

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JAMES BENJAMIN, et al., :
Plaintiffs, : 75 Civ. 3073
-against- : (MEL)
BENJAMIN J. MALCOLM, et al., :
Defendants. :
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ERNESTO MALDONADO, et al., :
Plaintiffs, : 76 Civ. 2854
-against- : (MEL)
WILLIAM CIUROS, Jr., et al., :
Defendants. :
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DETAINEES OF THE BROOKLYN HOUSE :
OF DETENTION FOR MEN, et al., :
Plaintiffs, : 79 Civ. 4913
-against- : (MEL)
BENJAMIN J. MALCOLM, et al., :
Defendants. :
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PROPOSED ORDER

DETAINEES OF THE QUEENS HOUSE :
OF DETENTION FOR MEN, et al., :
Plaintiffs, : 79 Civ. 4914
-against- : (MEL)
BENJAMIN J. MALCOLM, et al., :
Defendants. :
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IOLA FORTS, et al., :
Plaintiffs, : 76 Civ. 101
-against- : (MEL)
BENJAMIN J. MALCOLM, et al., :
Defendants. :
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Plaintiffs having moved by Order to Show Cause for
preliminary relief from overcrowding in aid of this Court's
jurisdiction to enforce a) partial final judgments in the

above-captioned cases, b) this Court's September 3, 1980 Order reducing the population in the House of Detention for Men on Rikers Island ("HDM"), and c) the orders eliminating double-celling in each of the City's pre-trial detention facilities, and in order to prevent further deterioration of conditions which are at issue in the above-captioned lawsuits; and

the Court having found that overcrowding in the subject facilities is causing violations of the above orders and having issued an Order on April 13, 1981, which required, inter alia, that defendants cease housing members of the plaintiff classes in non-housing areas such as dayrooms and receiving rooms and that they open, staff, and utilize supplementary service facilities in the HDM annexes known as C-95/C-71, and which reserved for decision the issue of overcrowding in the dormitories of the subject facilities; and

the Court now having considered further submissions of and argument by the parties, as well as the New York City Board of Correction, regarding appropriate population levels in the dormitories, and defendants having acknowledged that overcrowding in dormitories has brought the inmate population substantially in excess of capacity, and having submitted a proposal for the reduction of dormitory population to ensure inmate safety and services and to meet minimum constitutional requirements; it is hereby

ORDERED that defendants:

1) shall employ all available measures in a good faith, concerted effort to reduce dormitory overcrowding in advance of and through the summer months and, at weekly

conferences of the parties and the Court, defendants shall report what efforts they have made and the results, if any, in reducing dormitory population;

2) by no later than August 1, 1981, shall reduce the dormitory population in the subject facilities in the following manner:

- a) in C-95 and C-76, the population of each dormitory housing detainees, including the detoxification dormitory and others housing special groups of detainees, shall not exceed 50 inmates, ~~so that~~ each inmate is afforded between 66 and 76 square feet of housing space;
- b) in the New York City Correctional Institution for Women, each detainee in a dormitory shall be afforded no less than the 70.5 square feet of housing space per inmate which is currently available;
- c) in dormitories in all other facilities housing detainees, including the Queens House of Detention and the Adolescent Remand and Detention Center and any modular annexes to that facility, each dormitory housing detainees shall afford each inmate no less than 60 square feet of housing space; and

3) shall, subsequent to August 1, 1981, continue to employ all available measures in a good faith, concerted effort to reduce detainee dormitory populations in each of the subject facilities so that each detainee in a dormitory is afforded 75 square feet of housing space, the requirement embodied in the standards of the New York City Board of Correction and the State Commission of Correction, which defendants have acknowledged they strive to meet and maintain; and it is further

ORDERED, that if compliance with this ORDER requires a reduction in detainee population, the Commissioner of Correction is directed to release on their own recognizance the persons held

in default of the lowest amount of bail, and among persons held on the same amount of bail the ones who have been confined for the longest time, provided that any New York court of competent jurisdiction may specify a different method of selecting the persons to be released; and it is further

ORDERED, in addition to the weekly information regarding dormitory population required by the Court's Order of April 13, 1981, defendants shall provide the Court and plaintiffs' counsel, each week, with copies of any reports which are filed in the course of that week regarding unusual incidents in any of the dormitories in the subject facilities; further, defendants shall provide the Court and plaintiffs' counsel with reports regarding their efforts to afford plaintiffs in dormitories increased privacy, living and eating space, and furnishings in which personal property can be securely stored, *as well as their efforts at classifying detainees who are housed in dormitories so as to ensure their safety and security.*

Nothing in this Order shall be construed as relieving defendants of their obligations to provide essential services to and ensure the safety of each detainee; moreover, compliance with this Order shall not preclude plaintiffs from moving to enforce pre-existing orders; further

Nothing in this Order resolves, as a final matter, the question of the constitutionally appropriate population density or space allocation for detainees in dormitories or whether, as operated by defendants, dormitory housing for detainees is itself unconstitutional.

In the event that the failure of officials of the government of the State of New York to fulfill their responsibilities to remove "ready inmates" from the facilities operated by the defendants on a timely basis prevents the defendants from complying with the terms of this order, the defendants may move for a modification thereof. *REL*

Dated: New York, New York
June 23, 1981

Annelle Coker

U.S.D.J.