

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JAMES BENJAMIN, MIGUEL GALINDEZ, BRUCE HAYES,
JOSE SALDANA and ROBERT ESCHERT, detainees of
the New York City House of Detention for Men,
individually and on behalf of all other persons
similarly situated,

Plaintiffs, : 75 Civ. 3073
(MEL)

-against-

BENJAMIN J. MALCOLM, Commissioner of Correction : CONSENT ORDER
of the City of New York; ARTHUR RUBIN, Warden,
New York City House of Detention for Men; :
GERARD BROWN, Deputy Warden, New York City
House of Detention for Men; and ABRAHAM D. BEAME, :
Mayor of the City of New York, individually and :
in their official capacity, :

Defendants. :

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Plaintiffs having brought this action on June 24, 1975,
challenging certain conditions of confinement and practices at
the New York City House of Detention for Men on Rikers Island (HDM)
as violative of their rights under the United States Constitution;
and defendants having denied that plaintiffs' rights under the
Constitution have been violated; and the Court having certified
this case as a class action on September 26, 1975, the class
consisting of all detainees who are or will be incarcerated at
HDM; and the parties having agreed that it is in the best
interests of all parties that certain interim issues concerning
the provision of telephone service to members of the plaintiff
class be resolved without further litigation; and the attorneys
for the plaintiffs and the defendants herein having entered
into a Stipulation of Settlement for Proposed Consent Order on
Telephone Service, dated September 22, 1978, the original of
which has been filed with this Court;

Now, upon the Stipulation of Settlement for Proposed Consent
Order on Telephone Service, it is hereby

ORDERED, that

1. Defendants shall have telephones installed and made operative in each housing area of HDM, including each housing area of the annex known as C-71 where pre-trial detainees are housed, by October 16, 1978. At least one telephone shall be provided for every thirty inmates.

2. Defendants shall situate each telephone so as to afford each member of the plaintiff class privacy when placing telephone calls and, in no event, except under lawful warrant, shall defendants listen to or monitor any telephone call of any detainee.

3. Defendants shall permit each member of the plaintiff class to make at least one completed local call (to area code 212, and to the local call sectors of area codes 516 and 914) every day; such calls shall be permitted during all lock-out periods. In addition, defendants shall allow each detainee to make one completed call upon his admission to the institution and to make emergency calls. All such calls shall be provided free of cost to the detainee.

4. Within twenty-four hours of a detainee's request, and with no additional conditions imposed by defendants, those detainees who wish to place long distance calls shall be permitted to do so. Long distance calls shall be made collect, except that for a period of at least three months subsequent to the entry of this order, when a detainee is unable to complete a long distance call because the party called will not accept the charges, the detainee shall, within 24 hours thereafter, be permitted to place the call at his own expense, provided that in an emergency, a detainee shall be permitted to make a long distance call by whatever means feasible, as expeditiously as possible without the need for advance notice as provided above.

5. If, after three months, defendants do not retract the policy of allowing long distance calls at detainees' expense, it shall become a permanent practice. In the event that defendants decide to require that all long distance calls be made collect, they will provide plaintiffs' counsel with prior notice of their decision, and the reasons therefor, and with documentation of the problems caused by the placing of calls at detainees' expense. Further, in the event that defendants decide to require that all long distance calls be made collect, nothing in this agreement shall prejudice the right of plaintiffs to litigate the constitutionality of that practice; and it is further

ORDERED, that nothing in this order resolves the issues of whether detainees shall be allowed use of the telephones beyond one call per day, or the permissible length of their calls, or whether detainees shall be permitted to receive incoming calls, and, in the event that these issues cannot be resolved, the parties reserve the right to litigate them; and it is further

ORDERED, that this Court shall retain jurisdiction over the terms of this order and that plaintiffs' counsel shall bring any matter to the attention of the defendants' counsel before instituting formal enforcement proceedings; and it is further

ORDERED, that counsel for plaintiffs shall prepare notice to the plaintiff class incorporating the terms of this order and shall deliver a sufficient number of copies of the notice to the wardens of HDM and the annex known as C-71 for distribution. The wardens of HDM and the C-71 annex shall cause a copy of this notice to be given by hand to each present de-

tainee and to be kept posted in each dayroom, the library and other common areas of HDM and C-71.

✓ Dated: New York, New York
OCTOBER __, 1978

Wm. H. L. L.
UNITED STATES DISTRICT JUDGE

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