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## Crisis in the Court Pens

A Report of the Visiting Committee

of the

Correctional Association of New York

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Founded in 1844, nearly 150 years ago, the Correctional Association of New York is a non-profit policy analysis and advocacy organization that focuses on criminal justice and prison issues. It is the only private entity in New York State with legislative authority to visit prisons and report its findings to policymakers and the public.

The Visiting Committee of the Correctional Association's Board of Directors has the particular responsibility for carrying out this special legislative mandate. In the past several years, the Committee has focused on conditions in New York City's court holding pens, New York State's Shock Incarceration Program, and the implementation of the regionalized Hub Program within the State's prison system.

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## CRISIS IN THE COURT PENS

### INTRODUCTION

Every day in New York City, people who are presumed innocent under the law are subjected to dehumanizing and dangerously unhealthy conditions of confinement. They are kept in the basements of the borough criminal court buildings, in the holding pens for recently arrested individuals who are waiting for arraignment, i.e. their first appearance before a judge.

Since February 1989, the CA's Visiting Committee has undertaken a diverse set of activities aimed at publicizing and resolving the problems in the court pens. The organization initiated this project partly because these problems have been ignored for far too long by policymakers and criminal justice agencies and partly because of the realization that for many people, like the main character in Tom Wolfe's Bonfire of the Vanities, the degrading experience of being locked up in the court pens is their first contact with the criminal justice system. The Correctional Association sought to make this contact one that reinforces rather than erodes respect for the law.

This report has several related purposes: to educate the public and policymakers about the conditions in the pens by describing them in some detail, including brief accounts of New York City residents who have been locked up in these facilities; to summarize the Visiting Committee's efforts regarding the court pens and the changes that the City has instituted in response to our work; and to pinpoint the major difficulties that remain, including proposed reforms for addressing them.

## CONDITIONS IN THE PENS

### Crowding and Other Indignities

In the court pens, people from every walk of life, but predominantly poor African-Americans and Latinos, are jammed for many hours, sometimes for more than a day, in open cells with one toilet, which may be stopped up, and one sink, which may not operate, for everyone to use. At times the cells are so packed that they allow only two or three square feet per person. On such occasions, detainees have virtually no room to move, or even to sit or lie down. It has sometimes taken days to repair the broken toilets and sinks.

People have no chance to wash, to change clothes, or even to brush their teeth. Ill-kempt, the prisoners stand, sit or sleep without privacy in this one cell.

Some of the pens are dimly lit, litter-filled, and foul-smelling, with air so stifling as to be at war with the act of breathing. The environment is often grossly unsanitary -- rats and other vermin are a serious problem.

Remember that, at this stage of the criminal justice process, these detainees are in custody on the basis of an arresting officer's charges. They have not seen a judge or been formally charged with a crime. Very few have spoken with an attorney.

### Absence of Health Care

Currently, no health care personnel are assigned to the court pens or to any stage of the arrest-to-arraignment process. Persons with diabetes, asthma, AIDS, tuberculosis or other serious illnesses, often in combination, are confined in the pens where they are unable to obtain the medicines they need to sustain their health. People injured while being arrested frequently go unattended. In order to receive medical care or medicine of any kind, detainees have to be

brought by the Emergency Medical Service and police to a local hospital. Both custodial officials and the detainees themselves are reluctant to resort to this option, which is a tremendous drain on personnel and other resources and can delay arraignment for days.

There are also often a number of pregnant women, sitting on the cold, concrete floor because no real seats are available, holding their bellies, saying they wish they could see a doctor. Being deprived of nutritious foods, which are in short supply in the pens, can result in adverse effects on the growth and development of the fetus. Moreover, having to stand for long periods of time can be detrimental to their pregnancies.

Tuberculosis represents a special health problem because the way the court pens operate today actually contributes to the spread of this terrible disease. Hundreds of thousands of people 'enter' New York City's criminal justice system each year and many of them -- the majority, in fact -- do not go to jail or prison. About 250,000 arrestees are processed through the court pens each year, and more than half, 130,000, are released to the community at arraignment.<sup>1</sup> While confined in the pens -- which, given the crowding, lack of ventilation, and filth, are seen by many medical experts as breeding grounds for TB -- detainees are in jeopardy of catching the illness which they then may very well pass on to people in the outside community. **As far as TB goes, the court pens are like dirty, little streams that pollute the larger body of water through which they flow.** It is the Correctional Association's belief that being arrested should not result in being exposed to TB or other contagious diseases.

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<sup>1</sup>Testimony delivered on September 22, 1992 by Ivar Goldart, Deputy Attorney-In-Charge of the Criminal Defense Division of the Legal Aid Society, at hearings convened by the Committee on Health of the City Council of the City of New York.

### Inadequate Food

Meal is a kind word to describe the kind of food distributed to detainees in the pens who often experience serious hunger pains after going long hours with little or no edible or decent food. The menu generally includes thin and dry sandwiches consisting usually of a single slice of baloney and cheese -- when both are available and that, by no means, is a consistent occurrence -- and an accompanying beverage, usually lukewarm tea, and this liquid is also not always delivered to the holding pens in a timely fashion. At times detainees are being transferred from one place to another within the arrest-to-arraignment process during mealtimes and, therefore, miss the serving of this meager diet entirely.

### Delays in Go-Back Transportation

Pre-trial detainees due for court appearances are kept in holding pens located generally on the upper floors of the City's criminal court buildings. They are awakened as early as 4 or 5 AM to be fed, processed, and brought from Rikers Island or a local house of detention to the borough court pens. Sometimes, especially in Manhattan, and even if they have finished their court appearance in the morning, detainees are held late into the night, or even after midnight, before they are returned to their facility. The City must pay overtime costs for the correction officers guarding these detainees who are generally frustrated, demoralized, and physically exhausted by the experience.

### Years of Neglect/Lack of Standards

Figuratively, the court pens have been the neglected, battered child of the criminal justice system. For many years, everyone has abused them and no one really has taken care of them. Specifically, they are the last stop in the complicated arrest to arraignment process that involves the mainly un-coordinated activity of a diverse set of agencies: police, corrections, district attorneys, defense lawyers, and the judiciary.

To compound the problem and, unlike the city jails, the pens have no standards covering their operations for even such fundamental matters as the capacity of the cells, appropriate food, health care, and access to family, friends, and lawyers. Without any standards, of course, it is difficult to hold anyone or any agency accountable for the current deplorable conditions.

Conditions in many of the court pens would be considered unfit for animals in a zoo, no less for people in the custody of a great American city's criminal justice system. In fact, if zoos were maintained in this way, the public would be outraged on behalf of the confined animals. Yet each year approximately a quarter of a million human beings are locked up in these pens and, until recently, no steps were taken to improve matters.

## THE HUMAN TOLL

Terrible things happen to people in the court pens. The CA has paid scores of visits to the court pens and has often observed instances of inexcusable and unattended suffering.

While touring Manhattan's pens with a group of judges in March, 1990, Correctional Association representatives came across a young woman detainee distraught because she had just had a miscarriage while in custody. Through the bars of her cell she told us that, on the previous day, after many hours of experiencing distress, she was finally brought to a hospital where the miscarriage occurred. The following morning — the day we saw her — she was returned to a crowded cell where there was one toilet and one tiny sink for nearly 30 women, where there was no decent place for her to rest, and where there was no health care staff that could assist her.

During its continuing research on the pens, the Correctional Association has uncovered other troubling cases:

- A 59 year old family man, owner of a hardware store, was arrested in Brooklyn on a charge so minor that it was dismissed at arraignment. Before he was freed, he spent more than three full days essentially lost in the pre-arraignment process. He had no opportunity to make a phone call and no decent bedding of any kind to rest on.

His family could not locate him, until his son received a call at 2 a.m. from a court officer to pick up his father after arraignment. The son was shocked by his father's appearance: "He smelled like garbage and was totally disoriented. He looked like a different person, like a bum."

- A 25 year old man, with no criminal record and with a job in the office of a large law firm, was arrested in the Bronx after a family argument in which no one was hurt. He was confined for over 72 hours, during which he was unable to make phone calls explaining his absence from work. He reported crowding so severe that people were sleeping standing-up in the police lock-up where arrestees are kept prior to their transfer to the court holding pen.
  
- A 20 year old college student with a part-time job was arrested after getting into a fight with someone at the scene of an accident which he was passing by. The young man was confined for 36 hours, and was not fed for one 15-hour stretch while in police custody, from 5:30 a.m. to 8:30 p.m.
  
- An accountant was arrested for shoplifting in a Manhattan department store. He was not fed for over 16 hours and was confined for two days. He reported seeing a detainee faint in a crowded police van that was transporting people to the court house. No one came to the detainee's aid.
  
- A 21 year old college student with no criminal record was arrested for passing a phony \$20.00 bill. He was confined for a total of 24 hours in a central booking facility, a police van that transported him and other detainees to the court building, and a court pens cell. At times, he reported, there were 4 or 5 other people locked up with him; at other times 18 men were packed with him into a cell and had no room to sit down or to move about. Some detainees, he said, were smoking crack, and one detainee was robbed of several hundred dollars.

He also stated that twenty men were jammed with him into a police van where they were kept for 1 1/2 hours in extremely hot temperatures. Half the people had to stand up. The court pens cell where he was confined was infested with cockroaches, with the bugs covering the underside of the hard, metal benches and crawling up and down the walls and in and out of the sink.

He also said that he was fed only once at 2:00 a.m. in the morning and that one detainee actually lost control of his bowels. The resultant foul fumes filled the cell. No officer came to the aid of this individual.

We have encountered a number of cases involving major breakdowns in medical care: a diabetic going without his medicine for days and being brought to Brooklyn's Woodhull Hospital in a state of shock; a chronic dialysis patient also being brought to the hospital in a life-threatening condition because he did not receive critically necessary treatment during his incarceration; a person with AIDS, cut off from his regular supply of AZT, suffering a serious relapse.

## ACTIVITIES OF THE CA'S VISITING COMMITTEE

For many years criminal justice agencies and officials ignored the problems in the pens. The Board of Correction, the City-funded agency that monitors the operations of the Department of Correction, issued standards for conditions in the jails. The Legal Aid Society, the publicly funded private, non-profit entity that provides free-of-charge counsel for indigent defendants in NYC, filed litigation challenging unacceptable conditions in the jails. But neither of these bodies, and no one else in municipal government, including, of course, the Department of Correction and City Hall representatives, paid attention to the court pens.

To effectively address the terrible difficulties resulting from the long standing neglect of the pens, the CA's Visiting Committee developed a comprehensive strategy aimed at "attacking" the issue on several critical fronts. The CA's strategy was, and continues to be, based on the determination that the more constituencies we involve in the issue, the more ways we spotlight the problem, and the more tactics we use to promote practical reforms, the greater chance we have for attaining the urgently needed improvements.

In the field of prison monitoring by citizen organizations, the CA's approach has been unique in the intensity of its focus and the diversity of its effort. The strategy has achieved a significant degree of success which will be described in a later section of this report entitled **The City's Response**. The success to date and the belief that additional and dramatic improvements can be made in the future are the result of an integrated set of Visiting Committee activities.

### Visits

Since February 1989, the Visiting Committee has conducted over 25 separate tours of the court pens in Manhattan, Brooklyn, the Bronx, and Queens. These regular visits have kept us fully informed of conditions in the pens; have established our presence, credibility, and status as experts; and have enabled us to monitor effectively the City's progress, or lack thereof,

toward making promised improvements. Bolstered by this information, we have been able to make detailed, knowledgeable presentations to relevant government officials, interested outside organizations, and the press.

#### Meetings with New York City Officials

Correctional Association representatives have held numerous meetings with New York City officials in a position to institute needed reforms in the court pens. The most productive discussions have been conducted with Richard Koehler, the Commissioner of the Department of Correction (DOC) under mayor Ed Koch from 1987-89; Judge Milton Mollen, the Deputy Mayor for Public Safety under Mayor David Dinkins from 1990-92; and Catherine Abate, DOC Commissioner under Mayor David Dinkins from April, 1992 to the present. All of these meetings have been working sessions that concentrated, and sought to reach conclusions, on specific and practical ways to improve conditions in the holding facilities. Judge Mollen and Commissioners Koehler and Abate have involved appropriate staff from their offices who could oversee and implement these changes. The Visiting Committee provided agendas and follow-up summaries to focus the discussion and action in the most effective manner.

Issues raised at these meetings have included tuberculosis and the access to medical care, the persistent and severe crowding and the need for standards prohibiting such conditions, access to the outside for detainees and the use of phones, training for court pens personnel, food service, sanitation, and physical plant maintenance. (Attached as Appendix A are examples of the follow-up materials we prepared after meetings with each of these officials). These meetings have proved to be extraordinarily useful, helping to heighten the City's interest and concern about conditions in the court pens, and leading directly to concrete improvements. Deputy Mayor Mollen and Commissioners Koehler and Abate merit commendations for their willingness to address these matters and for taking steps that pressed the relevant bureaucracies to make needed reforms. Regrettably, as discussed below, many serious problems remain unresolved.

### Outreach to Potential Allies

In a continuing endeavor to spotlight the issues and to recruit possible partners to the effort, the Correctional Association made contact with a number of concerned organizations and individuals capable of influencing the policymaking process. We made a presentation to the Corrections Committee of the Bar Association of the City of New York which subsequently sent a strong letter of concern to Mayor Dinkins and a letter to the editor which appeared in the *New York Times*. The CA held numerous discussions with the Board of Correction and the Commission of Correction, the state agency that oversees all correctional facilities in New York. Our purpose in these conversations has been to urge these bodies to devise standards on conditions, operations, and **capacity** in the pens and to establish procedures for monitoring compliance with the standards, once they are set.

The Correctional Association spotlighted the acutely troubling matter of tuberculosis in the pens in testimony before the City Task Force on Tuberculosis in the Criminal Justice System, and succeeded in persuading that body to include all the organization's main proposals for improvements in its 1992 report to the Mayor. Correctional Association representatives also had several discussions on the problems in the pens with the staff at the Legal Aid Society. In April, 1992 the Society did file a federal court lawsuit charging the City with maintaining unconstitutional conditions of confinement in the holding cells. The Society and the City's lawyers have held several negotiating sessions and the litigation is currently in the discovery stage. The lawsuit has clearly been effective in causing the Dinkins Administration to devote more attention to resolving problems in the pens.

The Visiting Committee also enlisted in its work several important civic and political leaders. The following individuals have accompanied the Committee on its visits to the pens: Ruth Messinger, Manhattan Borough President; Carl Flemister, former head of the American Baptist Churches of Metropolitan New York; Christopher Mega, Chair of the Judiciary Committee of New York's State Senate; and staff representatives of Sheldon Silver, Chair of the Ways and Means Committee of New York's State Assembly, and of Joseph Lentol, Chair of the

Assembly's Codes Committee. Ms. Messinger, Sen. Mega, and Rev. Flemister sent letters to Mayor Dinkins and Deputy Mayor Mollen to express their concern and to urge appropriate action. Ms. Messinger and Mr. Lentol continue to send representatives to the CA's meetings with City officials.

### Public Education

Since 1989 the Correctional Association has undertaken a number of measures to inform specific constituencies and the larger public about the problems in the pens. Articles about the subject have appeared in the CA Reporter, the organization's regular newsletter that is distributed to a list of over 6,000 people with expressed interest in criminal justice issues. The CA has prepared op eds for the *New York Times* and *New York Newsday* and a letter to the editor for the *New York Times* which not only graphically described the conditions in the facilities, but also outlined practical solutions. (See Appendix B for samples of these written materials). The CA has also discussed the matter with relevant reporters, leading to two well-placed and lengthy stories in the *New York Times* and has met with the editorial boards of the *New York Times* and *New York Newsday*.

## THE CITY'S RESPONSE

In response to the CA's sustained effort, the City has adopted a number of important measures to ameliorate the problems in the court pens. Terrible difficulties persist, however, particularly in the areas of health care and crowding. This section presents the progress and the problems.

### Health Care

The City has allocated \$1.1 million in the budget for this fiscal year (July 1st, 1992 to June 30th, 1993) to establish TB screening programs in the arrest to arraignment process. This budget decision is a welcome step. But this program, unfortunately, has not yet been set up and if and when it is, it would do little or nothing to address the other health difficulties, such as diabetes, asthma, HIV, distressed pregnancies, and injuries due to police beatings, that afflict people who have recently been arrested.

### Crowding

By establishing within the Office of Deputy Mayor for Public Safety a special unit focusing on the arrest-to-arraignment process, the City has been able to reduce the average arrest-to-arraignment time city-wide from 42.5 hours in January 1990 to 23 hours in July 1992 -- although in some instances detainees are still held for up to three days before they see a judge.<sup>2</sup> Moreover, due primarily to shifts in law enforcement strategies in the war against

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<sup>2</sup>The City established the arrest-to-arraignment unit partially in response to a successful Legal Aid Society lawsuit which resulted in a court ruling that a delay in arraignment of more than 24 hours was presumptively unnecessary and required some explanation other than generally overcrowded conditions.

drugs, the City cut the number of arrests by 10% from 1990 to 1991.<sup>3</sup> Because of these two factors -- really, as an incidental by-product -- less people are squeezed into the pens than several years ago. **Nevertheless, as mentioned earlier, about 250,00 people are still processed through the court pens each year, and many of them are confined in severely crowded conditions unsuitable for human habitation.**

Except in one instance the City has taken **no direct** steps to relieve the core problem of overcrowding in the pens. The one exception was the decision to lower the population cap from 90 to 35 detainees for one large pre-arraignment holding pen in Manhattan for men. That measure helped to make the conditions in that one cell more humane.

#### Conditions

The Department of Correction has recently assigned one full-time maintenance person to the court pens units of each major borough. Now the assistant deputy warden in charge of each of these units has easier access to personnel capable of making needed repairs to broken toilets, sinks and lighting fixtures.

In one borough, Manhattan, the City has gone further and has made impressive strides in enhancing the general conditions of confinement. Under the direction of Ralph McGrane, the superintendent at the Manhattan House of Detention, and with the authorization of City Jails Commissioner Catherine Abate, the Department of Correction accomplished a positive transformation in the pre-arraignment facilities for men and women by adopting the following measures:

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<sup>3</sup>Statistics supplied by Martin P. Murphy, Director of Arrest to Arraignment for New York City.

- installed a new lighting system that has substantially brightened the areas;
- expended the cell areas and added benches, chairs, and mats so detainees, who are confined there for many hours and sometimes overnight, can rest in a reasonably comfortable fashion;
- moved the phones closer to or inside the cells, so detainees can more readily make needed calls to the outside. Correction officers no longer have to be enlisted to open the cell door and supervise the call - a procedure not all staff perform willingly;
- placed a partition across the toilet areas, to provide detainees with basic considerations of privacy;
- installed rotating fans all around the walls that enclose the areas, thereby making the air bearable;
- installed new floors and painted the walls, two steps that have helped to eliminate the places' dungeon-like atmosphere; and
- made arrangements for regular clean-ups that keep the areas mainly debris-free.

Put in place in a matter of months, these arrangements are to be applauded. Inspired, in part, by these advances, court pens officials in the Bronx have also made improvements, particularly in the area of sanitation. Terrible problems remain, however, in many other holding pens, and they must now be addressed.

Conditions recently deteriorated, for example, in the Brooklyn pre-arraignment area. In a misguided attempt at expediting the arrest-to-arraignment process, the City assigned the command of these facilities to the Police Department in October 1992. Custodial responsibilities not being one of its primary functions, the Police Department initially failed to maintain the

physical plant or to attend to the special needs and problems of the detainees in its charge. Subsequent to the Correctional Association's expression of concern, Police officials did promise to upgrade conditions in these cells and, to their credit, have begun taking practical steps to carry out that process.

### Standards

On its own, the City has not initiated a sustained effort to develop guidelines to govern conditions and operations in the pens. The NYS Commission of Correction, which has responsibility for monitoring conditions of confinement in correctional facilities throughout New York, is in the process of developing standards. So far the City has cooperated with this undertaking, mainly by providing the Commission's staff with access to relevant government officials and to the pens themselves.

### Food

The Department of Correction has instituted a new airtight sealing process that results in fresher sandwiches being served to detainees in the pens. But otherwise the food situation remains dismal. Commitments to implement cycle menus that would include a greater variety of nutritious food and to deliver additional beverages to the holding areas have simply not been carried out on a consistent basis.

### Training and Orientation

Before the CA began its work on this issue, staff working in the court pens received no special training to prepare them for dealing with the unique needs and problems of recently arrested detainees. With the authorization of Commissioner Abate, the Department of Correction's Training Academy has recently collaborated with high level court pens officials in

developing, refining, and implementing a training program for all court pens personnel. First held in February, these sessions last three days and focus, in part, on the inmate supervision and interpersonal communication skills so critical to a correction officer's ability to successfully manage the detainee population. The Department has made a commitment to provide such training to all the approximately 800 correction officers, and their supervisors, who are assigned to the court pens.

#### Go-Back Transportation

In response to emergency conditions, when large numbers of detainees awaiting transportation back to their permanent jail have been confined until the late hours, the Department of Correction has intermittently assigned more buses to go-back routes. But it has not put in place a transportation program or a set of schedules for the vehicles at its disposal that would resolve this problem in a lasting way.

#### Contact With the Outside

When CA representatives began touring the pens in 1989, detainees often complained that they had not received the one phone call that is supposed to be provided at arrest. Since there were also no phones in the pens areas, many inmates were frantic at their inability to notify family members or employers of their situation and whereabouts. Having learned somehow that the CA was focusing on the court pens, family members would occasionally call the organization's office and express their frustration and desperation at not being able to locate a loved one who had been recently arrested. For several days, it seemed, detainees had joined 'the land of the disappeared'.

In response to the CA's prolonged and intensive complaints about this problem, the Department of Correction installed pay phones in the holding cell areas of the City's Criminal

Court buildings. In general this arrangement has greatly enhanced the chances that a pre-arraignment prisoner will be able to make contact with people on the outside. These phones have made money for the New York Telephone Company, they have helped relieve both the stress experienced by detainees and the overall tension levels in the facilities, and they have not been the object of vandalism as some Department officials initially feared. The CA commends the Department for adopting this very sensible response to a nagging and intolerable problem.

### Pregnant Detainees

Seeking to meet the special nutritional requirements of pregnant detainees, the Department of Correction has placed refrigerators in all court pens areas so that milk can be stored and served to all female detainees at every mealtime. The Department has also provided floor mats to women prisoners so that they have a decent place to lay down while confined in the holding cells. Again the Department is to be commended for taking these steps to address at least the minimal needs of the pregnant women detainees in its custody.

## RECOMMENDATIONS

The problems troubling the court pens have existed for so long that they have virtually become part of the culture of New York City's criminal justice system. Over the years, criminal justice professionals have become inured to the crowding, the health difficulties, and the messy, degrading conditions -- circumstances which have come to be accepted as practically fated and inexorable components of the system. The attitude almost seems to be: This is the way we do business and we have always conducted our affairs this way, so there must be very little that can be done to improve matters.

It is time to challenge this perversely self-fulfilling presumption. The problems in the pens are not the acts of God or nature. We do not have to view them as inevitable facts of life. They are, rather, the result of government inattention and bureaucratic inertia, years old to be sure, and a lack of political will. Government officials have created these problems and, via targeted and informed actions, they can address and resolve them. The City has already demonstrated this point by instituting successful measures, for example, to ameliorate conditions in certain facilities and to provide detainees with access to the larger community.

Despite the history of neglect, in fact, fully reforming the pens is comparatively tractable challenge for public officials. These facilities represent a relatively small part of the criminal justice system and a determined, intelligent and not very costly concentration of resources can produce significant, even sweeping, improvements. The Correctional Association offers the following set of practical proposals aimed at accomplishing this objective.

### Health Care

Last September the Correctional Association arranged a trip to Philadelphia with high level New York City officials including Jails Commissioner Catherine Abate and Health Commissioner Margaret Hamburg to observe first-hand what had been described as a model pre-arraignment medical screening program. The advance hype turned out to be warranted in this

case because the Philadelphia experiment proved to be a very workable and comparatively simple set of procedures that benefitted not only detainees but the entire system in that city.

New York City should establish pre-arraignment medical screening programs in each borough that are based on the Philadelphia model that has been in place for several years and whose main features include:

- ▶ a trained emergency medical technician is on duty in the central booking area 24 hours a day, seven days of the week;
- ▶ the EMT interviews all detainees regarding their medical condition -- the process takes a minute -- and decides which people need additional attention;
- ▶ the EMT can dispense over-the-counter medicine like Tylenol and provide blood sugar tests for detainees reporting they are diabetics and take the blood pressure of people saying they suffer from hypertension;
- ▶ a nurse comes in during every eight hour shift to provide additional treatment when appropriate and to dispense prescriptions from a selection of commonly needed medicines kept on site;
- ▶ a doctor is on call, available for consultations around the clock, and, in emergencies, will come to the site to provide medical counsel and/or treatment; and
- ▶ detainees needing to be isolated because they may have infectious TB or for other reasons are moved to single cells located behind the main holding area.

The Philadelphia program very likely saves money. Before it was established, the system averaged 100-120 hospital runs a month. Last year there were 230 hospital runs all toll, less than 20 per month.<sup>4</sup>

In New York City the expense of hospital runs is high. At Bellevue, the hospital that serves most Manhattan pre-arraignment detainees needing medical care, the cost of an emergency room visit is \$300; the cost of a three day stay is \$4,700.<sup>5</sup> These figures do not include police costs. Each detainee brought to the emergency room must be accompanied by two officers. Each detainee in an intensive care unit or medical ward requires 24 hour monitoring by an officer.

In 1991, the EMT's in Philadelphia's program interviewed 46,117 detainees; the nurse saw 6,012 people and gave prescribed medicines to 3,581.<sup>6</sup> Despite initial resistance, Police Department officials now fully accept the program because it fits well within the system without causing delays, reduces their liability for health-related mishaps, and removes the responsibility for making medical judgements from their officers who are not equipped for the task.

#### Important Note

Even if New York City implemented the Philadelphia model, one significant problem would remain: the lack of ventilation. Extensive renovations are required in all the court pens areas to improve ventilation and eliminate current stagnant air levels conducive to the spread of tuberculosis.

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<sup>4</sup>Source: Police Department, City of Philadelphia.

<sup>5</sup>Source: Diabetic Ketoacidosis in Prisoners Without Access to Insulin, Department of Medicine, New York University of Medicine, lead author: Allen S. Keller, M.D.

<sup>6</sup>Source: Allan Fogel, Deputy Health Commissioner for Institutional Health Care, Department of Health, City of Philadelphia.

## Crowding

The City should establish for every holding facility population caps that assure 15 sq. ft. per detainee and set a limit for how many people can be held in a cell.<sup>7</sup> In this way the terrible crowding that has persisted in the pens would be alleviated and detainees would have adequate space for sitting, standing, and resting when necessary. Relevant regulations should also include requirements for one operating sink and toilet for every eight women detainees and similar arrangements for every 12 men detainees. Once such standards were in place, the agencies in the system would have to adjust their practices so as not to 'produce' crowding that violates the established criteria.

## Conditions Problems

The City should make the kinds of improvements throughout the pre-arraignment system that have been instituted by the Department of Correction in the Manhattan pre-arraignment facility for men and women. These improvements are described on pages 14-15 of this report and entail such measures as vastly brighter lighting, expanded cell areas and added benches and floor mats, partitions across the toilet area, rotating fans installed throughout the section, new floors and newly painted walls, and regular clean-ups. Implemented expeditiously and costing a relatively small amount of money,<sup>8</sup> these steps eliminated many of the problems that have been the target of widespread and legitimate complaint, and must now be replicated in the court pens facilities in every borough.

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<sup>7</sup>This proposed standard is conservative. Federal standards for holding cells require 60 sq. ft. per prisoner. American Correctional Association standards require 50 sq. ft. Although the State of California requires only 10 sq. ft. per person in a holding facility, that standard applies only for those prisoners kept less than 9 hours. Sleeping facilities and more space are recommended for those confined for more than 9 hours.

<sup>8</sup>Department officials were not able to give a precise figure for the total costs of the Manhattan improvements, but estimates indicate that the expenditures came in under \$250,000.

It should also be noted here that the Department of Correction has recently begun to ameliorate conditions in the Bronx holding facilities.

### Standards

The City should cooperate fully with the State Commission of Correction's current efforts to develop appropriate standards for the holding facilities. Policymakers must make certain that these regulations cover every aspect of the operations at the pens and that the new criteria are sufficiently substantive that, if observed, they will result in decent, humane conditions. The City should also designate the Board of Correction to monitor compliance by the Department of Correction and other relevant agencies with the newly developed standards. The Board is the City funded entity currently charged with supervising the Department's observance of jail regulations and, by virtue of its location in New York City, general mandate, and track record, is more suited than the State Commission of Correction to the task of overseeing operations in the court pens.

### Food

On an consistent, every day basis, the City should provide cycle menus in the pens involving a variety of meals consisting of cold cuts other than baloney, fruits, soup, tea, and other beverages.

The Department of Correction, moreover, should issue a directive to all court pens units instructing correction officers to store leftover meals in suitable places and to serve this food to detainees who happen to arrive at the holding cells between mealtimes.

## Go-Back Transportation

For pre-trial detainees brought to the holding cells from Rikers Island or a local house of detention for a court appearance, City policymakers must take the steps needed to arrange transportation back to the jails by no later than 6 PM. Meeting this standard will involve more efficient coordination between the Department of Correction and the Office of Court Administration regarding scheduling procedures for bringing detainees to and from the courts and the addition of buses and maintenance resources to the Department's transportation unit.

## CONCLUSION

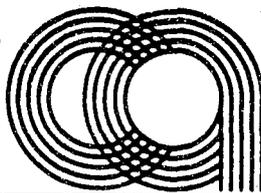
After touring the court pens, one of the members of the Correctional Association's Visiting Committee wrote this account of her initial impressions:

*On my first visit to the pens in Brooklyn and Manhattan, I was struck by the aptness of the term 'holding pen'. The term brings to mind herding of animals at roundup time or in slaughterhouse yards. The large numbers of individuals crowded together in confinement, the sense of confusion and sometimes fear, the inadequacy of sanitary facilities and the denial of anything but 'token' food is hardly different from the way large numbers of animals are handled. So many detainees dependent on a few correction officers for access to the telephone, use of toilet paper or help in critical situations dehumanizes both the detainees and officers. There is an overwhelming sense of the deprivation of human dignity and the inability of a detainee to conduct him/herself in any appropriate way other than standing or sitting mutely for the duration of their detainment.*

It is the Correctional Association's view that the presence of these debilitating and deplorable conditions within New York City's criminal justice system is no longer tolerable and, in fact, should never have been tolerated. It is simply wrong, wrong, wrong -- especially in the name of administering justice -- to treat human beings this way. We present this report to the public and policymakers as a means of spotlighting these problems and of proposing how to

eradicate them. Government officials have taken initial steps to respond to these concerns. Now they must finish the job of removing this shameful blight on the conscience of the City.

**APPENDIX A**



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October 23, 1991

Judge Milton Mollen  
Deputy Mayor for Public Safety  
250 Broadway  
New York, New York 10007

Dear Judge:

We at the Correctional Association were once again pleased with the discussion and outcome of our last meeting with you. We are gratified by your continuing commitment to bring about the changes necessary to improve conditions in the court pens.

I know that you would only be disappointed if by now I did not send you a follow-up letter. So here is my best recollection of the October 3rd discussion.

Training and Orientation

John Maguire reported that the Department of Correction (DOC) was still committed to establishing a 2-3 day training course at its training academy for all staff assigned to work in the court pens. He also plans to continue the orientation meetings with the executive officers of all the court pens borough units. The Correctional Association agreed to host one of these gatherings where its representatives would talk about their major concerns and engage in an exchange of views with corrections staff. We also agreed to meet and consult with the personnel at the academy who are planning the training course and perhaps even to make a presentation to the trainees.

The importance of this issue cannot be over emphasized. As our trips to the different court pens have taught us, concerned and committed staff can make a significant positive difference in living or working conditions. And training is one practical step the City can take toward the objective of having 'quality' staff working in the pens.

Standards

Marty Murphy reported that your office was waiting to hear back from the Board of Correction regarding its position on the jurisdictional question. You indicated that the City remains committed to the goal of having standards finally established for the pens, whether the criteria be set by the Board or the State Commission on Correction or via some joint agreement of the two agencies.

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## Health Care

We spent more attention on this critically important issue than any other. The Correctional Association representatives were especially upset by their last visit to the Manhattan pens where they encountered a detainee with AIDS and open sores who couldn't get her medicine and pregnant women sprawled asleep on the cold, concrete floors.

We were very pleased that June Binney and several of her staff persons attended the meeting and were prepared to join us in developing remedies to the terrible health care problems in the pens. Some of the ideas we discussed included: convincing St. Vincent's Hospital to provide some medical coverage in the Manhattan pens; pressing the Department of Health for more resources to deliver care in the other boroughs; and providing immediate training to the correction officers on duty so they can identify detainees with medical problems and, at the least, take steps to have their cases expedited. Correctional Association representatives maintained that some form of round the clock coverage is the only true solution.

We all agreed to establish a subcommittee involving June Binney, John Maguire, and me that would meet independently and devise and propose appropriate responses. The group's first step would be to arrange a tour of the holding areas by June Binney and her people, so that they can see first hand the current conditions and be better able to formulate and apply workable and useful measures.

## Food

We were very disappointed that \_\_\_\_\_ was not present at the meeting and hope that \_\_\_\_\_ does attend our next session. The food problems in the pens will be solved only if the issue is a DOC priority and it will become a priority only if \_\_\_\_\_ is directly and fully involved.

Her staff person reported that, as promised, the cycle menu was instituted in the pens on October 1st, meaning that the meals will now consist of rotating sandwiches of cheese, peanut butter, bologna, and salami. We all agreed that the whole process of ordering food supplies, making the meals, and delivering the food had to be monitored carefully and regularly to ensure that freshness was maintained and that servings were adequate -- on their last visit Correctional Association members had seen sandwiches with nothing in between the slices of bread. The question still remains: Who will do the monitoring?

John Maguire is still suppose to join with Victoria in preparing a memo giving us all an overview of the meal preparation and delivery process and DOC's plans to improve matters at each stage. Such a document will be very useful to all of us as we consider potential solutions. We hope it will be made available in advance of our next meeting.

Dr. Machelie Allen, a Correctional Association representative, raised a particular concern that you and others agreed had to be addressed: the special nutrition needs of pregnant women confined both in the pre-arraignment and jail cases pens. Dr. Allen pointed out that the deficient diet in the pens can harm the fetus and, therefore, must be supplemented at least for these women.

### Maintenance

During our last trip to the pens, we noted that many toilets and sinks were inoperable. So we were very encouraged to hear John Maguire and Katie Lapp state that DOC had approved assigning a full-time maintenance person to each of the four court pens units. All that remains to finalize this change is the sign-off from the Office of Management and Budget whose approval should be forthcoming by next month. The new staff will enable the officers in charge to arrange for repairs to the toilets and sinks which are constantly breaking down in each borough facility.

### Go-Back Transportation

During the Correctional Association's last visit to the Manhattan pens, we saw severe crowding -- the worst we had seen in a year -- in the male go-back cells that confine detainees who have seen a judge and are waiting to be bused back to their regular jail cells. The holding area was wall to wall people with hardly any room to move, no less to sit. The inmates were frustrated and angry, so we were not surprised to learn from a DOC Captain that some detainees one recent night had started a fire outside their pen. This same captain reported that jail cases detainees are sometimes kept in Manhattan till 3 or 4 AM and then have to be brought in the next day for a court appearance. We learned, too, that because of staff cuts, DOC could not make use of all available space and, therefore, had to jam the go-back detainees into the 1 or 2 cells which could be guarded by a reduced corps of correction officers. We also saw a memo from the executive officer in Manhattan to DOC's transportation director complaining about this situation because of the peril it breeds for inmates and staff and because of the extra expense involved due to overtime costs for correction officers.

In response to our presentation of these problems, your staff cited some improvements in DOC's go back transportation effort. Marty Murphy said that the responsibility for fixing DOC's buses had been centralized, thereby expediting the repair process and putting the vehicles back on the road more quickly. John Maguire mentioned that he reached an understanding with DOC's transportation unit restoring bus 'runs' from the courts to the jails. These steps have obviously not been enough to eliminate problems and you gave John the specific charge of examining all these circumstances more closely and developing other remedies.

We also discussed the strategy of staggering judicial calendars as a way of controlling the numbers of detainees coming to the courts and of reducing population pressures in the pens. You stated that the newly created task force on court case processing was examining this approach. Correctional Association representatives reported that on the day of their last visit to the court pens, September 26th, 32 out of 169 Brooklyn Supreme Court cases were not seen by judges -- that's nearly 20%.

### Phones

John Maguire said the posters stating central office policy on phone use in the pens were ready and would be distributed to each borough unit. They will be placed strategically throughout the holding areas, so that correction officers and prisoners will clearly understand when and how -- as regularly as possible -- phones will be made available to detainees. We will be very pleased to see these

posters because, during our last trip to the Manhattan pens, we saw again that prisoners had insufficient access to the phones.

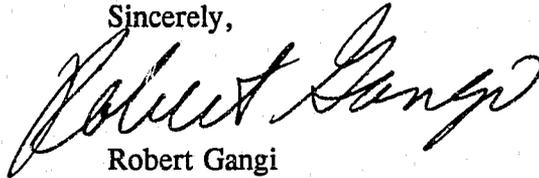
Sanitation

During the Correctional Association's last tours, we noted the difference in sanitary conditions in the Brooklyn and Manhattan pens. In the former borough, garbage bags or cans were attached to or placed in front of every cell and the holding areas were mostly clean. In the latter borough, where there is no consistent and/or clear practice regarding sanitation, the pens areas were mostly filthy, with debris scattered about everywhere and reports of mice in the women pre-arraignment space. As we have stated previously, DOC should have policies in place, based on the Brooklyn model, giving directions to local personnel about regular clean-up and pest control treatments.

On behalf of the Correctional Association, let me say again that we greatly appreciate your commitment to the process of improving conditions in the pens. We are sometimes frustrated by the slowness of it all, as we are sure that you are too. We were particularly impressed this time with your willingness to work with John Maguire on bringing to the Manhattan pens new leadership to implement some of the improvements there that the executive officer in Brooklyn has instituted in his unit.

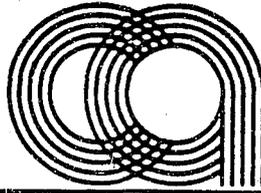
We look forward to our next meeting on Thursday, December 5th at 3:00 PM.

Sincerely,



Robert Gangi  
Executive Director

RG/cj



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January 25, 1993

Ms. Catherine Abate  
Commissioner  
NYC Department of Correction  
60 Hudson Street  
New York, NY 10013

Dear Commissioner Abate:

As the enclosed op ed indicates, Correctional Association representatives are encouraged by the response of your office to the problems in the court pens. While serious difficulties remain that must be resolved, we are pleased that the Department has made the pens a priority and that it has enacted positive reforms.

To the best of my recollection, the following represents the sum and substance of the discussion that took place at our January 6th meeting.

**The Correctional Association's Last Trip**

Correctional Association representatives began the session by reporting on their last trip to the pens on December 10th. We expressed concerns, reflected in the enclosed letter to Deputy Commissioner Jeremy Travis, about Police Department practices in running the pre-arraignment pens in Brooklyn that represented, in effect, violations of previous agreements we had arranged with the City: detainees there were no longer provided regular access to the phones; women inmates were not given milk at each meal; and detainees' medical needs were going unattended.

We also recounted that, although conditions in Manhattan continued to substantially improve, there were still problems marring the operations there, such as the persistent crowding, lack of health care, insufficient and inadequate food, and delays in transporting inmates back to the jails. Chief of Operations Marron Hopkins and you agreed to address some of these matters and also reported on the plan to bring the commanders of the other court pens units to Manhattan to observe first-hand the truly commendable accomplishments in that borough facility. You promised to encourage the heads of all holding facility areas to replicate, in their own form and fashion, the Manhattan improvements. As you know, the Correctional Association believes that the Department can and must achieve similar changes systemwide.

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### Training and Orientation

Correctional Association representatives presented their responses to the training curriculum that the Department had prepared for staff assigned to the court pens. We suggested generally that more time than is now planned be spent on interpersonal communications and specifically that correction officers be given instructions regarding such practical situations as feeding detainees who, because of transportation vagaries, miss meals; expediting the arraignments of detainees who seem ill or injured and need medical care; informing inmates, on a clear and regular basis, that phones are available.

Much to our gratification, you seemed open to our proposals and committed the Department to instituting the training program as soon as possible. You requested that Captain Brendan Kearney set up a meeting between Fred Patrick, acting director of the Department's Training Academy, and me, so that I can directly discuss the Correctional Association's recommendations about the current curriculum.

### Maintenance and Sanitation

You indicated that the Department had received '30-40%' of what it had sought in a new needs request from the Office of Management and Budget (OMB) to cover the costs of extra correction officers and sanitary supplies required to supervise and equip inmate clean-up cadres who would work in the court pens. You said that the new resources allotted were sufficient for now for the Department's purposes and that your objective was to make every court pens area in the City as clean and as well-maintained as the Manhattan unit. You stated, too, that the Department would monitor the situation and, if it determined more funds were needed, it would apply for them, in time, from OMB.

### Health Care

There are still no medical services in the court pens. But Roger Parrish, the Department's Assistant Commissioner for Health Affairs, reported progress in this area: the Department of Health and the Office of Operations had developed a screening questionnaire for detainees and were close to establishing, on a pilot project basis, a medical screening program in the Manhattan central booking facility. When we asked him about the specifics of the pilot program, Roger related that his sources in City government thought that the Correctional Association would be pleased with the plan and that it contained the essential elements of the Philadelphia model and that, if it were deemed successful, it would be replicated in other borough facilities. Needless to say, Correctional Association representatives were very pleased to hear this news and eagerly await the actual implementation of the plan.

Food

Despite appropriate directions from City Hall and the Department's central office, cycle menus have still not materialized with any consistency in the court pens. Chief Hopkins promised to follow up this issue and to make sure that the wardens responsible for seeing to the delivery of cycle menu diets to the pens actually carried out the task. We were gratified with the Chief's forthrightness in this matter and look forward to observing the fruits of his determined supervision on one of our next visits to the pens.

Go-Back

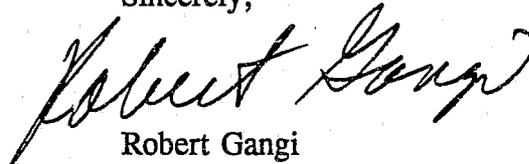
You stated that the go-back situation -- which includes detainees who had their court appearance being jammed tightly into cells late into the night -- would unfortunately remain problematic primarily because of the lack of buses available to the Department. You expected some improvement later in the year when the new, automated inmate tracking system comes on line in February and when 36 new buses are added to the Department's fleet over the summer. The inmate tracking system is a particularly exciting development because it should enable the Department to monitor prisoner movement more accurately, to identify the inevitable glitches more rapidly, and to route buses more efficiently. If this new system works as well as described, it could become the linchpin in efforts to establish and successfully coordinate and operate a staggered and/or split calendar for processing the City's court cases.

Let me renew, in closing, the Correctional Association's expression of appreciation for the energy and resources that the Department is devoting to ameliorating the terrible problems in the pens.

We look forward to continuing to work with you on these concerns and to our next meeting on Thursday, March 4th @ 10:00 A.M.

Thank you for your consideration.

Sincerely,



Robert Gangi  
Executive Director

RG/lad

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