

NEW YORK CITY

BOARD OF CORRECTION

MEETING OF FEBRUARY 11, 1992

Members Present

Judge William Booth, Chairman
John Horan, Vice-Chairman
Louis Cruz
David Lenefsky
Barbara Margolis
David Schulte

Excused absences were noted for Rev. Irvine Bryer, Jr., Peter J. Johnson, Jr., and Stanley Kreitman.

Representatives of the Department of Correction

Gerald Mitchell, Acting Commissioner
Vito Turso, Deputy Commissioner
Robert Daly, General Counsel
John Shanahan, Assistant Commissioner
Hector Eugui, Deputy Chief of Operations
Stephen Ricci, Acting Assistant Commissioner
Roger Parris, Director of Health Services
Brian Conroy, Warden - A.R.D.C.
Robert DeRosa, Warden - Vernon C. Bain (MTF III)
Ali al-Rahman, Warden - O.B.B.C.
Earl Gray, Captain - Health Affairs
Michael Shannon, Captain - Division I

Others in Attendance

James Neal, M.D., Assistant Commissioner, DOH
Kevin McGrath, Director of Field Services, DOH
Michael Tannenbaum, Deputy Assistant Commissioner, DOH
Paula Clair, Special Assistant to Director of Field Services, DOH
Earl Murphy, State Commission of Correction
Mary Jo Mullen, Deputy Director, Office of Compliance Consultants
Richard Santiago, Office of Compliance Consultants
David Eichenthal, NYC Comptroller's Office
G. Ford, Reporter, New York Newsday
George Jordan, New York Newsday
Selwyn Raab, NY Times

At 2:20 p.m., Chairman William Booth welcomed Acting Commissioner Gerald Mitchell, representatives of the Department of Correction, (DOC) and other guests.

A motion to adopt the minutes of the Board meeting of January 8, 1992 was made by Vice-Chair John Horan, seconded by Board member David Lenefsky, and approved by all members present.

Chairman Booth reported that he, along with Board Member Louis Cruz, Executive Director Richard Wolf, Director of Field Operations Carl Niles and the Director of Information Systems James Bennett, had taken a tour of the new barge, the Vernon C. Bain, with the Warden of the facility, Robert DeRosa. The Chair asked Warden DeRosa if he wanted to comment.

Warden DeRosa gave a brief description of the barge, highlighting its sturdy construction and its sophisticated security and safety system.

Chairman Booth stated that he had been told that the large dining room in the barge would not be used because the facility had not been assigned enough staff by the Office of Management and Budget (OMB). Instead, meals will be brought to the inmate housing areas. He asked if there had been any change in thinking on this point. Chief Hopkins said that the matter was still under discussion and had not yet been resolved.

Chairman Booth noted that several classrooms on the barge would also not be used due to the lack of staffing.

Board member David Schulte asked that DOC report on total cost of the barge, the number of inmates the barge could house, and how long the barge could remain at its location without being closed down by the Coast Guard for repairs. Warden DeRosa reported that the barge would house eight hundred inmates - seven hundred in dormitory beds and one hundred in cells. He noted that the new barge would have to be dry-docked only once every fifteen years, because it has a special undercoating.

Assistant Commissioner Shanahan said that the total cost of the barge was \$161,191,489.00 plus \$9.1 million to construct the dock.

The Chair then asked for reports from the Board members. Board member David Lenefsky said that he and Vice-Chairman Horan had become concerned about the Department of Health's (DOH) failure to relay information to the Board and its lack of effective action on issues involving the Board's Health Care Standards. Mr. Lenefsky reminded representatives of the DOH that approximately six months ago he and Mr. Horan were given assurances by Deputy Mayor Milton Mollen and First Deputy Mayor Norman Steisel that effective action would be taken to bring

about compliance with the Standards. Mr. Lenefsky then asked that DOH representatives discuss the status of plans for dispensing medication to inmates going to court, chlamydia testing, and the provision of emergency equipment.

Deputy Assistant Commissioner for Field Operations Michael Tannenbaum stated that although progress had been made in some areas, DOH itself had been frustrated with the lack of implementation of certain plans. Mr. Tannenbaum revealed that a proposal for how to handle out-to-court medication would be discussed in a meeting that was to be held later that day. He said that Montefiore had proposed that infirmaries be provided with out-to-court medications through a "carry program". Inmates would be provided with pre-packaged medication when going to court, as is done in the North Infirmity Command (NIC). This procedure would not be allowed for psychotropic drugs or insulin. Mr. Tannenbaum explained that 3 out of 4 borough facilities would have the inmates brought back from court to the designated jail for the dispensing of medication. This would have to be done because of a lack of pharmaceutical staff for pre-packaging and because of a lack of sufficient space. Executive Director Richard Wolf asked if the proposal had been accepted by DOC. Mr. Tannenbaum informed Mr. Wolf that the proposal had not been agreed upon with DOC. Mr. Lenefsky requested that DOH document all proposals and share them with the Board. Deputy Executive Director Cathy Potler requested that all interaction with DOC,

with regards to identifying out-to-court inmates who would need medication also be included in any documentation done by DOH.

Mr. Lenefsky requested that DOH representatives comment on the status of emergency equipment. Mr. Tannenbaum reported that DOH was still awaiting the delivery of the emergency equipment. He informed the Board that some emergency kits had been received, that senior Health Staff had been trained in use of the kits, and that training was being extended to the other practitioners within the facilities.

Board member David Schulte asked when the out-to-court medication plan would be ready for review by BOC staff and DOC staff. Mr. Tannenbaum informed Mr. Schulte that if DOC and DOH reach an agreement on the designated borough facility for dispensing medication to out-to-court inmates, the plan could be ready for review in a matter of weeks. Mr. Tannenbaum explained that the process of getting funding from OMB for additional pharmacists and equipment could take months. Mr. Tannenbaum stated that he would be able to better inform the Board later on.

Mr. Lenefsky requested that DOH representatives comment on the issue of chlamydia testing. Mr. Tannenbaum reported that he had received a memorandum from the Director of Medical Services at Montefiore, Dr. Yvette Walker, in which she stated:

Based on the preliminary results of a study being performed by Christine Johnson of Montefiore/Rikers

Island Health Services, we found that the GENPROBE test for chlamydia was detecting a 6% positivity rate among the population we have previously determined to have a 30% positivity rate on culture. We informed the Department of Health that we would like the opportunity to review these findings before we initiate screening with GENPROBE for all new admissions at the Rose M. Singer Center (RMSC).

After discussions with the company that manufactures GENPROBE and after selecting and reviewing additional data we have determined that the GENPROBE detects 50% of the incidents of chlamydia that are detected through cultures. We feel confident that GENPROBE is the most sensitive test for chlamydia available on the market today, short of the prohibitively dismissive cultures, and that a 50% detection rate is sufficient enough to legitimize performing the test. We have received confirmation that we will be compensated for the cost and as such we will commence testing on March 1, 1992 for all new admissions at RMSC.

Mr. Lenefsky requested that DOH representatives comment on the issue of cardio-pulmonary resuscitation (CPR). Kevin McGrath reported that he was not prepared to request a variance and hoped that all CPR training would be completed soon.

Mr. Wolf said all the new information offered by the DOH representatives at the Board meeting pointed up the need for DOH staff to be more forthcoming with Board staff when there are problems. Mr. Wolf stated that problems could only be resolved if channels of communications are kept open. DOH representatives agreed and assured the Board that communications will improve.

The Chair then asked if any of the other members had reports. Board member David Schulte informed the Board that on

Friday, January 31, 1992, he, accompanied by Executive Director Richard Wolf, and Board field staff Sherie Brown and Elizabeth Cortijo, toured the Adolescent Reception and Detention Center (ARDC). Mr. Schulte reported that he noted that the facility had decaying modulars, and noted particular problems with the showers, floors and windows. He also reported that he had learned that to keep some of the modulars sanitary, correction officers were spending their own money to purchase items such as brooms, mops, disinfectant, and toilet paper because they could not rely on the Department to supply these items to the facilities.

Mr. Schulte requested that Department representatives comment on these issues, as well as the mixing of adolescents and adults in that facility and the high level of violence within the jail. He also requested that DOC define the function of a Division Chief and inform the Board what kind of system was in place to prevent dangerous inmates, such as the inmate that escaped from the Manhattan Detention Complex (MDC), from being assigned to risk-prone jobs. Mr. Schulte requested that DOC comment on how much money DOC has lost as a result of halting the construction of the Staten Island Facility.

Assistant Commissioner John Shanahan reported that the Department was aware of the shower conditions in ARDC. He explained that the modulars were constructed under emergency

declaration because of overcrowding in the system. Mr. Shanahan noted that both in the old and new modulars the showers were not installed in accordance with the manufacturers' recommendations. The showers are constructed of plastic and the inmates are able to destroy them easily with their feet or a mop handle, thus allowing water to get into the holes and into the wooden decking of the building, causing it to rot. Mr. Shanahan explained that DOC periodically has to close and renovate these areas. He informed the Board that DOC had begun renovating the AMKC modulars and would complete them by July, 1992. He said that renovation for ARDC would begin within the next fiscal year.

Board member Louis Cruz asked Mr. Shanahan where DOC was receiving its funding for the renovations of the facilities. Mr. Shanahan reported that DOC was using renovation money from its capital budget. He explained that DOC turns over the money in their budget to the Department of General Services (DGS), which in turn provides contractors for renovation. Mr. Shanahan explained that DOC was at the mercy of DGS's construction inspectors, with regard to the finished product. He added that the new modulars have the same defective showers installed.

Mr. Schulte stated that if DOC notices that a modular has been constructed in a faulty manner it should seek assistance from the Board. DOC does not have to accept a modular with faulty installations.

Mr. Schulte then requested that DOC comment on the January escape from the Manhattan Detention Complex (MDC). Division Chief Marron Hopkins reported that the Department of Investigation had still not released an official report on the incident.

Mr. Schulte asked that a DOC representative address the issue of ARDC correction officers having to buy supplies. Mr. Shanahan informed the Board that along with his other responsibilities he was in charge of the Department storehouse. He reported that the storehouse was full of the supplies that the correction officers were purchasing on their own. He stated that he would look into the internal ordering procedures of the facility to try and correct the problem.

Concerning the Staten Island facility, Mr. Shanahan informed Mr. Schulte that the City had spent \$23 million so far on the project, mostly for site acquisition. He explained that the project had not been removed from the City capital program but taken out of the four year capital budget. Mr. Shanahan noted that the project had not stopped, the designing and architecture is continuing.

Chairman Booth then requested a staff report from Mr. Wolf. Mr. Wolf informed the Board that to date there were 21,165

inmates in the City's jails, 199 fewer inmates than in February 1991, and 97% of capacity. Mr. Wolf noted that 2,322 inmates were overdue state prisoners.

Mr. Wolf reported that, using the widely accepted figure of \$118 per day for housing each inmate, the City would spend a total of \$273,996 in unreimbursable funds to house overdue state prisoners on the day of the Board meeting. He explained that Mr. Bennett had calculated that in the month since the January Board meeting, the City had lost \$9,800,238 in housing costs for overdue state inmates.

DOC General Counsel Robert Daly said that the State Department of Correctional Services is interested in the two upstate jails owned by the City, but does not have the money to buy them. Mr. Daly reported that in the pending lawsuit brought by Legal Aid against DOCS, DOC, and New York State Parole, the City cross-claimed against the State DOCS, seeking to have overdue State prisoners removed expeditiously, as follows: state-ready adult male inmates, within 48 hours; parole violators, within 10 days of their final hearings; and all other inmates (females and adolescents), within 10 days of a declaration of readiness. DOC is awaiting the decision and expects to win. Mr. Daly explained that if the City prevails, it will inform the State of its intention to close the two upstate jails.

Board member David Lenefsky welcomed Mr. Daly back to the Board meetings and said that Board was grateful for his return.

Mr. Wolf requested that Deputy Executive Director Cathy Potler give a report on tuberculosis and the construction of contagious disease units (CDU's).

Ms. Potler said that since the last Board meeting there had been a hearing before Judge Lasker on the Vega case. The Judge ordered that the CDU's, 28 units for men, 14 units for women, and one Sprung set aside for treatment service of facilities, be operational by May 1, 1992.

Ms. Potler said that she, along with Mr. Wolf, met with consultants for DOC to discuss the configuration of the four Sprung buildings in which the CDU's and treatment area will be located. She noted that at the meeting she was told that the cost of 42 units would be \$15 million. She then asked Assistant Commissioner Shanahan to explain why the costs were so much more than anticipated.

Mr. Shanahan reported that the original plan to retrofit existing facilities as CDU's had proven to be "technically inappropriate" and would not work. He said that because the disease is air borne, a sophisticated ventilation system that

could continually replace the air in the units was required.

DOC began an intensive design process in December, 1991 involving DOH, Montefiore and consultants who specialize in designing "clean" hospital and research rooms. By December 23, 1991 the group had designed a 120-bed unit with an estimated cost of \$12,000,000. DOC issued an emergency declaration pursuant to the Order from Judge Lasker.

Mr. Shanahan explained that the contract was not a guaranteed or fixed price contract but a time and materials contract. DOC requested a guaranteed maximum price, not the actual cost. The maximum price is \$15 million for 42 units. Mr. Shanahan stressed that DOC did not believe the cost for building these units would amount to \$15 million. He said that by May 1, 1992 the units would be opened and ready for occupancy.

Chairman Booth asked the Department to present its variance requests. Acting Commissioner Stephen Ricci requested a renewal of all existing space and program variances. A motion was made by Mr. Schulte, seconded by Mr. Lenefsky, and approved by all members present.

Vice-Chairman John Horan requested an opportunity to commend Mr. Bennett on the Jail Management Evaluation Index report. He stated that it was a first rate product well worth reading.

Board member David Schulte briefly stated that he had the utmost confidence in the productivity of Acting Commissioner Gerald Mitchell and stressed that it was unwise and counterproductive to allow DOC to be without a Commissioner.

Chairman Booth informed Mr. Schulte that he was assured by Deputy Mayor Milton Mollen that before his resignation he would have a Commissioner selected and in place at DOC.

Chairman Booth announced that the next meeting would be held on March 11, 1992. The meeting adjourned at 4:00 p.m.