

NEW YORK CITY
BOARD OF CORRECTION
MEETING OF AUGUST 14, 1991

Members Present

Judge William Booth, Chairman
Rev. Irvine Bryer, Jr.
Louis A. Cruz
Peter J. Johnson, Jr.
Stanley Kreitman
David Lenefsky
Barbara Margolis

Excused absences were noted for John R. Horan and David A. Schulte.

Representatives of the Department of Correction

Gerald Mitchell, Chief of the Department
Vito Turso, Deputy Commissioner
Leslie Keenan, Associate Commissioner
Arnett Gaston, Warden, Anna M. Kross Center
James Lovejoy, Assistant Deputy Warden
Tom Antenen, Public Affairs Manager
C.O. Catuogno #5138
C.O. Chang #10804

Others In Attendance

Leslie Hurdle, Office of Operations
Lola Simpson, Office of Operations
Catherine McAlevey, City Council, Asst. Chief of Investigation,
Legislative Oversight and Investigation Unit (LOIU)
David Parmett, City Council, LOIU
Kevin McGrath, Department of Health, Correctional Health Services
Duke Banert, Department of Health, Correctional Health Services
Earl Murphy, New York State Commission of Correction
Michael McHugh, Office of Compliance Consultants
John Boston, Legal Aid Society, Prisoners' Rights Project
Dale Wilker, Legal Aid Society, Prisoners' Rights Project
Lynn Richmond, Montefiore Medical Center, R.I. Health Services
Nina Rosenblum, Home Box Office (HBO)
Kevin Keatuig, HBO
John Konel, HBO
Peter Toohe, HBO
Alexandra White, HBO
Barbara Gordon, HBO

The meeting began at 1:17 p.m. in the Chapel of the George Motchan Detention Center on Rikers Island. Board Chairman William Booth welcomed the representatives of the Department of Correction (DOC) and other guests.

Chairman Booth apologized for starting the meeting late, and explained that HBO had been conducting interviews for a film on the City's jail system. He announced that after the Board meeting the Department would be conducting a tour of the facility for anyone who was interested.

The Chairman called for a motion to adopt the minutes of the Board Meeting of July 10, 1991. The motion was made by Board member Rev. Irvine Bryer, Jr., seconded by Board member Peter J. Johnson, Jr., and approved by all Board members present.

Mr. Booth distributed a letter he received from Deputy Mayor Milton Mollen and explained that the letter was a follow-up to a meeting with Deputy Mayors Mollen and Norman Steisel that he attended last Monday with Board members John Horan and David Lenefsky, and Executive Director Richard Wolf. That meeting was in response to the Board's Public Hearing on the implementation of its Health Care Standards. Mr. Booth said that there had been a misunderstanding among some of the people who attended the hearing about the Board's intentions with respect to the Standards. Chairman Booth stated that the Board's clear

intention was to insure compliance with the Standards.

He went on to say that the Board understood that budgetary restrictions might delay implementation of some parts of the Standards. But he believed that the letter from Judge Mollen was a welcome sign that there would be a high level of cooperation between the Board, the Departments of Correction and Health, and all other affected City Agencies in resolving matters related to the Standards.

Board member David Lenefsky then stated that at the meeting with the Deputy Mayor it was very clear from some of the Deputy Mayor's comments that some who had attended the Hearing had misunderstood some comments he had made at the beginning of the Hearing. Mr. Lenefsky said that he had only wanted to make a clear statement that the Board intended to adhere to its Standards which prohibit the Board from granting a variance for more than a six month period. Mr. Lenefsky continued by stating that the Board would be sensitive to the special problems that the City faces in working out some of the more difficult aspects of the Board's Standards and would be cooperative in helping to overcome any problems. He said that he had hoped his last comments during the Hearing, in which he praised the efforts of all affected agencies, rather than his opening comments would have received more attention. Mr. Lenefsky then thanked all for the commitment brought to the exercise of promulgating the Standards and stated that it was very clear to John Horan,

Richard Wolf and himself that all present were committed to implementing the Standards in the quickest possible time.

Mr. Booth requested that Executive Director Richard Wolf report on the Fall population peak. Mr. Wolf began his report by summarizing the Board's concern about the Department's projected number of inmates for the Fall, stating that barring some significant development there will be a serious bed shortage during this period. Mr. Wolf explained that the Board had discussed with representatives from the Department of Correction the extent to which the problem would be exacerbated by a large number of overdue state prisoners in City jails. He also noted that the number of State prisoners as a percentage of the total population has steadily risen over the past several months.

Mr. Lenefsky then asked how many overdue State inmates were in the City's jails. ADW Lovejoy stated that as of August 12, 1991 there were 1911. Mr. Lenefsky commented that at the previous Board meeting the number given was 2300 and noted that historically the figure was around 300. Deputy Commissioner Turso said that there had been steady progress and that the Department received a commitment from the State to remove the prisoners in larger numbers and to take out the overdue female inmates as well. Deputy Commissioner Turso stated that he hoped the progress continues and if any problems should develop with the State that the Department would request the help of the

Board.

Board member Reverend Bryer then asked what problems might arise. Deputy Commissioner Turso responded that there may be a problem with the female State prisoners because while the State is opening a new facility for females, it will not only be accepting female prisoners from the City facilities but those from other localities too. Therefore, the movement of females from the City jails might not be as fast as they would like.

Chairman Booth stated that originally there had been a problem with the Department of Correction receiving the medical records of some inmates who would have been State-ready prisoners. As a result, many inmates who were ready to be sent to State prisons were not identified and designated as State-ready. He indicated that the Department had said the problems had been solved. Therefore, all that was left was for State to take its inmates. Chairman Booth said that he had heard that the State had plans to "double-bunk" so that it could absorb some of the overdue inmates.

Dale Wilker of the Legal Aid Society informed the Board that in 1986 a Federal Court Order was entered requiring the State to take State-ready male inmates within 48 hours of their designation. Mr. Wilker stressed that the City should force the State to comply. Chairman Booth reminded those assembled that it

costs the City \$158 per day to house each of these inmates for which the City is only able to collect \$40 in reimbursement from the State. The Chairman also stated that at its last meeting the Board agreed to support the Department should it decide to file suit against the State on this issue. Deputy Commissioner Turso said that Deputy Mayor Mollen indicated that if there were no substantial improvements in the removal of the State-ready inmates that litigation might be initiated. Mr. Wilker noted that when Judge Lasker issued the Order there were 600 State-readies in the city system. Chairman Booth noted that the Corporation Counsel would decide whether, and when, to litigate. He noted that Deputy Mayor Mollen is actively involved in this issue, and remains in contact with representatives of the State Department of Correctional Services.

Mr. Wolf requested that the Department give any current information on the emergency Sprung construction. Chairman Booth requested that the Department also talk about the proposed substitute jails. Deputy Commissioner Turso stated that emergency contracts have been let and work has begun on the foundations. Deputy Commissioner Turso went on to say that the possibility of creating substitute jails was being looked into, but that no decisions had been made. He assured the Board members that when a decision is made, the Board will receive the results in writing from the Department.

Mr. Wolf stated that the Board's Director of Information Systems, James Bennett, has demonstrated that the Board and the Department of Correction are capable of having a strong cooperative relationship. During the last few months Mr. Bennett has developed for the Department several programs that enable it to fully computerize and accurately verify census information. These forms have been officially adopted by the Department as its reporting mechanism for the daily census.

Chairman Booth said that he sent a letter to the Board members regarding assignments to various institutions. Responses from most of the members have been received. He said that if any a member wishes to change his assignments please contact Richard Wolf or the Secretary to the Board Carol Vargas. The Chairman then raised the issue of Board members' rotation of emergency readiness. He told the members that he carries a beeper in order to be available for emergencies and that Board member Stanley Kreitman as well as some of the other Board members suggested that this be rotated month to month. The Chairman asked the members to please inform Richard Wolf or Carol Vargas when they would be willing to accept the assignment.

Chairman Booth informed all present that there was a request for variances on the Health Care Minimum Standards and asked Mr. Lenefsky to report on the findings and recommendations resulting from the public hearing.

Mr. Lenefsky reported that a public hearing on the City's variance requests was conducted at the Board's offices on August 5th. Representatives from the Mayor's Office, the Department of Correction, the Health Department, Montefiore and St. Vincent's attended, as did representatives of the Prisoners' Rights Project of the Legal Aid Society. As a result of the discussions at this public hearing, the City revised its variance requests and submitted it for consideration at the Board meeting. The sub-committee reviewed the revised variance requests in conjunction with the Standards and the public testimony, and devised recommendations regarding each request.

Chairman Booth requested that Mr. Lenefsky refer to the title of each variance request and, if recommending denial, that he explain the rationale.

Mr. Lenefsky stated that, the Health Care Minimum Standards variance procedures prohibit the Board from granting a request for a variance which will would last larger than six months.

He explained, as spokesperson for the Board's Sub-committee on Health Care, that he would offer recommendations for a Board vote on each variance request but that, due to the time constraints of this meeting, he would not detail the conditions essential to the implementation of any variance.

Mr. Lenefsky reported as follows:

As to the request for a limited variance from section 302 (c)(1) for the Brooklyn House of Detention to hold sick call in the clinic, Mr. Lenefsky recommended that the Board grant a variance until January 31, 1992.

As to the request for a variance from section 302(d)(7) regarding CPR training for DOH physicians, Mr. Lenefsky recommended that the Board grant a variance for six months on the condition that some staff certified in CPR will be on duty and available at all times in all facilities. Leslie Hurdle of the Mayor's Office of Operations stated that the Department of Health could, in fact, come into compliance with the Standard by February 1, 1992.

As to the request for a variance from section 302(d)(9) regarding emergency equipment for Correctional Health Service clinics, Mr. Lenefsky recommended denial of request. He explained that the cost to the City would approximate only \$110,000 which the Board should urge the City to allocate. He added that, at the August 12th meeting, Deputy Mayors Steisel and Mollen had been sympathetic to the Board's position. Leslie Hurdle the stated that thereafter the Deputy Mayors had made their commitment known to the Department of Health which would find the funds to come into compliance on schedule. She

announced that therefore DOH wished to withdraw its variance request and to commit to come into compliance immediately.

As to the request for a variance from section 302(e)(2)(iii) regarding communicable disease isolation units, Mr. Lenefsky recommended that the Board grant a variance for one month by which time Board and City Agency staffs should have met to develop contingency plans for appropriate, alternative isolation space. Richard Wolf added that such meeting would include discussions aimed at increasing the number of isolation beds made available by HHC hospitals.

As to the request for a variance from section 302(e)(3)(v), Leslie Hurdle announced that the City was withdrawing its request for a variance because it now is in compliance with the provision of nursing staff coverage in GRVC and RMSC infirmaries.

As to the Department of Health's request for a variance from section 302(h)(4), Ms. Hurdle announced that the City was withdrawing its variance request because it is now in compliance with the requirement to provide rehabilitation services at all in-jail clinics.

As to the request for a variance from section 302(j), Ms. Hurdle announced that the City was withdrawing its variance request because it is now in compliance with the performance of

medical rounds in punitive segregation at JATC.

As to the request for a variance from section 303(c)(2)(i) regarding DOC staff training in recognizing medical emergencies, Mr. Lenefsky recommended that the Board grant a variance until December 31, 1991.

As to the request for a variance from section 304(b)(2)(v)(d), Mr. Lenefsky recommended denial. He explained that chlamydia is an infectious disease that affects at least 30% of the female inmates and has severe, permanent biological consequences for its victims. He explained that the cost to the City would approximate only \$163,000 per year which the Board should urge the City to allocate. Ms. Hurdle then stated that the Deputy Mayors supported the allocation of funds for chlamydia testing, and added that DOH will comply with the Standard.

As to the request for a variance from section 304(b)(2)(v)(e) concerning providing rectal examinations to all inmates over 40 years old, Mr. Lenefsky recommended granting of the requests for varying time periods as follows: grant until October 1, 1991 at the Queens House of Detention; until October 15, 1991 at the Bronx House of Detention, and until January 31, 1992 at the Brooklyn House of Detention.

As to the request for a variance from section

304(b)(2)(v)(f), Mr. Lenefsky recommended that the Board members grant a continuing variance until the section is repealed. He noted that there is now substantial evidence that baseline EKG's for asymptomatic people are valueless.

As to the request for a variance from section 305(b)(6) regarding medication for out-to-court inmates, Mr. Lenefsky recommended denial. He noted that the failure to provide some of the medications in question could be life-threatening, and that the Board should not approve a delay in requiring compliance. Ms. Hurdle stated that the City wished to amend its request by extending it to February 1, 1992. Mr. Lenefsky directed Board staff to meet with City staff to develop a plan to speed compliance.

As to the request for a variance from section 305(b)(7), Mr. Lenefsky announced that the City had withdrawn the request because it is in compliance regarding counseling of inmates who refuse medication.

As to the request for a variance from section 306(b)(3)(i-viii) regarding renovations to clinic areas, Mr. Lenefsky recommended that the Board grant a variance based upon the Department's good faith efforts to construct the required medical treatment areas.

As to the request for a variance from section 306(b)(3)(ix), Mr. Lenefsky recommended denial based on the critical and unquestionable need for appropriate operable equipment in each CHS clinic with adequate staffing. He explained that the approximate cost of compliance would be only \$50,000. Ms. Hurdle announced that the City had decided to fund this Standard requirement forthwith.

As to the request for a variance from section 306(c)(1)(ii), Mr. Lenefsky recommended that Board and City staff's meet to determine how the City shorten waiting time for dental examinations by redeploying dental staff and improving scheduling. Ms. Hurdle announced that Department of Health's Kevin McGrath wished to revise the variance request by withdrawing it as to AMKC and ARDC. Mr. Lenefsky then recommended that the Board grant the variance as to the CIFM, GMDC, MDC and Wards Island until the Board's meeting in February, 1992.

As to the request for a variance from section 306(c)(6), Mr. Lenefsky recommended that the Board grant a variance until January 1, 1992 for the merger of medical records with dental records.

As to the request for a variance from section 306(m)(4), Mr. Lenefsky recommended that the Board grant this request until the

Board's November, 1991 meeting. He recommended that Board staff meet with City staff to assess the cost of additional staff need as well as ways to shorten delays in the provision of HIV testing and counselling.

As to the request for a variance from section 306(m)(5), Mr. Lenefsky stated that the sub-committee recommended reluctantly that the Board grant this request until January 31, 1992 with the hope that compliance with the section's mandate all employees with positions involving inmate contact receive AIDS training will come sooner.

As to the request for variances from section 308(b)(1) in clinics where good faith efforts at renovations are being made, Mr. Lenefsky recommended granting variances as follows on the condition that staff make every effort to maximize privacy and to use privacy partitions whenever practicable: until October 1, 1991 at the Queens House of Detention; until January 31, 1992 at the Brooklyn House of Detention.

This completed Mr. Lenefsky's report.

Board member Stanley Kreitman moved that the Board adopt the recommendations as presented with related conditions, and also moved to compliment the sub-committee, and Mr. Lenefsky in particular, on a difficult task.

Board member Barbara Margolis seconded both motions, which passed by unanimous vote of all members present.

Mr. Lenefsky said that he again wished to commend all of the City and Board representatives who had been involved with the promulgation of the Health Care Minimum Standards.

Chairman Booth stated that action was required on Department of Correction requests for renewal of all existing variances from the original Minimum Standards, as well as a request to amend the conditions of an existing variance.

Richard Wolf explained that the requests were for renewal of the variance from the overcrowding Standard to allow at the Rose M. Singer one dormitory to "squeeze" a total of 75 prisoners in an area designed for 50 prisoners, and for renewal of program variances at a number of facilities.

Chairman Booth called for a motion to renew the existing variances. Mr. Lenefsky made the motion and was seconded by Mr. Kreitman. A vote was taken, and Chairman Booth announced that the vote had carried unanimously.

Richard Wolf then explained the Department of Correction's request to amend a staffing condition to an existing variance in

the Sprung Complex at the George Motchan Detention Center. He stated that it appeared that violence in the Sprung dormitories is relatively low possibly due to the participation of the residents in the DOC Substance Abuse Intervention Division (SAID) program. He added that a problem exists which must be remedied immediately. At least 10% of the residents in each dorm were "overload" inmates who had not requested substance abuse treatment and were not active or cooperative participants in the SAID program. He stated that DOC had made some changes to some of the original GMDC Sprung dormitories so as to improve the vision lines of the assigned officers and agreed to assign personal body alarms to all Sprung officers, and therefore were requesting permission to periodically remove an "A" post officer on the day and evening tours whenever safety and security conditions warranted. Dale Wilker noted that the SAID staff assigned to the Sprungs had been diminished thereby reducing the quantity and quality of counseling available to inmates to help keep their violence down.

Mr. Lenefsky moved that if all conditions discussed by Mr. Wolf are met, the Board should grant GMDC administrators the discretion on two tours per day to share one "A" post officer in each pair of Sprung dormitories, on those tours when violence is not evident or expected. Mr. Kreitman seconded the motion. A vote was taken, and Chairman Booth announced that the motion had carried unanimously.

Chairman Booth adjourned the meeting at 3:10 p.m., and invited all present to accompany the Board members on a tour of the facility.