kasanof added that unless the Department is able to bring about a downturn in the rate of incidents involving the use of force, he intends to withdraw his support for the use of variances.

Mr. Prager responded by suggesting that the rate increases cited by the Chairman may very likely be due to

the promulgation of the revised directive entitled "Use of Force; Directive #5002R", which took effect on September 16, 1987. He stated that the revised directive calls for the reporting of incidents not only by those officers involved in the application of the force, but also by staff members who supervised or witnessed such incidents.

Mr. Kasanof challenged Mr. Prager's assertion that the increases were simply "artifacts" of the recently revised reporting procedures. He stated that in October, one month after the promulgation of the new directive, the rate had actually decreased slightly, with a precipitous increase occurring in November.

Mr. Prager stated that one should realize that the data points being discussed represent monthly totals, and not interpolations, and therefore a great deal of random fluctuation is quite likely. He suggested that the sharp rise which took place in the month of November does not provide conclusive evidence that the use of force has become more widespread in the system, and that perhaps the most prudent course of action would be to wait until data becomes available for the months of December and January.

Mr. Kasanof noted that it is quite interesting to hear Mr. Prager refuse to accept the Board's contention that the use of force has increased, especially in light of the fact that the Commissioner has expressed his own concerns about the issue. The Chairman stated that the Board would be remiss if it were simply to ask the public to wait for two months before the problem is addressed.

Chief Murray stated that the figures reflecting the frequency with which force is used have indeed risen in the following five facilities: House of Detention for Men (HDM), Anna M. Kross Center (AMKC), Correctional Institution for Men (CIFM), Manhattan Court Pens (MCP), and the Correctional Institution for Women (CIFW). He expressed his concern over the increases, and assured the Board that the Commissioner had begun taking steps to address the problem.

Mr. Daly stated that he had authored the revised directive on the use of force, and expressed his belief that there is currently a heightened level of consciousness about the issue. He said that he is uncertain as to whether such incidents were under-reported in the past, and suggested that it may be necessary to wait and see how things develop in the coming months.

Mr. Schulte asked whether the current discussion relates only to incidents involving the unnecessary use of force, or pertains to all uses of force.

Mr. Wolf responded by stating that the data was obtained by counting all incidents involving the use of force that were included on the CCC reports.

Mr. Kasanof asserted that, to a certain extent, the use of force is inevitable when managing a largely antisocial population. He added, however, that the Board is very concerned about incidents involving the unnecessary use of force, as well as the increase in the rate of all incidents involving the application of force by correctional staff.

Mr. Lenefsky then requested an opportunity to discuss the topic of short term planning. He stated that he too is concerned about the rise in the use of force, as well as the numerous escapes which have taken place in 1987. Mr. Lenefsky also asserted his belief that the Department's handling of the Bibby Venture has reflected serious mismanagement, and requested that the Department submit an update of its short term plans for the coming year.

Mr. Daly responded by stating that the Department should find itself in very good shape by September or October of 1988, by which time two upstate facilities with a total of 1400 beds will be available. As to the Bibby Venture, Mr. Daly asserted that the Department had heeded the Board's concerns, and was making extensive efforts to have the barge reconfigured accordingly.

Mr. Daly left the room and Mrs. Singer made a motion to approve the minutes of the November meeting without alteration. Mrs. Margolis seconded the motion, which passed unanimously.

Upon Mr. Daly's return, Mr. Lenefsky inquired again whether the Department has formulated a detailed plan for the coming year.

Mr. Daly responded that the Department anticipates a "squeeze situation" during February and March of 1988, adding that the opening of the East Facility in May or June will bring needed relief.

Mr. Prager stated that the Department would not be facing such a housing shortage in the coming months if permission to utilize the Bibby Venture had been granted.

Mr. Lenefsky quickly expressed his belief that Mr. Prager's attempt to assign the blame for the failure of the Bibby Venture initiative to some external agent is very unfair, citing again the Department's failure to accurately assess the unsuitability of the Bibby Venture as a detention facility.

Mr. Kasanof again cautioned the Department's representatives not to expect the Board to continue to renew existing variances in a routine fashion. He reiterated his belief that the present overcrowding represents a threat to the public safety, as well as to the safety of the officers and the inmates.

Mr. Daly departed at 3:15 p.m..

Mr. Kasanof then asked Mr. Wolf to update the Board on the Department's request for variances.

Mr. Wolf began by asking Deputy Commissioner Keilin to predict the date by which rooftop recreation will be available at the Brooklyn Correctional Facility (BCF).

Ms. Keilin stated that the contractor has informed her that half of the outdoor facilities will be "substantially completed" by December 24, and the other half by January 1, 1988. She also explained that the subsequent examination and inspection of the facilities by city officials is likely to take one month. Therefore, it is expected that one half of the facilities will open by January 24, and the other half by February 1, 1988.

Mr. Wolf informed the Board members that the Department has asked for permission to increase, from 20 to 24, the number of dormitories at BCF in which detainees may be housed at 40 square feet. He also stated that the Department is seeking an extension of the variance allowing inmates on the Bibby Venture to be transported to the Manhattan House of Detention for Men (MHDM) for visits and law library.

Mr. Wolf asked for a date by which the Department expects to receive the law books for the Bibby Venture.

Ms. Keilin stated that the order for the books had been placed in November, and predicted that they will arrive in the next two to five months.

Mr. Wolf inquired as to whether the pharmacy at the Bibby Venture will have a sink, and also asked if the Department had applied for a license for the pharmacy.

Ms. Keilin stated that the pharmacy will have a sink, but, along with Mr. Prager, was uncertain if the Department had applied for a license for the pharmacy.

Mr. Wolf also stated that the Department had requested permission to house work release inmates at 40 square feet in two dorms at the North Facility Annex. The inmates had been housed on the ferry at Rikers Island, which is

currently being fitted with bumpers which will allow it to eventually be moored next to a second ferry.

When asked to predict the date by which both ferries will be available, Ms. Keilin stated that the first ferry should be back in service by late December or early January of 1988, but she was unsure about the date of arrival of the second ferry.

Mr. Kasanof then called for a motion to approve the Department's variance requests.

Mr. Lenefsky suggested that, before such a motion is made, the representatives of the Department should elaborate on their need for additional detainee beds at the Brooklyn Correctional Facility (BCF).

Mr. Prager responded by stating that the Department anticipates a short term need for beds for detainees rather than for sentenced inmates.

Mrs. Margolis asked the Department's representatives whether they had a plan they could fall back on in the event the Board refused to grant the variances requested.

Mr. Prager stated that the Department was considering a return to Judge Lasker to seek the reinstatement of the "Lareau relief" in the North Facility.

Mr. Lenefsky suggested that the Board refuse the Department's request for additional detainee beds at BCF.

Mr. Schulte suggested the Department's representatives be given a chance to further plead their case in this matter.

Mr. Kasanof proposed that the Board consider granting permission for only two additional detainee dorms at BCF, instead of the four originally requested.

The Board members decided to first vote on the original request for an additional four detainee dorms at BCF. The measure was defeated by a vote of four to two.

Mr. Kasanof then moved that a vote be taken on his proposal to grant permission to the Department to increase the number of detainee dorms at BCF from 20 to 22. The motion was passed by a vote of four to two.

Judge Booth then asked for an update on plans to hold bail review hearings on Rikers Island.

Mr. Kasanof stated that he had met with the Commissioner and conveyed to him the Board's desire to see progress in this matter.

Judge Booth then asked about the progress that was being made in the effort to develop alternatives to incarceration for low-risk detainees.

Mr. Prager responded by stating that legislative approval in Albany would be required before such an alternative could be pursued. He stated that the most recent legislation involving work release for detainees had been defeated.

Mr. Kasanof requested that the Department keep the Board apprised of the State's adherence to the existing agreement calling for the timely removal of State inmates from the City system. The Chairman then called on John Rakis, the Board's Deputy Executive Director, for a report on the escapes which occurred in 1987.

Mr. Rakis distributed copies of a draft report containing a brief description of each of the 11 escapes, involving a total of 17 inmates, which had taken place so far in the current year. He then discussed the details of the most recent escapes.

Following the discussion of the December 7, 1987, escape of inmate Arthur Mack from the Bronx Court Pens, Mr. Wolf asked Chief Murray to confirm that the incident was now officially being classified as an escape, rather than an erroneous discharge. Chief Murray responded that the incident has been recorded as an escape.

Mr. Schulte asked for the projected date of completion of the White Street Facility. Mr. Prager responded by stating that the White Street Facility is scheduled to open in October, 1989.

Chief Murray then requested an opportunity to discuss his feelings about the recent wave of escapes, stating that the preceding week had certainly been quite frustrating. He stated that the Department is taking a hard look at existing security procedures, and will move quickly to effect all necessary improvements.

Mr. Kasanof reiterated his belief that the system has been severely taxed by overcrowding, shifting populations, and excessive overtime, all of which make it quite difficult to maintain a high level of structural discipline.

Mr. Schulte asked for the rank of the individual in command on Rikers Island after 4:00 p.m. each day.

Chief Murray responded by stating that while each facility has Assistant Deputy Wardens on duty at all times, the officer in charge of perimeter security on the Island is a Captain.

Mr. Schulte then expressed his belief that the decision to entrust such a responsibility to a Captain represents a serious managerial error.

The meeting was adjourned at 3:55 p.m..