

Board of Correction  
Minutes  
October 15, 1987

A regular meeting of the Board of Correction was held on October 15, 1987. Members in attendance were Chairman Robert Kasanof, Vice-Chairman John Horan, Rev. Irvine A. Bryer, Jr., David Lenefsky, David Schulte, and Rose M. Singer.

Also in attendance were Mark Bonacquist and Stephen DelGiaccio of the State Commission of Correction, and Ali al Rahman, president of the Guardians Association.

The Chairman opened the meeting at 2:10 p.m. by asking the Board's Executive Director, Richard Wolf, to summarize the variance requests which the Department had submitted for approval.

Mr. Wolf stated that the Department had asked the Board's permission to extend all existing variances and to effect the following: an increase in the capacity of the main building of the Correctional Institution for Men(CIFM) from 2350 to 2450; the housing of sentenced cadre at 40 square feet at the Queens House of Detention for Men(QHDM) and the Bronx House of Detention for Men(BXHDM); the housing of City-sentenced females at 40 square feet in two modulars at the Correctional Institution for Women(CIFW); and the use of an additional four dorms at the Brooklyn Correctional Facility(BCF) for the housing of detainees at 60 square feet, with each of the dorms to house 33 inmates.

Mr. Wolf also told the Board that the total inmate population in the system was 339 less than the Department had projected, and that, with the already existing variances, the Department was operating with a surplus of approximately 750 beds.

Mr. Kasanof reiterated the Board's fundamental position that the granting of variances is appropriate only in response to emergency situations, and that the Department should not be allowed to accumulate a reserve of variance beds.

At that point, the Chairman introduced and welcomed the Board's new member, the Rev. Irvine A. Bryer, Jr. The Board then welcomed the Commissioner as he arrived with the following members of his staff: Janie Jeffers, Deputy Commissioner of Program Services; Marcia Goffin, Director of the Legal Division; and Michael Cleary, Executive Director of the Management Evaluation Division. Mr. Kasanof informed the Commissioner that the Board had

received the Department's request for variances, and then discussed two other major issues.

The first issue involved developments which the Chairman stated are results, at least in part, of the overcrowding in the City's correctional facilities. Board staff research disclosed increases in grievance rates (per 100 inmates), use of force incidents, and inmate to inmate violence. The Chairman noted that, when one excludes CIFM and ARDC, two facilities upon which the Department has focused extraordinary attention and resources, the latter two indicators have shown a consistent increase in 1987 over 1986. The system-wide grievance rate in each of the months from January to July of 1987 was higher than that shown for the same period in 1986. At Mr. Kasanof's request, copies of the Board's statistical analysis, compiled by Jim Bennett, were distributed to the Board members and to the Commissioner and his staff.

The second issue raised by Mr. Kasanof involved the Department's current practice of shackling inmates who are "outposted" in municipal hospitals. The Chairman stated that current practice requires that such inmates must be shackled at all times, and that all female inmates are shackled because of the lack of a hospital prison ward for women. Mr. Kasanof added that the present situation demonstrates that additional hospital prison wards are needed so that all inmates may receive medical treatment in a secure environment in which the use of shackles would not be necessary.

In response, the Commissioner explained that the Department is in the process of negotiating the issue of shackling with representatives of the Legal Aid Society, and he invited Board members and staff to sit in on those proceedings.

The Chairman then returned the focus of the meeting to the issue of variance requests. Mr. Kasanof repeated that the Board's calculations indicate that the Department is already operating with a "cushion" of over 700 beds, with the Board generally opposed to the granting of variances in non-emergency situations.

The Commissioner replied by informing the Board that the Department had decided to withdraw its request that the Board rescind its requirement that state prisoners in City custody for more than 14 days must be housed at 60 square feet in dormitories. He added that the other requests simply involve changes which would allow him to manage the system in a more efficient manner.

In response, Mr. Kasanof stated that he had no objection to the Department's request for such

modifications, but that the request to increase the capacity at CIFM's main building from 2350 to 2450 should be tabled. The Chairman asked the other Board members for a resolution granting permission to the Department to make minor modifications as well as to renew existing variances. The resolution was unanimously adopted. Mr. Wolf was directed to inform the Commissioner of the modifications.

The next order of business was a report from Vice-Chairman John Horan. Mr. Horan, along with Judge William Booth and Angelo Giordani, conducted a preliminary inquiry on the Board's behalf into allegations of discrimination in Department of Correction promotional and disciplinary practices.

Mr. Horan began by explaining that two groups had made distinct requests of the subcommittee. The Hispanic Society had asked the Board to look into racial bias in the Department's promotional practices. The Guardians Association, while also concerned with the Department's promotional practices, made the additional charge that disciplinary practices have resulted in black uniformed personnel receiving more severe sanctions than white uniformed personnel in cases resulting from comparable violations of the Department's Rules and Regulations.

Mr. Horan first addressed the claims of unfair promotional practices within the Department. He explained that the subcommittee, in responding to the allegations made by both groups, had reviewed documents and met with representatives of the Hispanic Society, the Guardians Association, and the Commissioner and his staff.

Mr. Horan stated that the subcommittee received the impression that a disproportionately small number of minority members appear in the higher ranks of the Department, and that there are no hispanics presently serving at the level of Deputy Warden or Warden. He stated that the subcommittee's review of the relevant documents revealed that the limited promotions of the hispanic personnel appeared to be related to their small overall number in the Department, and therefore in the promotion eligibility pool. He also stated that the subcommittee recommended that the Commissioner seek to adopt strategies which would allow qualified hispanics to rise through the ranks more quickly.

Mr. Horan pointed out that while there certainly was an appearance of "smoke" in the area of promotional practices, the subcommittee had been unable to isolate the precise cause of the apparent imbalances. Mr. Horan added that the subcommittee had found the Commissioner to be committed to a fair and appropriate resolution of this issue. The subcommittee also found the promotion review process, as

presented by the Commissioner, to be fair and sufficiently staffed so as to be able to make corrections as needed. In view of the concern the Commissioner had demonstrated in this area, as well as the actions he had taken, Mr. Horan advised the Board against taking the matter to the Human Rights Commission. He urged the Board, however, to remain vigilant in its oversight of the Department's promotional practices by continuing to assess the promotion of minority members.

The Commissioner then asked for, and was granted, an opportunity to further discuss actions he has taken to remedy the present situation. He stated that a large number of highly qualified blacks on several levels had been promoted during his administration, and that many more are being carefully considered for upcoming vacancies. He further explained that a number of senior black officers had been bypassed for promotion by both he and the previous Commissioner because they were unsuitable for the vacant positions, but that many well qualified blacks were rising through the ranks and would be eligible for promotion in the near future.

Commissioner Koehler explained that only three of the six hispanic Assistant Deputy Wardens are tenured, and that two of those three have disciplinary charges pending which would have to be dismissed before they would become eligible for promotion to the rank of Deputy Warden. He explained that the other three hispanic ADWs were appointed provisionally during his administration, and therefore would not be eligible for promotion for one year. He added, however, that he planned to move these ADWs into faster promotional tracks, and would do the same with the blacks who were promoted during his administration. Furthermore, he explained that although it would be permissible to promote an hispanic ADW, or any ADW, directly to the rank of Warden, he believes that it would not be in the best interest of the individual or the Department to do so. The Commissioner expressed his confidence that many more qualified blacks and hispanics will rise into the top ranks of the Department in the coming years.

Mr. Horan then discussed the allegations of unfair disciplinary practices submitted by the Guardians Association. The Vice-Chairman reported that the subcommittee, after a great deal of research, had found rather conclusive evidence of disparities between punishments meted out to black and white uniformed personnel in cases involving comparable rules violations. He stated that the subcommittee certainly had found more than "smoke" in this area, adding that such a problem may stem not only from racial favoritism, but also from poor management and generally low morale at the institutional level. He explained that the documents reviewed indicated that each

facility has a unique personality which is reflected in staff disciplinary proceedings.

In response to Mr. Horan's statements, the Commissioner stated that he too had found the statistics to be quite troubling. He added that he had decided against reliance upon a committee investigation of the issue, but had instead chosen Supervising Warden Quaslim Inham to investigate the problem. The Commissioner added that his ability to enforce a strict, but equitable, code of discipline must not be compromised.

Mr. Kasanof expressed his feeling that while it is extremely important for the Department to seek to remove both the perception and the reality of discrimination in all of its practices, the Board would not seek to challenge the Commissioner's prerogative to enforce appropriate disciplinary procedures.

Before departing with members of his staff, the Commissioner expressed his desire to continue to work cooperatively with the Board in all areas of concern.

Following the Commissioner's departure at 3:05 p.m., Mr. David Schulte asked Mr. Horan to provide further details of the subcommittee's findings. Specifically, Mr. Schulte asked if the group had found disciplinary practices in institutions run by white wardens to be different from those in facilities headed by black wardens.

Mr. Horan responded by stating that the subcommittee's basic statistical finding was that, on the average, the sanctions directed at black officers are 36% more severe than those handed out to white officers for equivalent violations. He added that the subcommittee had not attempted to perform a separate analysis of the practices within individual facilities.

Mr. Schulte requested the data be further analyzed to determine the extent to which the race of the warden of a given facility influences disciplinary practices within the institution.

At that point, Mr. Ali al Rahman, president of the Guardians Association, requested and was granted an opportunity to address the Board. Mr. Rahman sought to clarify the request his organization had made of the subcommittee. Specifically, he stated that the Guardians had alleged that during the interval between September of 1986 and September of 1987, the Koehler administration had not been following the promotional procedures called for by the original directive establishing a Promotion Board in 1980. The Guardians were concerned with promotions to all

ranks that had taken place during that time period, rather than with recent actual or proposed improvements.

Mr. Horan responded by acknowledging that Mr. Rahman was raising a fair point, and that the subcommittee had indeed discussed those very issues with the Guardians, as well as with the Commissioner and others. He explained that while the subcommittee had found reason to suspect that favoritism had occurred, he and the other members had been unable to identify its precise source. He stated that whereas the Guardians may have been privy to matters carried on behind closed doors that impacted on the promotional process, the subcommittee could rely only on available documents and the interviews. Since the subcommittee could not in good conscience refer the matter out to the Human Rights Commission, Mr. Horan again advised that the most prudent course of action would be to allow Commissioner Koehler an opportunity to remedy the situation, with the Board continuing to monitor the progress being made.

Mrs. Singer followed by expressing her desire for the Board to be apprised each month of the staff's activities. All the Board members were in agreement with the proposal. The meeting was adjourned at 3:20 p.m..