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MINUTES OF THE MEETING OF THE BOARD OF CORRECTION
FEBRUARY 5, 1973

A regular meeting of the Board of Correction was held on Monday, February 5, 1973, in the 14th floor conference room, 100 Centre Street, New York, New York.

Present at the meeting were Messrs. vanden Heuvel, Dribben, Becker, DeMonte, Schulte and Mrs. Singer. Also present by invitation of the Board were John M. Brickman, Executive Director of the Board; Peter A. Lesser, Executive Secretary of the Board; Kenneth Nochimson, Legal Advocate; Greg Harris, Director, Clergy Volunteer Program; Carl Grey, Deputy Director, Clergy Volunteer Program; Joel Sperber, Director, Literacy Project; and Debby Powers and Brenda Sweet, Criminal Justice Coordinating Council.

Present from the Department of Correction were Benjamin J. Malcolm, Commissioner; Jack Birnbaum, Deputy Commissioner; George Camp, Assistant Commissioner; Richard Aneiro, Assistant Commissioner; Joseph D'Elia, Director of Operations; A. A. Castro, Director of Public Affairs; Ronald Zweibel, Director of Legal Affairs; Arnett Gaston, Executive Assistant to the Commissioner; and Mr. Stanley Arkin, Special Prosecutor. Also present was Michael J. Dontzin, Counsel to the Mayor.

Mr. vanden Heuvel acted as Chairman and Messrs. Lesser and Brickman acted as Secretaries of the meeting.

Mr. Brickman announced that requests for excused absences had been received from Mr. Kirby and Rev. Wilson. Upon motion duly made and seconded, the requests were approved.

Upon motion duly made and seconded, the minutes of the meetings of December 11, 1972, and January 8, 1973, were accepted.

Mrs. Singer presented a report of her and Mr. Schulte's visit to the Literacy Program at the Adult Remand Shelter. The secretary was directed to attach a copy of that report to these minutes. Mrs. Singer noted that there are problems with certain volunteer programs in the prisons. It was agreed that a letter would be sent to Commissioner Malcolm reporting that the Board of Correction was concerned with the administration of volunteer programs in the prisons and calling for a report on such programs.

Mr. Harris then introduced Mr. Grey to the Board and proceeded to report on the revolving bail project. Mr. Harris also reported that there was trouble with the Department in arranging Social Agency Passes for the clergy. Mr. Harris discussed the attitude of correction officers, noting that most of the problems

have been with the Rikers Island control house personnel. He declared that they have been rude to visiting clergy and members of the Board staff.

Mr Richard Abbott, vice president of

and the Christian Science Church,

per W. Dribben 3/5/73

Mr. Dribben reported that Montgomery Ward had a program of contact with inmates where the company's representatives adopted the prisoner's family in an attempt to prepare for the prisoner's return to society. This program will be coordinated through the Clergy Volunteer program. The actual date of commencement of this activity has not yet been determined.

Called THEO To help Every offender,

Mr. Becker reported on his discussions with the mattress manufacturing company concerned in the death in August, 1971, after a fire, of John Donaldson, an inmate of the Manhattan House of Detention. He reported that the Department of Correction was extremely unorganized in purchasing. He noted that the Fire Department has flammability standards which are available to anybody who requests them and that the Department of Purchase was also willing to cooperate in the purchase of future materials and would have cooperated in the purchase of past materials had the Department of Correction requested its help. Mr. Becker noted that the Department of Correction did not request such help.

Mr. Brickman reported on the status of the Civil Jail. He declared that a letter had been sent to Fire Commissioner Lowery, who ordered a fire inspection in 1972 and a second inspection for January, 1973.

A discussing of the matter of Warden Ossakow then ensued. The Chairman declared that he could not accept a tougher standard for correction officers than would be applied to the warden. The discussion was then tabled until the arrival of Commissioner Malcolm and his staff.

Ms. Powers introduced Brenda Sweet, who will replace Ms. Powers as the Program Monitor at the Criminal Justice Coordinating Council.

The Chairman announced that he was submitting his resignation to the Mayor on February 7, 1973, and that he planned to announce his candidacy for the office of District Attorney of New York County on that date. He declared that his resignation will not take effect until late March, as he hopes to have various projects which have started under his chairmanship completed by that time. The Chairman noted that the resignation is only from the office of Chairman and that he will remain a member of the Board.

He will remain as Chairman for the March meeting. The Chairman also noted that he had asked Mayor Lindsay to designate Mr. Dribben as the Acting Chairman for the months to come.

The Chairman announced that there would be a meeting with the State Commission of Correction on Thursday, February 8, for the purpose of exchanging views on matters of mutual concern.

At 4:50 P.M., Commissioner Malcolm and his staff arrived.

The Commissioner proceed to discuss the Ossakow matter. The Commissioner reported that Mr. Ossakow was suspended on January 5, 1973, and that he subsequently waived a portion of his terminal leave, which would have run through May 23, 1973, on January 15, 1973. He explained that under the Civil Service Law, the Department of Correction would have lost all jurisdiction over Warden Ossakow upon his retirement on February 17, 1973, if the case against him were not completed by then.

It was reported that Warden Ossakow had used the strategy of avoiding service of process. However, there was the possibility that the case could not be concluded by February 17, 1973; if the case were not concluded by that time, jurisdiction would be lost and the case would have to be dismissed. If that happened, Warden Ossakow would go free without any punishment. Therefore, Warden Ossakow was permitted to plead guilty to two charges. The Commissioner declared that he had first learned of the recommendations of the judge by reading of it in the newspapers. At this point, Commissioner Malcolm introduced Mr. Arkin.

Mr. Arkin noted that the hearing within the Department was not a criminal proceeding, but that it was a Departmental hearing, with limited remedies. He also noted that he would expect that a court would overrule a Departmental finding of dismissal and reinstitute Mr. Ossakow's pension, which would be forfeited if he were dismissed.

Mr. Arkin noted that by waiving three months of terminal leave, Warden Ossakow had in effect surrendered his right to \$7,500. Mr. Arkin declared that he did not feel that he was wrong in accepting a guilty plea, as he did, because he did not feel that he had enough time to go to trial. Mr. Arkin declared that under no circumstances would he have recommended dismissal and loss of pension even if the warden was convicted on all eight counts, because that would have been tantamount to a fine of approximately \$250,000 to \$300,000.

The Chairman and Mr. Arkin had a serious exchange of views on the matter and Mr. Dontzin praised Mr. Arkin's work for the Department. He added that from the Mayor's point of view, the fact that a judgment was reached was very significant.

The Chairman praised Mr. Arkin's participation. Mr. Arkin declared that any criticism of the handling of the charges should be directed towards Queens District Attorney, Thomas Mackell and the Queens Grand Jury.

The Chairman declared that Warden Ossakow had maneuvered the Department, and the Department could not now treat the other correction officers involved any differently. Mr. Arkin responded that that was not so. Mr. Ossakow's principal malfunction, he said, was a failure in command. The others, he declared, were charged with more serious acts of physical brutality. The Chairman responded that Mr. Ossakow's behavior was bad.

Commissioner Malcolm declared that plea bargaining could not be reserved for inmates. The Chairman declared that the Department should not punish the officers involved more severely than the warden. Mr. Arkin declared that the next defendant to be tried would be Officer McCoy, because inmate witnesses have declared that he was the most brutal by far; he was singled out consistently.

In response to a question, Commissioner Malcolm declared that the cost of the maximum fine which he could impose on Warden Ossakow was \$7,700; the only more serious punishment would be the full loss of Warden Ossakow's pension, valued actuarially at at least \$250,000.

The Chairman declared that he felt that line officers must be treated alike. He said the Department cannot treat those who are in subordinate positions more severely than those in command. Commissioner Malcolm declared that, in that case, the My Lai senior officers should have been punished. The Chairman responded that he agreed.

Upon motion duly made and seconded, the meeting was adjourned at 6:00 P.M.