

NEW YORK CITY
BOARD OF CORRECTION
MEETING OF DECEMBER 12, 1990

Members Present

Robert Kasanof, Chairman
John R. Horan, Vice Chairman
Judge William Booth
Rev. Irvine Bryer, Jr.
Louis A. Cruz, Esq.
David Lenefsky, Esq.
David A. Schulte
Rose M. Singer

An excused absence was noted for Barbara Margolis.

Representatives of the Department of Correction

Allyn Sielaff, Commissioner
Gerald Mitchell, Chief of the Department
Sharon Keilin, Deputy Commissioner
Vito Turso, Deputy Commissioner
Robert Daly, Counsel
Hector Eugui, Deputy Chief of the Department
Toni Bair, Assistant Commissioner
Leslie Keenan, Associate Commissioner
Mickey Martinez, Assistant Commissioner
Marion Tsugi, Assistant Commissioner

Others in Attendance

Donald M. McKeever, New York State Commission of Correction
George Jordan, New York Newsday
Mark Mooney, New York Post
Lisa Marie Peterson, New York Daily News
Craig Wolff, New York Times
Mary Jo Mullan, Office of Compliance Consultants

The meeting began at 2:15 p.m. Chairman Robert Kasanof welcomed the representatives of the Department of Correction and other guests. Board member David A. Schulte asked that the minutes of the November 14, 1990 meeting be changed to reflect that he had stated a preference for steel over porcelain fixtures. Board member Louis A. Cruz asked that his statement on housing patterns at the Anna M. Kross Center (AMKC) more accurately reflect his admiration of Warden Gaston's abilities. Mr. Kasanof then called for a motion to adopt the minutes of the last Board meeting with the amendments discussed. The motion was made by Board member Judge William Booth, seconded by Mr. Schulte and approved by all Board members present.

Mr. Kasanof said that before the Board turned to other issues, it should consider the Department's variance request. The most recent request asks for renewal of all existing variances, with the exception of those at the Brooklyn House and some other borough facilities. Executive Director Richard Wolf said that the Board staff recommended renewing all existing variances. Mr. Kasanof then asked for a vote on the variances. The motion was made by Mr. Schulte. Judge Booth noted that he objected to continually voting to grant variances because variances were intended for emergencies and the Department has now come to rely on them on a permanent basis. The motion was then seconded by Board member David Lenefsky, Esq. and passed. Judge Booth voted to deny the request.

Mr. Kasanof then asked Commissioner Allyn Sielaff to introduce his staff. Commissioner Sielaff said that he appeared at the meeting because he wanted to meet those members of the Board he had not yet met and because he wanted to introduce his new executive staff. However, when planning this appearance he was not yet aware that the Department would be called upon to reduce its budget by \$4,000,000 by the day after the meeting. Because of this, two members of his staff, Deputy Commissioner Joseph Burriel and Executive Director of Nutritional Services Victoria Verdiglione, were unable to attend the meeting.

Commissioner Sielaff then introduced the Chief of the Department, Gerald Mitchell. Mr. Kasanof noted that the Board's acquaintance with Chief Mitchell goes back several years and includes his service with the Office of Compliance Consultants. Commissioner Sielaff next introduced Deputy Chief Hector Eugui who is now responsible for the "hotel management" duties formerly performed by George Vierno. Commissioner Sielaff then introduced Vito Turso, the Department's Deputy Commissioner for Public Affairs. Mr. Turso replaced Ruby Ryles who presently works in the Mayor's Office. The Commissioner noted Mr. Turso's deservedly excellent reputation and Mr. Kasanof agreed with the Commissioner's remarks.

The Commissioner then introduced Department Counsel Robert

Daly who would later present the Department's legislative package, Marion Tsugi, the new Assistant Commissioner for Alternatives to Incarceration, and Deputy Commissioner Sharon Keilin who he said would be making a comprehensive presentation regarding the Department's short and long term capital planning. He then introduced Leslie Keenan, formerly the Department's Budget Director, now in charge of the inmate health, education and drug treatment programs. Commissioner Sielaff then introduced Assistant Commissioner Mickey Martinez and noted the Board may be aware of his work with the Board of Education. Mr. Martinez will be in charge of, among other things, Equal Employment Opportunity matters and community relations.

Finally, the Commissioner introduced Toni Bair, the Assistant Commissioner for Compliance. Commissioner Sielaff said that with his highly skilled management team in place, he wished to put together a plan for disengaging from consent decrees. He explained that he wanted the Department to take the initiative in providing services that were mandated by the decrees because he felt that it was simply "good corrections" to do so.

The Commissioner explained that he and his staff would stay as long as they could at the meeting, but the City's sudden requests for budget cuts had created time constraints that might make it necessary for them to leave earlier than they had

originally intended.

Commissioner Sielaff then asked Chief Mitchell to provide a brief presentation. The Chief said that when he took over in May, his first task was to address the issue of security. Chief Mitchell noted that the Executive Director of the Board, Richard Wolf, shared his concerns regarding the level of violence in the system. He said one matter that especially concerned him was stabbings. He explained that the Department had responded to this problem by, among other things, increasing search procedures.

The Chief said that a second response to violence has been to expand the maximum sentence to punitive segregation from 30 to 90 days. He explained that in an effort to modify inmates' behavior, the Department may release well-behaved inmates prior to the completion of their sentences. He said another significant step the Department is taking is to increase the number of random pat searches. Mr. Mitchell also noted that the Department has ordered new security-related equipment, including body alarms, magnetometers and radios.

Commissioner Sielaff said that security is the Department's highest priority and reported that violence in the system is going down. He noted that the number of use-of-force incidents is going down as well, though the rate in two institutions still

concerns him. One of these institutions is the Adolescent Reception and Detention Center (ARDC). He asserted that the Department is going to have to develop more programs to occupy adolescents' time as a way of curbing violence. He said one program that will be expanded into ARDC is the High Impact Incarceration Program (HIIP).

Mr. Kasanof said that while some indicators of violence are down, others have skyrocketed. He said that six homicides of inmates, including one that took place after an encounter with correctional officers, have taken place this year. He noted that this year's total thus far exceeds that of the last four years combined. Mr. Kasanof also noted that while the Board is pleased about the increased frequency of searches, he expressed his concern that Board staff was not notified about searches until after they started. He said the Board views the opportunity to observe searches this as an important part of its oversight function. Chief Mitchell responded that he had notified Deputy Chief Wagenstein and this would be done in the future. Mr. Kasanof said that the Board did not need advance notice, which he understood might raise safety concerns, but the Board should have sufficient notice to allow its representatives to be present. Commissioner Sielaff said he believed the Department had notified the Board of searches conducted during at least the last two months. He said he tried to keep in very close communication with the Board; for example, by inviting Mr. Wolf to bi-weekly

meetings with the Department's executive staff.

Mr. Sielaff then asked Mr. Daly to present the Department's most recent legislative package. Mr. Daly reported that the package contained a wide variety of initiatives; including bills to expand work -release and furlough programs, reduce the time parole violators must be in the custody of the City, and to create a presumption in favor of consecutive sentences for inmates found guilty of possessing dangerous contraband. Mr. Daly said that he hoped the Board would participate in the advocacy for any bills it felt it could support. Mr. Kasanof said that the Board was very interested in the Department's legislative proposals and would support those bills Board's Counsel recommends.

Commissioner Sielaff then introduced Marian Tsugi, the new Assistant Commissioner for Alternatives to Incarceration. He explained that alternative to incarceration programs are especially important to the City at this time. Because of the makeup of the inmate population there is every reason to believe that efforts along these lines can be successful. For example, approximately 4000 inmates are held on less than \$2500 bail and 2000 of those are held on less than \$500. He said the non-violent detainees in this group could be diverted to other programs or have their bail reevaluated. Mr. Schulte asked what the criteria for bail reduction was. The Commissioner said he

had no specifics, but the process consisted of bringing information about the individual to the judge's attention. He said the Department does not yet know the potential of these programs. He noted other programs should also be expanded, including the High Impact Incarceration Program, drug and education programs, and work release programs.

Board member Reverend Irvine Bryer, Jr. then asked what the enrollment in the work release program was. Mr. Sielaff reported that he did not know exact figures but that enrollment was sizable. Mr. Wolf interjected that while the Director of the program had reported to the Board that 250 inmates were enrolled in the program, he also reported that of those only 20 men and one woman actually had jobs. The Commissioner said that the program starts with an orientation period, which may account for the discrepancy between the numbers enrolled and the numbers who are actually working. He also said that with the increased participation of the South Forty Corporation he expected job opportunities to increase. The Commissioner added that he sees this as a start and asserted that the program has potential. Ms. Tsugi noted that the criteria for these programs is very selective. Commissioner Sielaff said that he would forward the criteria to Board staff.

Mr. Schulte asked what the case-load of parole officers who are to supervise conditional release inmates will be and noted

that at present parole officers were burdened with very high case loads. Mr. Sielaff admitted the case-loads may be high, but noted that the program provides supervision the inmate would not have otherwise had.

Commissioner Sielaff then introduced the Deputy Commissioner Sharon Keilin to provide a brief presentation on the status of the Nursery Beacon facility, the new Sprung structures, the 800 bed new barge and a report on the down cell situation. Deputy Commissioner Keilin related that when the outgoing administration decided to build the original Sprung complex at GMDC, a 300 bed facility, it was completed in 60 days. This experience formed the basis for decision to build Sprungs holding 800 beds in order to respond to the spring 91 housing peak. The White Street jail is now open, except for the gym and visiting areas. The drydocking of the Keane and Bain barges is now also complete.

Department figures show the Department has added 1400 beds in 1990. She noted that the Department added new program and support space, including the new visiting center at AMKC, a new commissary at ARDC and the soon to be completed \$20,000,000 telecommunications center.

Mr. Kasanof then asked when the Sprung complex would be completed. Deputy Commissioner Keilin said it should be complete

by February 21, 1991, though that date may slip by 2-3 days. Mr. Kasanof said that the Department's construction plans were in a race with the population peak and if the completion date slipped, the Department would not be able to handle the inmate population. Mr. Schulte then asked what the population projections were and what the system's capacity was. The Deputy Commissioner said she would describe this in general terms. She explained that without the Nursery Beacon and sprung structures the Department would face worse a situation than it did in the fall. Nursery Beacon will provide 500 beds and the Sprungs another 500, providing a 300 bed cushion. Two hundred of the beds will be at GMDC, 300 will be at ARDC and another 300 will be at CIFM four weeks after the beds at GMDC and ARDC are completed.

Deputy Commissioner Keilin then explained that the Down Cell Task Force (DCTF) was made up of 10 maintenance people, primarily plumbers and electricians. The task force was a "flying crew" that repaired down cells primarily at AMKC, GMDC and JATC and were not burdened with other work orders. She said that this was an in-house effort and received no funding from the Office of Management and Budget (OMB). The Department was then told to cut down on overtime which hurt the task force. There was also a problem with getting parts to repair fixtures. There were overwhelming numbers of down cells due to vandalism of plumbing fixtures and -- to a lesser extent -- of door motors. Mr. Lenefsky pointed out that it has always been true that fixtures

have been vandalized, but the number of down cells has not always been so high.

Deputy Commissioner Keilin then described the type of inmate programs to be offered in the Sprungs: GMDC will hold drug programming, ARDC will house a HIIP program, and the existing HIIP at CIFM will be expanded and moved to a new complex. Each Sprung will be elongated sufficiently to put a day room in the Sprung. Mr. Schulte then asked how much each bed would cost. The Deputy Commissioner responded that the program would cost \$70,000,000, with \$45,000,000 devoted to beds and the balance to institutional support. Rev. Bryer then asked about the provision of hospital facilities and services. Deputy Commissioner Keilin responded that negotiations with Montefiore had started early, that they would be bringing on additional staff although the timing would be tight. Reverend Bryer asked whether there was an emergency evacuation plan. Chief Mitchell responded that a plan was being formulated. Deputy Commissioner Keilin added that the Department has asked DGS to engage a transportation consultant to explore a second means of access to the Island, probably via the Bronx but possibly via Manhattan.

Deputy Commissioner Keilin said the Nursery Beacon facility would be open January 14 with 416 beds ready and the methane evaluation system up and running. The remaining 435 beds will be in place by the end of March.

Mr. Cruz then asked how the City budget cuts would affect the capital planning. Ms. Keilin explained that the budget cuts are from the "expense" budget, so capital programs will not be affected. Furthermore, there is sufficient funding for this year to complete the projects described.

Deputy Commissioner Keilin then reported that, according to the Department's contract with the builder, the 800 bed barge should be ready by March 18, however the Department estimates the construction will not be completed until May or June, 1991. Mr. Schulte asked whether the cost was \$200,000 per bed as previously reported. Deputy Commissioner Keilin confirmed that this was the cost. Mr. Schulte commented he thought that was excessive and asked if this was the going rate. The Deputy Commissioner Keilin said yes.

Deputy Commissioner Keilin then continued to report on the status of the DCTF. She said the Department entered the year with a backlog of 250 down cells and this figure rose to 495 or 617 depending on how the number was tallied. If the daily count includes cells that can be repaired during that day's maintenance shift, the count is higher: if it includes only those cells that cannot be repaired in one day then the count is lower. Mr. Kasanof questioned the usefulness of this distinction. He commented that if a cell that is not usable it is not usable.

Deputy Commissioner Keilin responded that there is an important distinction for the Department because the estimate time it will take to repair a cell determines who will fix it.

Commissioner Sielaff said that he believes the real issue is whether and when the Department can get the number down to include just those cells that can be repaired in fewer than eight hours. He said that the Department will do that by December 31, 1990. Commissioner Sielaff added that a second major issue is what could happen to prevent the number of broken cells from increasing to previous levels. He explained that the last Department budget did not include funds for spare parts, so the Department ran out of spare parts as it tried to implement the expedited program of fixing down cells.

Mr. Cruz then asked if the Department, like most City agencies, had a discretionary budget. Commissioner Sielaff said that Department does have a discretionary budget and that this year he directed that \$750,000 of it be set aside for inventory so that the Department will not be in same position as in the past.

Mr. Lenefsky then asked if by December 31, the down cells in the Department would be down to only those cells that could be repaired within 8 hours. Ms. Keilin answered that the Department would be down to just those 60-70 cells.

Mr. Schulte then reported that he had visited GMDC on December 7. The Warden informed him that the central control panel in one of the cell areas at that facility had been out of order for six months and he did not know when it would be replaced. Mr. Schulte added that the safety gates there are broken and cannot be closed. He commented that this is a dangerous condition. He noted that additional officers were being used because the cell area was being run as a dormitory. Mr. Schulte also reported that many riot vests were useless, with worn out velcro. Mr. Bair responded that he would personally respond to Mr. Schulte's report. The Commissioner added that the equipment will be replaced and he hoped that when Mr. Schulte discovered such things in the future he would call him directly.

Mr. Kasanof then addressed the Commissioner, noting that the Board has deep and ongoing concerns regarding the operations of the Department. He asked the Commissioner for his views on Judge Lasker's finding that the Department was in contempt of the Court's Order with respect to housing detainees. He noted that Judge Lasker had referred to the Board's written communications to the Department about the Board's concerns about the housing of detainees in non-housing areas. He went on to say that the projects described by Sharon Keilin are in a neck and neck race with population projections. If there is substantial slippage, Judge Lasker may shut-off intake, making the matter a serious

public safety concern.

Commissioner Sielaff said that he was hesitant to speak in too great a detail about the Order because the Department was still discussing the situation with the Court. He said, however that the Department is in substantial compliance with Judge Lasker's order.

Mr. Kasanof stated that he did not want to discuss the specifics of the Order. He noted that in the wake of the contempt finding and the prospective remedy of \$150 per inmate should the Department violate the terms of the agreement, there had been calls for a reduction in the 60 square feet of living space requirement for inmate living areas. He asked if Mr. Sielaff agreed that 60 square feet should be the standard.

Commissioner Sielaff responded that the ACA recommends 60 square feet and he endorses that standard. He continued, stating that whether a reduction would be permissible in emergencies was another matter. Mr. Kasanof responded by noting that the Board has been amenable to granting variances on an emergency basis and that Board Member Judge Booth has become so frustrated at the chronic nature of the problems giving rise to the requests that he has ceased to vote to grant variances.

Mr. Lenefsky asked the Commissioner how confident he was

that the Department would be able to stay in compliance with the Order and what was the chance that there would be a population crisis in February.

The Commissioner responded that the presentations by his senior staff were to express the Department's view that they would be able to stay in compliance. He went on to say that during his testimony at the Lasker hearings he had stated that his goal was to have a "cushion" that would allow the Department to function within the law should an unforeseen rise in the population occur. The Department would not have been in Court had there been no problems with the Nursery Beacon; problems that were discovered before his regime. He continued stating that every effort in the Department was aimed in the direction of meeting the anticipated population peak. The Department's staff has met with the Deputy Mayor for Public Safety and with other City Departments and is getting good support in expediting completion of Nursery Beacon.

Mr. Kasanof then asked whether that meant the Commissioner could confidently say the Department will meet the population peak. The Commissioner responded that, in his words, he is making every effort to meet these targets. Mr. Lenefsky then said he has two overall issues of concern. The first, is with the Department's management capability, whether the Department can manage its way out of the current situation and the

anticipated population peak in February. The second is his concern about the Department's overall attitude toward oversight agencies, including the Board, the State Commission and Judge Lasker.

Commissioner Sielaff responded that since the last time he attended a Board meeting the Board members attacked his efforts with respect to alternatives to incarceration, he was not surprised by Mr. Lenefsky's current criticism. He said that he and his executive staff have constant dialogue with the Board, that Mr. Bair is assigned specifically to communicate with the Board and other oversights. Mr. Lenefsky said that the fact is that the Department has been found in contempt. The Commissioner replied that he testified concerning these matters for four hours before Judge Lasker and did not understand why he was being "retried" before the Board. He stated that he does not think Judge Lasker shares the Board's views. The Department has a strong commitment to compliance, much more than was the case in the past. The Department is interested in divorcing itself from court supervision and when they have mentioned this to Judge Lasker he has been supportive of the concept.

Reverend Bryer then asked if there was one area of weakness within the Department that the Commissioner would like to focus his attention upon. The Commissioner responded that one such area was the inmate information system which must be improved if

the Department is to make decisions based on the inmate population. Reverend Bryer asked if the Commissioner could provide a timetable for completion of that project. The Commissioner responded that they were working on the new system now. A new classification system based on the National Institute of Corrections model would be ready by January. The Commissioner added that he could provide a timetable for the whole IIS system within three months. Commissioner Sielaff then praised the quality of his executive and uniform staff.

Mr. Lenefsky said that there was nothing personal in the discussion. Rather he is concerned because he doesn't think the Department can effectively manage itself to reach the very ambitious goals articulated. He said that his observations were not a personal attack on anyone, but the fact is that the number of down cells is six times what they were before the Commissioner came and the Department's ability to produce inmates for court appearances has deteriorated. Using these and other measures, you could fairly measure that management is down. The Commissioner said that he disagreed vehemently.

Judge Booth then asked how the budget decisions the Commissioner is making today and tomorrow will effect Department goals described today. The Commissioner responded that the Department must cut \$12,000,000 this year and \$24,000,000 next year. Judge Booth asked whether there were presently any

proposals to cut mandated services. The Commissioner said that there would not be.

Mr. Kasanof then said that he and the Board have long expressed their deep concerns above the level of use of force in the Department. But the Board is also concerned about the level of violence in the facilities in general; particularly the extremely high homicide rate in 1990. He said that Mr. Cruz, who came to the Board with a background as a police officer and police detective had personally expressed his concern about safety in the jails.

Mr. Cruz then spoke, indicating that a number of officers had spoken to him about the issue of safety in the jails. They were especially concerned about the level of staffing in the institutions and were afraid that budget cuts might reduce staffing levels. Mr. Cruz then said that he came to the Board without any agenda but because of his personal knowledge about conditions in the jails was concerned about safety issues. In regard to the homicides, he noted that it was terrible that anyone should be killed in City's jails, but those six lives could have been correction officers. He asked what has happened to make allow this kind of access to weapons that could lead to such violence. Moreover, he wanted to know if there was anything the Board could do to help because the situation as it stands is intolerable.

Mr. Kasanof then said that six homicides in a system of 20,000 people is high. That four of the homicides occurred in one institution with a population of 1200 is especially alarming. The Commissioner responded that this happened in spite of -- not because of -- efforts taken by the Department. It reflects the level of violence on the streets and it would be a simplistic to say that more searches alone would cure the problem. Commissioner Sielaff suggested that when Mr. Cruz was around a little longer he would more clearly see the dimensions of the problem. Mr. Cruz noted that he had qualified his statement by saying that he "wanted to help the Department" The Commissioner said he appreciated that and when he sees a way he will ask.

Mr. Kasanof questioned whether Mr. Cruz could rightly be considered a novice in this area given his background in the criminal justice system. He added that Mr. Cruz's and Board's concerns did not arise out of a fiction: the level of homicides in the jails is quite real. The Board not only has a right, it has a duty to ask. He would like the Commissioner to say what he will do to address this problem as his answer goes to whether the Department is able to manage itself through the anticipated increase of the inmate population over the next 2-3 months.

The Commissioner responded that had he known this would be a topic of discussion he would have prepared a detailed response.

He said that it was difficult for him to respond when the issue is introduced spontaneously, especially when other violence indicators are down. Mr. Kasanof said that two of the homicides occurred since the last Board meeting. Commissioner Sielaff responded that the Department's goal is zero, but it can't do the impossible and he feels that is the challenge being presented by the Board.

Mr. Schulte said he had a final question regarding the Department's legislative package. He asked whether there was a request for consecutive sentences for inmates found to be in possession of dangerous contraband. Mr. Daly responded that the Department had proposed a bill making time for dangerous contraband or assaults consecutive with prospective sentence of the detainee.

Commissioner Sielaff then said that he hoped and expected the Board to ask the tough questions and that the Department needed the Board's help. If he sees where the Board can help they will pick up the phone and he asks that the Board do the same.

Chairman Kasanof thanked the representatives of the Department of Correction and others present for their participation in the Board meeting. The meeting was adjourned at 4:20 p.m.