

MINUTES OF THE MEETING OF THE BOARD OF CORRECTION

November 3, 1975

A regular meeting of the Board of Correction was held on Monday, November 3, 1975 in the 14th floor Conference Room, 100 Centre Street, New York, New York.

Present were Mr. Tufo, Mr. Jackson, Mr. Kirby, Father Rios, Mr. Schulte, Mrs. Singer, and Rev. Wilson. Also present by invitation of the Board were Marc Rosen, Executive Director; Michael D. Cleary, Executive Secretary/Fiscal Officer; Barbara J. Armstrong, Acting Director, Clergy Volunteer Program; Stephen Fisher, Staff Assistant; Nancy Kessler and Sherry Workman, Urban Fellows; and Joe Smith, Student Intern.

Present from the Department of Correction were Benjamin J. Malcolm, Commissioner; Jack Birnbaum, Deputy Commissioner; Alphonso Ford, Assistant Commissioner; William Ritholtz, Director of Legal Affairs; James Hickey, Deputy Director of Operations; John Walsh, Acting Director of Public Affairs; Arnett Gaston, Executive Assistant to the Commissioner; Captain Constantine Mellon, Acting Inspector General; Thomas Binnie, Director of Administration; and Michael Watnick, Director of Fiscal Control.

Mr. Tufo served as Chairman and Mr. Fisher as Secretary of the meeting.

The meeting was called to order at 2:43 p.m.

Mr. Smith and Ms. Workman were introduced to the Board.

The Chairman reported on the suicide of Sindey Ransom which occurred on November 1, 1975 in block 2 at the New York City House of Detention for Men. It was noted that there have been several attempted suicides at HDM during the past few weeks and this may be due to the increased overcrowding.

The Chairman reported that Judge Lasker may apply the Valvano decision on single cell occupancy to HDM. If this occurs, he declared, the City of New York will almost immediately face a constitutional crisis. In addition, the Chairman noted that the Department had decided to close the Bronx House of Detention as of last Friday because it will give them more correction officers to assign to the various institutions and, thereby, cutdown drastically on overtime. The Chairman noted also that the City was preparing a plan for submission in the Valvano case. The plan would permit doublecelling of an inmate for a maximum of 30 days during his period of incarceration. The Chairman declared that it was his strong

belief that the Department of Correction does not have the administrative capacity to operate a rotation cell occupancy plan that would have to be put into effect to achieve this 30 day period of double-celling.

The Chairman stated that Commissioner Malcolm will probably ask the Board's support of the Department's rotation schedule regarding double-celling.

At 2:53 p.m., Mr. Cleary entered the meeting.

The increased use of the Ossining Correctional Facility for overload was discussed. It was stated that Ossining is a condemned facility and probably could not hold more inmates than it presently houses.

It was stated that the Bronx House of Detention and the Adolescent Detention Center should be reopened if the City is going to be forced to release inmates or be held in contempt of court. It was strongly urged that Federal and State monies be sought for the reopening of these facilities. Mr. Rosen stated that the original submission to the Bureau of the Budget regarding the latest rounds of budget cuts indicated that the Department was going to suffer a 6% cutback. This was due to the fact that although the Department received permission to hire back a hundred correction officers several months ago, the money had not been forthcoming from the City; therefore the Department had to make up the deficit. In addition, the Department was proposing cuts in OTPS. Mr. Rosen noted that a decrease in the inmate incentive wage, clothing, food items and a rise in commissary prices will increase the tension level in the institutions.

The Chairman stated that he had attended the Prison Death Review Board meeting on October 31, 1975, and the death of John Wesley Thompson was discussed. A discussion ensued on this death and the question was raised as to whether the Board should ask the Department to place a moratorium on the use of tear gas against individuals.

At 3:30 p.m. Mr. Kirby entered the meeting.

At 3:32 p.m. Commissioner Malcolm, Mr. Ritholtz, Mr. Walsh, Deputy Warden Gaston, Deputy Warden Hickey, Captain Mellon, Mr. Binnie, and Mr. Watnick entered the meeting.

The Board asked the Commissioner to explain the budget cutbacks effecting the Department.

The Commissioner explained that the Department had to come up with 2.75 million dollar savings and this necessitated the cutback of selected programs and OTPS. He noted that at a recent cabinet meeting the Mayor declared that "there are enough unemployed people in the City of New York; we don't want to add to it" and urged that there be no layoffs. Therefore, the Commissioner was reducing OTPS and other programs. The Commissioner expressed his gratitude to the Board for all the work that it has done for the Department in the past few months. He noted that if it were not for the Board the Department might have been in a 4-6% cutback category rather than the 3% "life support" category.

The Commissioner stated that on October 17th a plan was submitted to the Bureau of the Budget which would have resulted in a 2.75 million dollar savings. The plan preserved the Bronx House of Detention, required no layoffs, attacked overtime by reducing programming, cut several officers out of central office and headquarters, and reduced OTPS money. The Commissioner said that the plan fell apart by the end of the day because the Bureau of the Budget informed them that they were operating at a deficit and were spending money that had not been programmed. This money amounted to approximately 7 million dollars, the Commissioner said. To compensate for the 7 million dollars deficit, the Department proposed that the Bronx House of Detention be closed by November 1, 1975 and the officers at the Bronx House would be reassigned to plug in the holes in the schedules of other institutions. There would also be a cut in OTPS, and commissary and reducing the number of slices of bread per meal from four to three.

At 3:40 p.m., Father Rios left the meeting.

On October 28th, the Commissioner stated, a teletype order was issued from the office of the Director of Operations reassigning all officers from the Bronx House of Detention to other institutions. In addition, the OCF transfers had been building up on October 27th and the Bronx House was virtually empty when word was received around 3:30 p.m. from the Bureau of the Budget that the plan originally submitted would not be used. The Budget Bureau told the Department that they only had to reduce their budget by 2.75 million and, therefore, the Bronx House could remain open. On October 31, 1975, the Commissioner reported that this plan fell apart because the Budget Bureau was asserting that the Department, in addition to the 2.75 million dollar cost savings, had to come up with an additional 1.7 million. This 1.7 million came from overtime from May and June of 1975 which the Department asserts came out of its 74-75 budget but the Budget Bureau is claiming it came out of the 75-76 budget.

Mr. Binnie reported that two groups of 50 correction officers had been rehired, but the Department had not been given the 2 million dollars needed to rehire these 100 officers despite a commitment to do so. He declared further that the budget had a 9 million dollar built in deficit to operate and that they had already eaten 4.5 million dollars up of this deficit by not filling jobs in the Department. On October 31, the Bureau of the Budget said the Department had to cut back 4.8 million plus 1.7 million. Mr. Binnie declared that the Department cannot make up the funds that the Budget Bureau requests if they do not close the Bronx House of Detention. The Commissioner stated that there has been no response from the Budget Bureau on their October 31 proposal.

The Commissioner then outlined some ways the Department was proposing to cut its operating budget. They are: 1) a \$60,000 reduction in inmate clothing due to the reduced population; 2) a \$241,000 dollar reduction by eliminating certain baked goods, bacon and juice and the reduction of one slice of bread per inmate per meal; 3) Non-utilization of \$110,000 in rental space; 4) 1.94 million reduction in personal services, overtime reduction, phasing out of the Academy, redistribution of officers from Headquarters and engineering and design to plug up the holes in the institutional schedules; 5) 2.6 million dollar savings by closing the Bronx House of Detention and reassigning the officers to other institutions, and a \$450,000 reduction through attrition.

The Commissioner also noted that the Department is attempting to equalize the balance of steady posts on tours and will be coming up with a thorough management review of scheduling in all institutions. Mr. Binnie noted that in one month alone the Department has lost 39 people through attrition. The Commissioner noted that this is due to the fact that wages are currently frozen and overtime will be reduced; therefore if someone is thinking of retiring this will probably be the year where he will make the most money and thus get the maximum pension benefit. The Commissioner stated that the attrition rate is exceeding the Department's expectations and that at some point in the near future they are going to have to rehire officers because they cannot close any more jails. He declared that as the attrition rate rises in the Department the overtime is going to go up again and that within a few months the gain of 160 officers reassigned from the Bronx House of Detention will be lost by the number of officers who have left the Department.

The Commissioner declared that he was concerned about the cuts that Prison Health Services is facing. He noted that there was no doctor on duty on the 12-8 a.m. tour at the Brooklyn House of Detention and urged that at least a Physician's Associate be available.

The Commissioner stated that a new mental observation unit would be activated at the Adolescent Detention Center. The unit will provide a greater array of services, a concentration of resources, and will be a cost saving factor for both the Department of Correction and Prison Health Services. The Commissioner stated also that the Methadone Detoxification Center at the Correctional Institution for Men has a special observation area where if a doctor has doubts that an inmate is on methadone, he can put him in observation for 48 hours. If the inmate goes through methadone withdrawal, he can immediately be placed on methadone. Regarding suicides, the Commissioner noted that they have not reduced the number of suicides prevention aides in special housing areas or correction officers assigned to special housing areas. He declared that there has been success in the identification of the suicidally prone inmate, but expressed regret that the number of suicides this year is at five.

The Commissioner declared that approximately 1,250 inmates were doubled-up in the correctional system before the Bronx closed. He declared that he needed an additional 600 cells to implement single-cell occupancy and if he did not have those cells he would have to let the 600 inmates out. The Commissioner declared that "if I am told by the court to do it, I will."

At 4:17 p.m., Deputy Commissioner Birnbaum entered the meeting.

Commissioner Malcolm stated that the night court arraignment part will be eliminated in several weeks, and there was also a chance that the weekend court would be eliminated. The Commissioner stated that if weekend arraignment parts are eliminated the court system should have additional arraignment parts on Monday morning because the backlog will be tremendous.

Deputy Commissioner Birnbaum reported on his meeting with the Bureau of the Budget and stated that the Bureau wants to know the where and why of the calculated savings of the Department.

The Commissioner stated that the Pre-trial Services Agency will begin bail review of Manhattan cases at ARDC and HDM of bails of \$1.00-2,500 dollars. The Commissioner stated that Judge Ross will review the cases and possibly a separate part will be needed in the court house.

At 4:30 p.m., Commissioner Ford entered the meeting.

Deputy Commissioner Birnbaum stated that the Department would need 6.5 million dollars on an annual basis to operate the Adolescent Detention Center, the Bronx House of Detention and the Correctional Institution for Men at full capacity and to single-cell inmates. The Commissioner stated that the C-95 project on Rikers Island would hold 760 inmates in a dorm setting; 258 inmates would be in housing areas that would be connected to C-71. C-95 is a facility that could be used for minimum security inmates and HDM for maximum security inmates.

The matter of the escape from the Queens House of Detention on October 24, 1975 was raised. Captain Mellon stated that at 12:30 p.m. it was discovered that two inmates were missing from the institution and at 7 p.m. a call to the police confirmed the escape. The questions raised in this case are how did the inmates get off the floor and how did the inmates get uniforms that are used by sentenced inmates. The Commissioner said that the most disturbing aspect of this case is that there are so many unknowns. He stated that Warden McQuillan told him that these two inmates were not supposed to come off of their housing floor which was in the administrative segregation area.

The Chairman asked the Commissioner to explain the suicide at HDM on November 1, 1975 and the recent rash of attempted suicides. Deputy Commissioner Birnbaum stated that due to the drastic cuts in Prison Health Services and the Department of Correction both agencies had decided to establish a new mental observation unit for the whole system at the Adolescent Detention Center. He noted that at the present time Prison Health Services is using CETA workers as para-professional mental health workers and some of these CETA workers have very little training in this area.

The Chairman stated that the Board was looking into the Thompson case and the matter on the use of tear gas. The Board expressed its extreme concern about the use of tear gas against individuals.

At 5:15 p.m., Commissioner Malcolm and his staff left the meeting.

The Chairman solicited the Board members feelings on the use of tear gas on individual inmates. After some discussion, it was agreed generally that the Chairman would

submit a draft report on the death of John Thompson with a covering letter stating that the Board was putting the Commissioner on notice that based on the way the gas was used in this instance there should be a moratorium on its use.

The Chairman asked the other Board members whether the Board should endorse a City proposal for double-celling of inmates for a period not to exceed 30 days per inmate. After some discussion, upon motion duly made by Mr. Schulte and seconded by Mrs. Singer, it was:

RESOLVED THAT the Board of Correction does not support the Department's proposal for double-celling inmates for a period of 30 days. Budget limitations should not be an excuse to further prolong double-celling in the City of New York.

Upon motion duly made by Mr. Tufo and seconded by Mrs. Singer, the meeting was adjourned at 5:25 p.m.