

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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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,

PROPOSED ORDER

-against-

75 Civ. 3073  
(M.E.L.)

BENJAMIN J. MALCOLM, Commissioner of  
Corrections of the City of New York;  
ARTHUR RUBIN, Warden, New York City  
House of Detention for Men; GERALD  
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 capacities,

Defendants.

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The Court having entered Orders dated July 2, 1981  
and August 20, 1981 which joined the Governor of the State  
of New York and the State Commissioner of the Department of  
Correctional Services as defendants and which required them  
to accept custody of persons sentenced to State facilities  
within forty-eight hours after the papers necessary for  
their transfer have been completed, and the City defendants  
having moved on September 15, 1983 on the affidavits of  
Benjamin Ward dated September 15, 1983 and September 23,  
1983 and John Keenan, dated September 15, 1983 to modify the

Order of August 20, 1981 to require the State defendants accept in addition immediate custody of all persons convicted of A and B felonies, all persons convicted of C, D and E felonies who receive definite sentences of one year or less, all parolees held by the City, and all State inmates who are presently in City facilities because they are defendants, witnesses or petitioners in judicial or administrative proceedings ("out-to-court inmates"), and the State defendants having appeared in opposition thereto submitting an affidavit of Thomas A. Coughlin III, dated September 29, 1983, and the City defendants having submitted a reply affidavit of Benjamin Ward, dated September 30, 1983, and the plaintiffs having taken no position on the motion; and

The Court having considered the affidavits submitted and having heard argument; and

The Court having found, by oral decision read into the record on October 5, 1983, that it is appropriate for the Court to consider the City defendants' motion and, upon consideration, that the circumstances are such as to justify a limited form of relief; that New York State Correction Law, Section 504(2) authorizes the State defendants to assist in the solution of the City's present problem; that it would not impose an unreasonable burden upon the State defendants to take custody of out-to-court inmates; that

there is space at the Long Island Correctional Facility ("LICF"); that LICF appears to be relatively secure; that the order of Joseph B. Williams, Administrative Judge of the State of New York, dated August 30, 1982, recognizes to some extent the appropriateness of providing that out-to-court inmates be held in the custody of the State; that the State as well as the City is faced with dire problems with respect to accommodating inmates; and

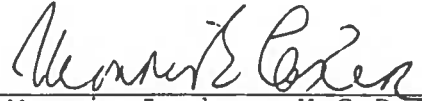
The Court having granted the City defendants' motion with respect to out-to-court inmates in its oral decision on October 5, 1983, it is hereby

ORDERED that, in pursuit of New York State Correction Law, Section 504(2) and because of the unique emergency which exists in the New York City jail system, the Hon. Mario Cuomo and Thomas A. Coughlin III, commencing October 17, 1983, accept custody at LICF of all out-to-court inmates who are being held in New York City correctional facilities up to a maximum number of one hundred and fifty, and continue to maintain custody at LICF, and to house at LICF, all out-to-court inmates, up to a maximum of one hundred and fifty, for such period of time only as LICF is being used as a state correctional facility, unless this Order is modified by this Court. Nothing contained herein shall prejudice the rights of the City defendants to renew

their motion in the event LICF ceases to be used as a  
correctional facility, and it is further

ORDERED that it shall be the responsibility of the  
City of New York to provide transportation for these inmates  
to and from LICF and the courts.

Dated: New York, New York  
October 14, 1983

A handwritten signature in dark ink, appearing to read "Morris Lasker", written over a horizontal line.

Judge Morris Lasker, U.S.D.J.

