

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
UNITED STATES COURTHOUSE

NEW YORK, NY 10007

CHAMBERS OF
JUDGE MORRIS E. LASKER

FIRE - 93/89
ORDER - 93/35

December 17, 1993

TO: All Counsel

RE: Benjamin v. Malcolm, 75 Civ. 3073 (MEL)
and consolidated cases

I have today signed and filed the ORDER
RE: FIRE SAFETY IMPROVEMENTS AND SCHEDULE FOR
CLOSURE OF WOOD FRAMED MODULAR HOUSING UNITS
contained in Mr. Boston's letter of December 13th.

Very truly yours,

Morris E. Lasker

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
JAMES BENJAMIN, et al.,

Plaintiffs,

75 Civ. 3073
(MEL)

- against -

BENJAMIN J. MALCOLM, et al.,

Defendants.
-----X

ERNESTO MALDONADO, et al.,

Plaintiffs,

76 Civ. 2854
(MEL)

- against -

WILLIAM CIUROS, JR., et al.,

Defendants.
-----X

DETAINEES OF THE BROOKLYN HOUSE OF
DETENTION FOR MEN, et al.,

Plaintiffs,

ORDER RE: FIRE SAFETY
IMPROVEMENTS AND
SCHEDULE FOR CLOSURE
OF WOOD FRAMED MODULAR
HOUSING UNITS

- against -

BENJAMIN J. MALCOLM, et al.,

Defendants.
-----X

DETAINEES OF THE QUEENS HOUSE OF
DETENTION FOR MEN, et al.,

Plaintiffs,

79 Civ. 4914
(MEL)

- against -

BENJAMIN J. MALCOLM, et al.,

Defendants.
-----X

-----X

IOLA FORTS, et al.,

Plaintiffs,

76 Civ. 101
(MEL)

- against -

BENJAMIN J. MALCOLM, et al.,

Defendants.

-----X

GUY ZEPH AMBROSE, et al.,

Plaintiffs,

76 Civ. 190
(MEL)

- against -

BENJAMIN J. MALCOLM, et al.,

Defendants.

-----X

The Department of Correction has in the past decade installed a number of temporary wood framed modular housing units. The Department's staff and consultants, the Office of Compliance Consultants, and plaintiffs' counsel have identified a variety of structural, environmental health, and fire and life safety-related hazards in these buildings. In connection with the parties' negotiations concerning fire safety issues, and to enhance the safety of the plaintiff class, the Department has determined that certain of these wood framed modular housing units shall be closed and replaced, and that those that will be kept open past mid-1994 shall be provided with necessary fire safety improvements. A list of the affected housing units is annexed as Attachment A to this order.

This order is intended to ensure that the Department's commitments with respect to these housing units are carried out in a timely fashion. This order is without prejudice to any argument that other deficiencies not addressed by the terms of this order and not now before the court may require additional corrective measures or a different schedule of closure for any wood framed modular housing unit, or that experience shows that implementation of the terms of this order is inadequate to guarantee an acceptable level of safety for the plaintiff class.

It is hereby ORDERED that:

1. No wood framed modular housing unit shall be occupied by inmates except in compliance with the conditions and the schedule set forth in this order.

2. The defendants shall forthwith seek from the Comptroller of the City of New York any declaration of emergency that may be necessary in order to comply with the time deadlines set forth in this order.

3. The defendants shall ensure that in each wood framed modular housing unit, all egress doors are openable at all times by an electric lock connected to the jail's primary and emergency power systems. This task shall be accomplished in all jails no later than December 21, 1994.

4. The defendants shall ensure that each wood framed modular housing unit possesses a functioning fire alarm which transmits alarms to a centrally monitored fire alarm station.

This task shall be accomplished in accordance with the following schedule:

Anna M. Kross Center	October 17, 1994
All other jails	January 17, 1995

5. The defendants shall install remote door position indicator alarms in the facility's central control room to insure that facility supervisors are informed in the event that remote exit doors of any wood framed modular housing unit are opened. This task shall be accomplished in all jails no later than January 17, 1995.

6. The defendants shall install functioning smoke detectors or heat sensors in each wood framed modular housing unit. This task shall be accomplished in accordance with the following schedule:

Anna M. Kross Center	October 17, 1994
All other jails	January 17, 1995

If the defendants elect to install smoke detectors, they shall submit to the Office of Compliance Consultants and plaintiffs' counsel no later than May 31, 1994 a maintenance plan and schedule designed to ensure the continuous operability of all smoke detectors.

7. The defendants will install an automatic "dry" sprinkler, and pre-action system not dependent on human intervention, in each wood framed modular dormitory and each corridor connecting a wood framed modular dormitory to the main facility. This system will be activated by heat sensors or by the fire alarm signal in each modular housing area or by such other method

as will provide an equivalent degree of safety and protection. This task shall be accomplished in accordance with the following schedule:

Anna M. Kross Center October 17, 1994

All other jails January 17, 1995

8. Defendants shall provide to the Office of Compliance Consultants and plaintiffs' counsel their detailed plans and specifications for implementing the foregoing fire safety enhancements no later than January 31, 1994.

9. The defendants shall carry out and maintain, in connection with each wood framed modular housing unit, additional staff patrols providing an equivalent degree of surveillance and safety to the "Fire Watch" procedures now in effect at the Anna M. Kross Center pursuant to Order No. 19-93, Facility Fire Watch Posts, and the "Exterior Fire Response Patrol" procedures now in effect pursuant to the Interdepartmental Memorandum of May 24, 1993, from Deputy Warden Thomas M. Burke, until such time as the foregoing fire safety improvements are in place at that housing unit. These procedures are annexed as Attachments B and C. In particular, the fire watch patrol procedures shall require a complete tour of inspection of all wood framed modular housing units every hour, or more frequently if so required by the Fire Department; shall provide continuous staff coverage on all tours of duty; shall provide each fire watch officer with a portable radio; shall provide that fire watch officers shall not be utilized for other assignments and that no cross reliefs will be permitted; and shall provide for a continuous exterior fire response patrol.

10. The following modules at the Anna M. Kross Center shall be permanently closed consistently with the following schedule. This order is without prejudice to an application to convert any of these modules to program space conditioned on the addition of the necessary fire safety improvements consistent with this order, and on the correction of any other structural or environmental deficiencies that violate prior consent decrees or other orders of this court in this consolidated litigation.

Designation		
Dept. of General Svcs.	Dept. of Correction	Date
F	Module 1	Already closed
L	Module 2	July 1, 1994
M	Module 3	July 1, 1994
Q	Module 4	July 1, 1994
R	Module 5	July 1, 1994

11. The following modules at the Adolescent Reception and Detention Center shall be permanently closed consistently with the following schedule. This order is without prejudice to an application to convert any of these modules to program space conditioned on the addition of the necessary fire safety improvements consistent with this order, and on the correction of any other structural or environmental deficiencies that violate prior consent decrees or other orders of this court in this consolidated litigation.

Designation

Dept. of General Svcs.	Dept. of Correction	Date
V	Module 9	Already closed
W	Module 7	Already closed
X	Module 5	July 31, 1995

12. The following module at the George Motchan Detention Center shall be permanently closed consistently with the following schedule. This order is without prejudice to an application to convert any of these modules to program space conditioned on the addition of the necessary fire safety improvements consistent with this order, and on the correction of any other structural or environmental deficiencies that violate prior consent decrees or other orders of this court in this consolidated litigation.

Designation

Dept. of General Svcs.	Dept. of Correction	Date
H	Module 4	September 9, 1994

13. If the above listed wood framed modular housing units, or any of the other wood framed modular housing units listed in Attachment A to this order, are replaced, their replacements shall consist of permanent structures made of construction material approved by the Building Code incorporating the recom-

mendations of the Fire Department. No additional wood framed modular housing units shall be utilized for the housing of the plaintiff class in the future.

14. The terms of this order shall be enforceable through the provisions of the Order re: Compliance with Work Plan Deadlines, signed by this court on July 10, 1992, and all time deadlines in this order shall be considered to be "work plan deadlines" within the meaning of the Order re: Compliance with Work Plan Deadlines.



Dated: New York, New York
December ____, 1993

U.S.D.J .

ATTACHMENT A

Facility	Designation Dept. of General Svcs.	Dept. of Correction
Anna M. Kross Center	F	Module 1
	L	Module 2
	M	Module 3
	Q	Module 4
	R	Module 5
	DD	Module 6
	VV	Module 9
	OO	Module 11
	PP	Module 12
Adolescent Recep- tion and Detention Center	V	Module 9
	W	Module 7
	X	Module 5
	EE	Module 8
	FF	Module 6
	UU	Module 1
George Motchan Detention Center	H	Module 4
	GG	Module 11
	HH	Module 12
	JJ	Module 8
	KK	Module 9
	II	Module 10
	C73-1	Modules 13 and 14
	C73-2	Modules 15 and 16

ATTACHMENT B

	THE CITY OF NEW YORK CORRECTION DEPARTMENT		COMMAND LEVEL ORDERS <input type="checkbox"/> ADMINISTRATION <input checked="" type="checkbox"/> SECURITY <input type="checkbox"/> OPERATIONS <input type="checkbox"/> PROGRAMS	
	ANNA M. KROSS CENTER			
DISTRIBUTION ALL PERSONNEL CONCERNED	ORDER NBR. 19 - 93	<input checked="" type="checkbox"/> NEW <input type="checkbox"/> REVISED	PREPARED BY (Type name & Title) THOMAS M. BURKE DEPUTY WARDEN FOR SECURITY	
SUBJECT FACILITY FIRE WATCH POSTS			SIGNATURE (Preparer) <i>Thomas M. Burke</i>	
AUTHORIZED BY COMMANDING OFFICER (Type Name) WARDEN ARNETT P. GASTON, Ph.D.			SIGNATURE (Commanding Officer) _____	

In order to ensure the swift identification and alleviation of potential fire hazards within the Anna M. Kross Center, the following Fire Watch positions have been established:

POST NUMBER:	ASSIGNED AREAS OF RESPONSIBILITY:	TOUR OF DUTY:	PORTABLE RADIO CALL LETTERS	NYC SER
546A (T)	DORMS 1 & 2 (TOPS/UPP/MAINS)	ALL TOURS	FW - 1	98
546B (T)	DORMS 3 & 4 (TOPS/UPP/MAINS)	ALL TOURS	FW - 2	98
546C (T)	MODS #1-#10-#11-#12	ALL TOURS	FW - 3	98
546D (T)	QUADRANT BLD #1 / DORM C71	ALL TOURS	FW - 4	98
546E (T)	QUADRANT BLD #2 / MODS #4-#5	ALL TOURS	FW - 5	98
546F (T)	QUADRANT BLD #3 / MODS #2-#3-#9	ALL TOURS	FW - 6	98
546G (T)	QUADRANT BLD #4 / MODS #7-#8	ALL TOURS	FW - 7	98
546H (T)	QUADRANT BLD #5 / MOD #6	ALL TOURS	FW - 8	98

The following supplementary positions have also been established:

POST NUMBER:	ASSIGNED AREAS OF RESPONSIBILITY:	TOUR OF DUTY:
546N (T)	FIRE WATCH MEAL RELIEFS	245 x 1116 / 1145 x 2016 Hours
546P (T)	FIRE WATCH MEAL RELIEFS	245 x 1116 / 1145 x 2016 Hours

The following policies and procedures will govern these Fire Watch Positions

1. Each Fire Watch Officer will be required to make a complete tour of inspection of their assigned area of responsibility every hour (on the hour). After inspecting a Housing Area, they shall make log entries in the area logbook that denotes their findings. These entries should reflect any fire hazards found and what corrective action was taken (notification work orders/etc.) by the Fire Watch Officer.

2. During the aforementioned tours of inspection inside each housing area, each Fire Watch Officer should be attentive to the following fire safety issues:

- ATTACHMENT 2
- a). Inmates accumulating excessive amounts of bedding or lin magazines and/or papers, garbage, etc.
- b). Inmates failing to comply with mandated "NO SMOKING" procedures while sitting/lying on their bed.
- c). Exposed electrical wiring or other hazardous situation.
- d). Status of Fire Safety items, such as:
- Fire Extinguishers charged, properly tagged and inspected
 - Fire Alarm Pull Boxes accessible via key;
 - Fire Bells intact;
 - Standpipes & Firehose accessible via key;
 - A.M.K.C. Fire Evacuation Plan on-post in Officer's Station
 - Housing Area Fire Evacuation Schematic ("YOU ARE HERE" in Place;
 - Fire Exit Signs Visible;
 - Fire Exit Doors/Locking Cylinders unimpaired by inmate vandalism.
- e). Any other Fire Safety responsibilities delegated by the Deputy Warden for Security.

Any hazardous condition that can not be rectified will be reported to Maintenance Shop (extension 2309) during normal business hours. Other than the repair will be the subject of a work order, deposited in the Central Control Room Maintenance Dropbox at the end of the tour of duty.

3. Each Fire Watch post will be equipped with a Motorola Saber Portable radio. These radios will be utilized only for Fire Safety-related communications. In addition, upon completion of the hourly tours of inspection, they will communicate this information with the Central Control Room in the following manner:

"FW - 5 TO CENTRAL CONTROL ROOM...TOUR OF INSPECTION
COMPLETED IN QUADRANT BUILDING NUMBER #2 AND MODULARS #4-#5"

Entries will be made in the Central Control Room Logbook denoting the completion of these tours.

4. With the exception of a meal period, no Fire Watch Officer will absent themselves from his/her areas of responsibility unless authorized by the Area Tour Commander. Logbook entries will be made concerning all authorized absences. At the change of tour, Fire Watch Officers will remain in their sectors until properly relieved.

5. No Fire Watch Officer will be utilized for other assignments unless authorized by the Deputy Warden for Security. Any questions concerning the contents of this Institutional Order will be referred to the Deputy Warden for Security for resolution.

ATTACHMENT C

GOOAR INTERDEPARTMENTAL MEMORANDUM DEPARTMENT OF CORRECTION
ANNA M. KROSS CENTER SECURITY OFFICE

DATE : 24.May.1993
TO : All Personnel Concerned
FROM : Thomas M. Burke, Deputy Warden for Security (A.M.X.C.)
SUBJECT: EXTERIOR FIRE RESPONSE PATROL
re - MODULAR HOUSING AREA

1. Effective 1500 Hours on Friday, May 24, 1993, the Anna M. Kross Center will institute a motorized Exterior Fire Response Patrol around the outside perimeter of all Modular Housing Areas of this facility. This patrol will be manned on all tours of duty/seven days a week. It will be equipped with a Motorola Portable Radio, with the call signal of :

"EFR-1"

and be equipped with a belt containing a set of keys for an Exterior Fire Response/Evacuation for all Modular Housing Areas.

2. Submitted are the duties and responsibilities of the Exterior Fire Response Patrol Officer:

a). This Officer will make continuous tours of the facility in the assigned vehicle.

b). All Modular Housing Areas have been grouped into reporting "zones" for the purpose of radio-communication -

<u>ZONE</u>	<u>MODULAR HOUSING AREAS</u>
ZONE "K-E-D"	MODULARS #1-11-12
ZONE "B-L-U-E"	MODULARS #6-7-8-2-3-9
ZONE "O-R-A-N-G-E"	MODULARS #4-5-10"

c). Using these designated reporting "zones", the Officer assigned to the Exterior Fire Response Patrol will communicate with the Central Control Room via portable radio after completing a patrol in that area, i.e.

"EFR-1 to Central Control Room...Perimeter Patrol
completed in Zone R-E-D"

600AR INTERDEPARTMENTAL MEMORANDUM DEPARTMENT OF CORRECTION
ANNA M. KROSS CENTER SECURITY OFFICE

d). In the event of an activation of a Code "10-59" Fire Response to any Modular Housing Area, the Central Control Room Supervisor will communicate with the Exterior Fire Response Patrol and direct the vehicle to respond to the Main Entrance of this facility to "pick-up" the Exterior Fire Response Team and take them to the affected area. The Officer assigned to the Exterior Fire Response Patrol will only transport the Exterior Fire Response Team to the area, and will not enter the affected area unless ordered by the Facility Fire Chief.

3. The Exterior Fire Response Patrol will not be utilized for any other duties except for those delineated in this memorandum; all questions concerning the contents of this memorandum will be referred to the Office of the Deputy Warden for Security.

Thomas M. Burke
Thomas M. Burke
Deputy Warden for Security
(A.M.K.C.)