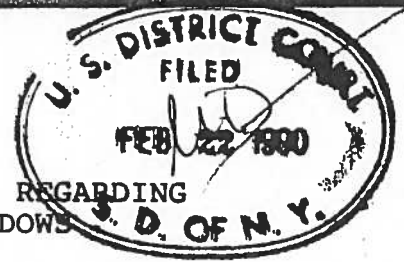


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
JAMES BENJAMIN, et al., :
 :
 Plaintiffs, :
 :
 -against- :
 :
 BENJAMIN J. MALCOLM, et al., :
 :
 Defendants. :
-----X

STIPULATION REGARDING
HDM WINDOWS

75 Civ. 3073 (MEL)



DOC 24

Defendants brought a motion, dated January 9, 1990, to modify this Court's Order of September 3, 1980, in which they sought, in order to replace or renovate the windows at the House of Detention for Men ("HDM" or "the James A. Thomas Center"), to close one housing block at a time and temporarily to raise the number of inmates housed in several other HDM housing blocks to 200 to accommodate the displaced inmates; plaintiffs opposed the motion in papers filed January 23, 1990 ; prior to decision of the Court the parties agreed to resolve the issues raised in defendants' motion and defendants agreed to withdraw their motion; therefore,

IT IS HEREBY STIPULATED by and between the undersigned attorneys for the parties, and subject to approval by the Court, that the following agreement be entered by consent as an order in this case:

9 00 AM

FEB 23 1990

1. Defendants agree to replace and/or renovate the HDM windows and, in order to do so, will close one housing block at a time.

2. During such renovation, but only for the months of February through June and October through November, 1990, where necessary to accommodate the inmates dislocated from the blocks undergoing renovation, defendants shall be permitted to increase the census of no more than three general population housing blocks, excluding Block 8, to no more than 200 inmates. In no event shall the institutional population exceed 1200.

3. In any housing block in which the census is increased beyond that now permitted by the Court's September 3, 1980 Order, defendants shall take the following measures:

a. No more than 100 inmates shall be housed on each side of the block.

b. No more than 20 inmates shall be housed on the third tier of each side and they shall be provided cells only in the front half of the tier.

c. Correctional staff shall be increased so that seven days a week, continuously from no later than 7:30 a.m. to 11 p.m., except during the afternoon lock-in period as provided in subparagraph (d) below, two officers are added to each side of the block, bringing the total block staffing to seven officers per block (excluding relief and escort officers). One of the additional officers on each side shall be assigned exclusively to patrol on a regular basis the second and third tiers and the stairways between them. The other additional officer on each

side shall have as his primary responsibility the supervision of inmates in the rear half of the main floor lock-out area. Post orders shall be written for these positions, which shall make clear that these officers are not to congregate in the front of the blocks. Copies of the post orders shall be provided to plaintiffs' counsel.

d. During the daily afternoon lock-in period that exists for the purpose of taking the facility count, the extra officer assigned to the rear half of the main floor lock-out area may be removed from the block for the purpose of assisting in a facility search only, and for no other reason. That officer may be removed from his block post for no more than one hour notwithstanding the possibility that the facility search may last longer. In no event shall inmates be kept locked in their cells beyond the normal lock-in time.

e. During the midnight tour, one officer shall be added to each block, bringing the total block staffing to at least three officers. At least one officer shall be assigned to each side of the block to supervise inmates and patrol regularly on all three tiers.

f. Defendants shall review the disciplinary records of all inmates on these blocks and of any inmate to be transferred to these blocks so as to assure, to the extent possible, that inmates who have an institutional history which reflects a stabbing, slashing or other assaultive or aggressive behavior that results in injury to staff or inmates, are not housed on these blocks.

g. An additional telephone and two additional shower heads will be installed on each side of the block.

h. Inmates in these blocks shall, every other night, be given at least one extra hour of indoor recreation or outdoor recreation where conditions permit (i.e. warm weather and evening daylight), in addition to their regularly scheduled recreation.

i. Prior to each block closing, defendants shall provide to the Office of Compliance Consultants ("OCC") and plaintiffs' counsel, notification of the block to be closed and the blocks to have their census increased.

4. Defendants shall maintain at least the same level of oversight by supervisory staff as now exists in HDM.

5. Programmatic schedules and services shall be modified appropriately, consistent with the plan attached to defendants' motion, so as to assure that all inmates continue to receive at least the same access to services that exists presently, before some blocks are closed and others have their census increased. Any changes in schedules shall be provided to plaintiffs' counsel and OCC.

6. From February through November 1990, defendants shall provide to plaintiffs' counsel, for each two-week period, the following documents relating to HDM : the daily CCC Reports; all Injury to Inmate Reports; all Unusual Incident Reports. These documents shall be provided no later than two weeks after the close of each two-week period.

7. If, at any time during the pendency of the terms of this Stipulation, plaintiffs have reason to believe that the rate of

violence on blocks housing a higher census pursuant to this Stipulation presents an unacceptable threat to the personal safety of inmates on those blocks, they shall be free to raise that issue before the OCC Director (Kenneth Schoen). After having heard the parties, considered their submissions and any other relevant evidence, the OCC Director shall render a decision, which shall be binding on the parties, as to whether the level of violence is unacceptably high and, if so, what measures, including reduction of the block populations, are appropriate to reduce the violence levels. The OCC Director's decision and recommendations shall be implemented promptly and fully except, as an alternative to any of the measures proposed by the OCC Director, defendants shall have the option of reducing the higher census blocks to their pre-Stipulation level.

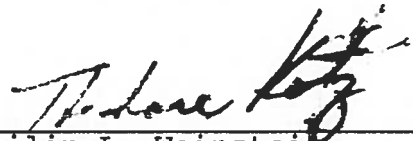
8. The parties shall, with the assistance of the OCC Director, select forthwith a correctional expert to evaluate the issue of violence at HDM (inmate/inmate and officer/inmate) and, if he/she finds it necessary, to make recommendations to help reduce the violence in the institution. The exact scope of the expert's work shall be agreed upon by the parties. Any disagreement by the parties shall be resolved by the OCC Director. Such expert shall be employed and paid by the Office of Compliance Consultants and shall work in cooperation with that office. The parties agree that the expert's report, findings and recommendations are strictly for the informal use of the parties, shall not be part of the record in this case and shall not be used in litigation.

9. By December 1, 1990, all HDM housing blocks shall have their census returned to the level required by the Court's Order of September 3, 1980.

10. Defendants agree that they shall refrain from bringing any further motions to modify the Court's Order of September 3, 1980, at least until the end of calendar year 1992.

11. The parties agree that neither the fact nor terms of this Stipulation, nor the conditions that exist during the period of this agreement, shall be cited to the Court or used as evidence or factual support in any future proceedings before the Court.

Dated: New York, New York
February 15, 1990


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SO ORDERED.

Dated: New York, New York
February 22, 1990

William B. Cohen
UNITED STATES DISTRICT JUDGE